

**COUNTY OF MONTEREY STANDARD AGREEMENT**  
**(NOT TO EXCEED \$100,000)**

This Agreement is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter "County") and:

Augustine Consulting, Inc.

(hereinafter "CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

**1.0 GENERAL DESCRIPTION.**

- 1.01 The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The goods and/or services are generally described as follows:

**Provide** an Assessment of the Resource Management Agency's Grant Management Systems and Processes

**2.0 PAYMENT PROVISIONS.**

- 2.01 County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement is not to exceed the sum of \$ 100,000.00.

**3.0 TERM OF AGREEMENT.**

- 3.01 The term of this Agreement is from September 22, 2014 to September 22, 2015, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and **CONTRACTOR may not commence work before County signs this Agreement.**

- 3.02 The County reserves the right to cancel this Agreement, or any extension of this Agreement, without cause, with a thirty day (30) written notice, or with cause immediately.

**4.0 SCOPE OF SERVICES AND ADDITIONAL PROVISIONS.**

- 4.01 The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

**Exhibit A** Scope of Services/Payment Provisions

**Exhibit B** Incorporation of Request for Proposals (RFP) #10472, Addendum No. 1 to RFP #10472, and Proposal Documents

## 5.0 PERFORMANCE STANDARDS.

- 5.01 CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
- 5.02 CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.
- 5.03 CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

## 6.0 PAYMENT CONDITIONS.

- 6.01 Prices shall remain firm for the initial term of the Agreement and, thereafter, may be adjusted annually as provided herein. The County does not guarantee any minimum or maximum amount of dollars to be spent under this Agreement.
- 6.02 Negotiations for rate changes shall be commenced, by CONTRACTOR, a minimum of ninety days (90) prior to the expiration of the Agreement. Rate changes are not binding unless mutually agreed upon in writing by the County and the CONTRACTOR.
- 6.03 Invoice amounts shall be billed directly to the ordering department.
- 6.04 CONTRACTOR shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. The County shall certify the invoice, either in the requested amount or in such other amount as the County approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

## 7.0 TERMINATION.

- 7.01 During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.
- 7.02 The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of

CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

- 7.03 The County's payments to CONTRACTOR under this Agreement are funded by local, state and federal governments. If funds from local, state and federal sources are not obtained and continued at a level sufficient to allow for the County's purchase of the indicated quantity of services, then the County may give written notice of this fact to CONTRACTOR, and the obligations of the parties under this Agreement shall terminate immediately, or on such date thereafter, as the County may specify in its notice, unless in the meanwhile the parties enter into a written amendment modifying this Agreement.

## 8.0 INDEMNIFICATION.

- 8.01 Contractor shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "County"), its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this Agreement by Contractor and/or its agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the parties to this Agreement to provide the broadest possible coverage for the County. The Contractor shall reimburse the County for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the Contractor is obligated to indemnify, defend and hold harmless the County under this Agreement.

## 9.0 INSURANCE REQUIREMENTS.

### 9.01 Evidence of Coverage:

Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The Contractor shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and the County has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of the Contractor.

### 9.02 Qualifying Insurers:

All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Manager.

- 9.03 Insurance Coverage Requirements: Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

**Commercial General Liability Insurance**, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

*(Note: any proposed modifications to these general liability insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Business Automobile Liability Insurance**, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$500,000 per occurrence.

*(Note: any proposed modifications to these auto insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Workers' Compensation Insurance**, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

*(Note: any proposed modifications to these workers' compensation insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

**Professional Liability Insurance**, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

*(Note: any proposed modifications to these insurance requirements shall be attached as an Exhibit hereto, and the section(s) above that are proposed as not applicable shall be lined out in blue ink. All proposed modifications are subject to County approval.)*

#### 9.04 **Other Requirements:**

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of

three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Contractor and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

## 10.0 RECORDS AND CONFIDENTIALITY.

- 10.01 Confidentiality. CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws, which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement, unless County specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by

CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.

- 10.02 County Records. When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.03 Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.04 Access to and Audit of Records. The County shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.05 Royalties and Inventions. County shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

## 11.0 NON-DISCRIMINATION.

- 11.01 During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

## 12.0 COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANTS.

- 12.01 If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall

be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

### 13.0 INDEPENDENT CONTRACTOR.

- 13.01 In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability which County may incur because of CONTRACTOR's failure to pay such taxes.

### 14.0 NOTICES.

- 14.01 Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR'S contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Dalia M. Mariscal-Martinez, Management Analyst II	Robert McIntyre, Director of Operations
Name and Title	Name and Title
County of Monterey, Resource Management Agency 168 West Alisal Street, 2nd Floor Salinas, CA 93901	Augustine Consulting, Inc. 400 Pearl Street Monterey, CA 93940
Address	Address
(831) 755-8966	(831) 920-1754
Phone	Phone

### 15.0 MISCELLANEOUS PROVISIONS.

- 15.01 Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly, or indirectly conflict in any manner or to any degree with the full and complete performance of the services required to be rendered under this Agreement.
- 15.02 Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.

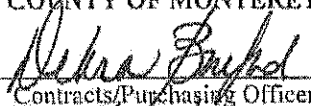
- 15.03 Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.
- 15.04 Contractor. The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.
- 15.05 Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06 Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.
- 15.07 Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 15.08 Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09 Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10 Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.
- 15.11 Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12 Non-exclusive Agreement. This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 15.13 Construction of Agreement. The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

- 15.15 Authority. Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 15.16 Integration. This Agreement, including the exhibits, represent the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 15.17 Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

-----*This section left blank intentionally*-----

16.0 SIGNATURE PAGE.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY  
By:   
Contracts/Purchasing Officer  
Date: 9/23/14  
By: \_\_\_\_\_  
Department Head (if applicable)  
Date: \_\_\_\_\_

Approved as to Form<sup>1</sup>

By:   
County Counsel  
Date: 9-22-14

Approved as to Fiscal Provisions<sup>2</sup>

By:   
Auditor/Controller  
Date: 9-22-14

Approved as to Liability Provisions<sup>3</sup>

By: \_\_\_\_\_  
Risk Management  
Date: \_\_\_\_\_

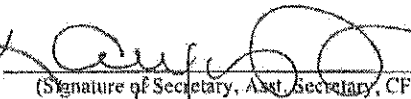
CONTRACTOR

Augustine Consulting, Inc.  
Contractor's Business Name\*

By:   
(Signature of Chair, President, or  
Vice-President)\*

Cary C. Augustine, President/Owner  
Name and Title

Date: 9/17/2014

By:   
(Signature of Secretary, Asst. Secretary, CFO,  
Treasurer or Asst. Treasurer)\*

Kristin E. Augustine, Secretary ACT  
Name and Title

Date: 9/17/2014

\*INSTRUCTIONS: IF CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

<sup>1</sup>Approval by County Counsel is required

<sup>2</sup>Approval by Auditor/Controller is required

<sup>3</sup>Approval by Risk Management is required only if changes are made in sections 7 or 8

16.0 SIGNATURE PAGE.

IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY

By:   
Contracts/Purchasing Officer

Date: 9/23/14

By: \_\_\_\_\_  
Department Head (if applicable)

Date: \_\_\_\_\_

Approved as to Form<sup>1</sup>

By: \_\_\_\_\_  
County Counsel

Date: \_\_\_\_\_

Approved as to Fiscal Provisions<sup>2</sup>

By: \_\_\_\_\_  
Auditor/Controller

Date: \_\_\_\_\_

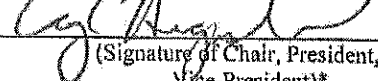
Approved as to Liability Provisions<sup>3</sup>

By: \_\_\_\_\_  
Risk Management

Date: \_\_\_\_\_

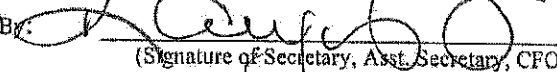
CONTRACTOR

Augustine Consulting, Inc.  
Contractor's Business Name\*

By:   
(Signature of Chair, President, or Vice-President)\*

Cary C. Augustine, President/Owner  
Name and Title

Date: 9/17/2014

By:   
(Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer)\*

Kristin E. Augustine, Secretary ACI  
Name and Title

Date: 9/17/2014

\*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

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<sup>2</sup>Approval by Auditor/Controller is required

<sup>3</sup>Approval by Risk Management is required only if changes are made in sections 7 or 8

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

To Agreement by and between  
County of Monterey, Resource Management Agency (RMA), hereinafter referred to as "County"  
and  
Augustine Consulting, Inc., hereinafter referred to as "CONTRACTOR"  
for  
RMA Grant Management System Assessment

### A. SCOPE OF SERVICES

A.1 CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

Provide assessment of current Grant Data Management System(s) within County's RMA and submit an Assessment Report with specific recommendations.

The work performed by CONTRACTOR will be broken down into three phases:

Phase I: Assessment Report and Associated Meetings

Phase II: Development of Project Plan

Phase III: Implementation

#### Phase I: Assessment

CONTRACTOR shall assess the current state of the County's grant management processes, procedures and administrative systems, tracking and monitoring systems, and compliance with governing and contract regulations.

CONTRACTOR shall evaluate the broad range functions within the RMA as they pertain to obtaining and managing grants.

CONTRACTOR shall prepare and submit an Assessment Report that includes specific recommendations for review and comment by County.

CONTRACTOR shall provide task functions and milestones as provided in Attachment A (attached), Phase I Cost.

The total fixed cost of Phase I shall not exceed \$19,992.

## **EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS**

### **Phase II: Development of Project Plan**

Based on comments received from County on Phase I, CONTRACTOR shall prepare a Draft Project Plan for implementing an improved Grant Management System (GMS).

CONTRACTOR shall identify specific requirements and a systematic approach to manage, monitor and track County grants from award to close-out to ensure County compliance to its own internal regulations, accurate record keeping and reporting, and improved efficiency and reliability.

CONTRACTOR shall verify that grant management practices are in compliance with OMB Circulars A-87 and A-133, and that current County human factor elements are consistent with the recommended GMS' or tools.

CONTRACTOR shall review the Draft Project Plan with County, address comments, and produce a Final Project Plan.

CONTRACTOR shall review and make recommendations for software and/or other hosted applications that will provide the County with an efficient, reliable and accurate GMS.

CONTRACTOR shall electronically send the Final Project Plan to the County in Word and PDF format and ready for distribution by the County.

### **Phase III: Implementation**

CONTRACTOR shall assist the County with writing administrative procedures including outlining the processes, roles, responsibilities, and tasks associated with the GMS.

CONTRACTOR shall coordinate implementation of administrative procedures and training materials.

CONTRACTOR shall identify minimum skill set for system start-up and maintenance.

CONTRACTOR shall conduct human factor assessment of processes and recommended software system(s).

CONTRACTOR shall provide identified County staff with training on processes and systems to manage, monitor and track County grants from award to close-out.

CONTRACTOR shall, as necessary, provide personnel to manage the County's GMS, system software, or grant writing until County staff is able to take over its administration and/or functions.

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

### General

CONTRACTOR assigned personnel shall be available by phone to provide periodic technical information with respect to assessment, preparation, and implementing the GMS Project Plan.

CONTRACTOR shall attend a minimum of three (3) meetings at County offices to review and discuss the Project Plan, implementation schedule, implementation status, etc. or other issues as necessary.

Under no circumstances shall CONTRACTOR commence services under Phase II or Phase III of this Agreement unless authorized in writing prior to by County.

### B. PAYMENT PROVISIONS

#### B.1 COMPENSATION/ PAYMENT

County shall pay an amount not to exceed \$100,000 for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services. CONTRACTOR'S compensation for services rendered shall be based on the following Hourly Bill Rates agreed to by CONTRACTOR under this Agreement and in accordance with the following terms:

Phase 1: Assessment	\$19,992 (Fixed Cost)
Phase 2: Development of Project Plan	\$ TBD (Time and Materials)
Phase 3: Implementation	\$ TBD (Time and Materials)

#### CONTRACTOR'S Hourly Bill Rates:

<u>Employee</u>	<u>Hourly Rate</u>
Subject Matter Experts (SMEs)	\$134.77
Project Manager (PM)	\$96.04
Writers	\$74.58
Grant and Contract Administrator	\$69.09

County and CONTRACTOR agree that CONTRACTOR shall be reimbursed for travel expenses during this Agreement. CONTRACTOR shall receive compensation for travel expenses as per the "County Travel Policy". A copy of the policy is available online at [www.co.monterey.ca.us/auditor/policies.htm](http://www.co.monterey.ca.us/auditor/policies.htm) To receive reimbursement, CONTRACTOR must provide a detailed breakdown of authorized expenses, identifying what was expended and when.

CONTRACTOR warrants that the costs charged for services under the terms of this Agreement are not in excess of those charged to any other client for the same services performed by the same individuals.

## EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

### B.2 CONTRACTORS BILLING PROCEDURES

NOTE: Payment may be based upon satisfactory acceptance of each deliverable, payment after completion of each major part of the Agreement, payment at conclusion of the Agreement, etc.

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

## ATTACHMENT A

### Phase I Cost: Assessment Report and associated meetings - \$19,992.00

Phase I Functions and Costing				
Task	Function	Description	Effort	Cost
Meeting(s)	Initial Follow up	Meet with County RMA to identify and collect all relevant current county data and reports. Establish POCs	PM SMEs	\$1,428.00
Assessment	Identify grant opportunities	Examine the process utilized by County RMA that matches funding needs to grantor requirements. Determine how RMA identifies specific grantors and who reviews the specific grant prerequisites to ensure eligibility.	SMEs	\$1,870.00
Assessment	Role of RMA management	Determine the RMA governance model and approval processes for submitting grant applications, QA reviews or other pre-application steps.	SMEs	\$1,870.00
Assessment	Preparing and submitting grant applications	Identify who is responsible for ensuring completion of all the Monterey County grant and fiduciary approval processes (Board of Supervisors, Auditor Controller, etc.). Determine the administrative and documentation practices and/or procedures for the grant application phase. Determine experience and qualifications of RMA or other County personnel involved.	SMEs	\$3,740.00
Assessment	Post-award grant management practices, procedures, processes and admin systems.	Determine what steps are taken to ensure the appropriate and legal use of grant funds. What are processes and procedures which govern the disbursement of grant funds, purchases made with funds, or other associated costs for which these funds are used, i.e. travel, conference fees, etc.	SMEs	\$3,740.00
Assessment	Federal, State and local regulations.	Review internal (County) and external (Federal or State) regulations to understand the current level of compliance from grant award to close-out. Evaluate the administrative processes and/or systems involved with tracking and monitoring all phases of the grant cycle. Assess current software, systems, or tools for managing these activities. Review record keeping and reporting. Examine past audit reports.	SMEs	\$2,958.00
Assessment	Map Results	Create a process flow map that depicts the functional steps and dependencies to all of the current-state (As Is) County RMA OMS elements outlined above. Identify gaps, overlaps or duplicate steps. Correlate level-of-effort for each step, phase or task.	PM SMEs	\$2,958.00
Meeting	Close out of Phase I	Present Assessment report with recommendations for Project Plan to included timeline and cost projections	PM SMEs	\$1,428.00
			<b>Total Phase I</b>	<b>\$19,992.00</b>

**EXHIBIT B – INCORPORATION OF RFP #10472,  
ADDENDUM NO. 1 TO RFP #10472, AND PROPOSAL DOCUMENTS**

The County invited submittals to Request for Proposals (RFP) through RFP #10472, Resource Management Agency Grant Management System Assessment. Augustine Consulting, Inc. submitted a responsive and responsible proposal to perform the services listed in RFP #10472.

RFP #10472, including Addendum No. 1, and the proposal submitted by Augustine Consulting, Inc. are hereby incorporated into the Agreement by this reference.



# CERTIFICATE OF LIABILITY INSURANCE

AUGUCON-01 CFERDERER

DATE (MM/DD/YYYY)  
9/16/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Micheletti Insurance Services 99 Almaden Blvd., Suite 800 San Jose, CA 95113		<b>CONTACT NAME:</b> James LeDeau, CRIS, CISC <b>PHONE (A/C, No, Ext):</b> (408) 292-4900 <b>FAX (A/C, No):</b> (408) 297-4949 <b>E-MAIL ADDRESS:</b> jamesl@michelettiinsurance.com		
<b>INSURED</b>  Augustine Consulting Inc. 400 Pearl Street Monterey, CA 93940		<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
		INSURER A: Federal Insurance Company		
		INSURER B: State Compensation Insurance Fund		
		INSURER C: Insurance Company of the State of Pennsylvania		
		INSURER D:		
		INSURER E:		
		INSURER F:		

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	36019482	09/23/2013	09/23/2014	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X	73581687	09/23/2013	09/23/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$		79891329	09/23/2013	09/23/2014	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N Y N/A	9072636-14	08/14/2014	08/14/2015	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Worker's Compensation		11668238	05/11/2014	05/11/2015	Defense Base Acts 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: As required by written contract/agreement

The County of Monterey, its Officers, Agents and Employees are hereby named additional insured with respects to General Liability coverages per form 80-02-2367 and with respects to Auto Liability coverages per form 80-02-0292. Such insurance shall be primary and non-contributory to any other insurance with respects to General Liability coverages per form 80-02-2000 and with respects to Auto Liability coverages per form CA 00-01-03-10. Waiver of Subrogation applies with respects to Auto Liability coverages per form 80-02-0292.

**CERTIFICATE HOLDER****CANCELLATION**

County of Monterey  
Contracts/Purchasing Division  
168 West Alisal Street, 3rd Floor  
Salinas, CA 93901

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

**Liability Insurance**  
**Endorsement**

Policy Period 09/23/2013 to 09/23/2014  
Effective Date 09/08/2014  
Policy Number ~~36019462~~  
Insured Augustine Consulting, Inc.  
Name of Company Federal Insurance Company  
Date Issued 09/08/2014

This Endorsement applies to the following forms:

~~80-02-2000~~ GENERAL LIABILITY

Under Who Is An Insured, the following provision is added:

**Who Is An Insured**

**Scheduled Person Or  
Organization**

Subject to all of the terms and conditions of this insurance, ~~any person or organization~~ shown in the Schedule, ~~acting pursuant to a written contract or agreement between you and such person or organization~~, is an insured; but they are insureds only with respect to liability arising out of your operations, or your premises, if you are obligated, pursuant to such contract or agreement, to provide them with such insurance as is afforded by this policy.

However, no such person or organization is an insured with respect to any:

- assumption of liability by them in a contract or agreement. This limitation does not apply to the liability for damages for injury or damage, to which this insurance applies, that the person or organization would have in the absence of such contract or agreement.
- damages arising out of their sole negligence.

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***Who Is An Insured***

*Scheduled Person Or  
Schedule Organization  
(continued)*

Persons or organizations that you are obligated, pursuant to written contract or agreement between you and such person or organization, to provide with such insurance as is afforded by this policy; but they are insureds only if and to the minimum extent that such contract or agreement requires the person or organization to be afforded status as an insured.

However, no person or organization is an insured under this provision who is more specifically described under any other provision of the Who Is An Insured section of this policy (regardless of any limitation applicable thereto).

All other terms and conditions remain unchanged.

## General Liability

### Contract

Please read the entire policy carefully. The terms and conditions of this insurance include the various sections of this contract: Coverages; Investigation, Defense And Settlements; Supplementary Payments; Coverage Territory; Who Is An Insured; Limits Of Insurance; Exclusions; Conditions; and Definitions, as well as the Declarations, Common Policy Conditions and any Endorsements and Schedules made a part of this insurance.

Throughout this contract the words "you" and "your" refer to the Named Insured shown in the Declarations and other persons or organizations qualifying as a Named Insured under this contract. The words "we," "us" and "our" refer to the Company providing this insurance.

In addition to the Named Insured, other persons or organizations may qualify as insureds. Those persons or organizations and the conditions under which they qualify are identified in the Who Is An Insured section of this contract.

Words and phrases that appear in bold print have special meanings and are defined in the Definitions section of this contract.

### Coverages

#### **Bodily Injury And Property Damage Liability Coverage**

Subject to all of the terms and conditions of this insurance, we will pay damages that the insured becomes legally obligated to pay by reason of liability:

- imposed by law; or
- assumed in an insured contract;

for bodily injury or property damage caused by an occurrence to which this coverage applies.

This coverage applies only to such bodily injury or property damage that occurs during the policy period.

Damages for bodily injury include damages claimed by a person or organization for care or loss of services resulting at any time from the bodily injury.

Other than as provided under the Investigation, Defense And Settlements and Supplementary Payments sections of this contract, we have no other obligation or liability to pay sums or perform acts or services under this coverage.

#### **Advertising Injury And Personal Injury Liability Coverage**

Subject to all of the terms and conditions of this insurance, we will pay damages that the insured becomes legally obligated to pay by reason of liability:

- imposed by law; or
- assumed in an insured contract;

for advertising injury or personal injury to which this coverage applies.

This coverage applies only to such advertising injury or personal injury caused by an offense that is first committed during the policy period.

Other than as provided under the Investigation, Defense And Settlements and Supplementary Payments sections of this contract, we have no other obligation or liability to pay sums or perform acts or services under this coverage.

### Reference Copy

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**Coverages**  
(continued)

**Medical Expenses  
Coverage**

Subject to all of the terms and conditions of this insurance, we will pay medical expenses for bodily injury caused by an accident to which this coverage applies:

- that takes place on premises rented to or owned by you; or
- in connection with your operations;

provided that such:

- accident occurs during the policy period;
- expenses are incurred and reported to us within three (3) years of the date of the accident; and
- person who sustained such bodily injury submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

We will make these payments regardless of fault.

We have no other obligation or liability under this coverage.

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**Investigation, Defense  
And Settlements**

Subject to all of the terms and conditions of this insurance, we will have the right and duty to defend the insured against a suit, even if such suit is false, fraudulent or groundless.

If such a suit is brought, we will pay reasonable attorney fees and necessary litigation expenses to defend:

- the insured; and
- if applicable, the indemnitee of the insured, provided the obligation to defend, or the cost of the defense of, such indemnitee has been assumed by such insured in an insured contract.

Such attorney fees and litigation expenses will be paid as described in the Supplementary Payments section of this contract.

We have no duty to defend any person or organization against any suit seeking damages to which this insurance does not apply.

We may, at our discretion, investigate any occurrence or offense and settle any claim or suit.

Our duty to defend any person or organization ends when we have used up the applicable Limit Of Insurance.

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**Supplementary  
Payments**

Subject to all of the terms and conditions of this insurance, we will pay, with respect to a claim we investigate or settle, or a suit against an insured we defend:

- A. the expenses we incur.
- B. the cost of:
  - 1. bail bonds; or
  - 2. bonds required to:
    - a. appeal judgments; or

Reference Copy

## General Liability

### Supplementary Payments (continued)

- b. release attachments;  
but only for bond amounts within the available Limit Of Insurance. We do not have to furnish these bonds.
- C. reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of such claim or suit, including actual loss of earnings up to \$1000 a day because of time off from work.
- D. costs taxed against the insured in the suit, except any:
  - 1. attorney fees or litigation expenses; or
  - 2. other loss, cost or expense;in connection with any injunction or other equitable relief.
- E. prejudgment interest awarded against the insured on that part of a judgment we pay. If we make an offer to pay the applicable Limit Of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.
- F. interest on the full amount of a judgment that accrues after entry of the judgment and before we have paid, offered to pay or deposited in court the part of the judgment that is within the applicable Limit Of Insurance.

Supplementary Payments does not include any fine or other penalty.

These payments will not reduce the Limits Of Insurance.

Our obligation to make these payments ends when we have used up the applicable Limit Of Insurance.

### Coverage Territory

This insurance applies anywhere, provided the insured's responsibility to pay damages, to which this insurance applies, is determined in a suit on the merits brought in the United States of America (including its possessions and territories), Canada or Puerto Rico, or in a settlement to which we agree.

### Who Is An Insured

#### Sole Proprietorships

If you are an individual, you and your spouse are insureds; but you and your spouse are insureds only with respect to the conduct of a business of which you are the sole owner.

If you die:

- persons or organizations having proper temporary custody of your property are insureds; but they are insureds only with respect to the maintenance or use of such property and only for acts until your legal representative has been appointed; and
- your legal representatives are insureds; but they are insureds only with respect to their duties as your legal representatives. Such legal representatives will assume your rights and duties under this insurance.

## Reference Copy

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**Who Is An Insured**  
(continued)

**Partnerships Or Joint Ventures**

If you are a partnership (including a limited liability partnership) or a joint venture, you are an insured. Your members, your partners and their spouses are insureds; but they are insureds only with respect to the conduct of your business.

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**Limited Liability Companies**

If you are a limited liability company, you are an insured. Your members and their spouses are insureds; but they are insureds only with respect to the conduct of your business. Your managers are insureds; but they are insureds only with respect to their duties as your managers.

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**Other Organizations**

If you are an organization (including a professional corporation) other than a partnership, joint venture or limited liability company, you are an insured. Your directors and officers are insureds; but they are insureds only with respect to their duties as your directors or officers. Your stockholders and their spouses are insureds; but they are insureds only with respect to their liability as your stockholders.

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**Employees**

Your employees are insureds; but they are insureds only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, no employee is an insured for:

A. bodily injury, advertising injury or personal injury:

1. to you, to any of your directors, managers, members, officers or partners (whether or not an employee) or to any co-employee while such injured person is either in the course of his or her employment or while performing duties related to the conduct of your business;
2. to the brother, child, parent, sister or spouse of such injured person as a consequence of any injury described in subparagraph A.1. above; or
3. for which there is any obligation to share damages with or repay someone else who must pay damages because of any injury described in subparagraphs A.1. or A.2. above.

With respect to bodily injury only, this limitation does not apply to:

- you or to your directors, managers, members, officers, partners or supervisors as insureds; or
- your employees, as insureds, with respect to such damages caused by cardio-pulmonary resuscitation or first aid services administered by such an employee; or

B. property damage to any property owned, occupied or used by you or by any of your directors, managers, members, officers or partners (whether or not an employee) or by any of your employees.

This limitation does not apply to property damage to premises while rented to you or temporarily occupied by you with permission of the owner.

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**Reference Copy**

## General Liability

### Who Is An Insured

(continued)

#### Volunteers

Persons who are volunteer workers for you are insureds; but they are insureds only for acts within the scope of their activities for you and at your direction.

#### Real Estate Managers

Persons (other than your employees) or organizations acting as your real estate managers are insureds; but they are insureds only with respect to their duties as your real estate managers.

#### Permissive Users Of Mobile Equipment

With respect to mobile equipment registered in your name under a motor vehicle registration law:

- A. persons driving such equipment on a public road with your permission are insureds; and
- B. persons or organizations responsible for the conduct of such persons described in subparagraph A. above are insureds; but they are insureds only with respect to the operation of the equipment and only if no other insurance of any kind is available to them.

However, no person or organization is an insured with respect to:

- bodily injury to any co-employee of the person driving the equipment; or
- property damage to any property owned or occupied by or loaned or rented to you, or in your charge or the charge of the employer of any person who is an insured under this provision.

#### Vendors

Persons or organizations who are vendors of your products are insureds; but they are insureds only with respect to their liability for damages for bodily injury or property damage resulting from the distribution or sale of your products in the regular course of their business and only if this insurance applies to the products-completed operations hazard.

However, no such person or organization is an insured with respect to any:

- assumption of liability by them in a contract or agreement. This limitation does not apply to the liability for damages for bodily injury or property damage that such vendor would have in the absence of such contract or agreement;
- representation or warranty unauthorized by you;
- physical or chemical change in your products made intentionally by the vendor;
- repackaging, unless unpacked solely for the purpose of inspection, demonstration or testing, or the substitution of parts under instruction from the manufacturer and then repacked in the original container;
- failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business in connection with the distribution or sale of your products;
- demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of your products; or
- of your products which, after distribution or sale by you, have been labeled or relabeled or used as a container, ingredient or part of any other thing or substance by or for the vendor.

## Reference Copy

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### **Who Is An Insured**

#### **Vendors (continued)**

Further, no person or organization from whom you have acquired your products, or any container, ingredient or part entering into, accompanying or containing your products, is an insured under this provision.

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#### **Lessors Of Equipment**

Persons or organizations from whom you lease equipment are insureds; but they are insureds only with respect to the maintenance or use by you of such equipment and only if you are contractually obligated to provide them with such insurance as is afforded by this contract.

However, no such person or organization is an insured with respect to any:

- damages arising out of their sole negligence; or
- occurrence that occurs, or offense that is committed, after the equipment lease ends.

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#### **Lessors Of Premises**

Persons or organizations from whom you lease premises are insureds; but they are insureds only with respect to the ownership, maintenance or use of that particular part of such premises leased to you and only if you are contractually obligated to provide them with such insurance as is afforded by this contract.

However, no such person or organization is an insured with respect to any:

- damages arising out of their sole negligence;
- occurrence that occurs, or offense that is committed, after you cease to be a tenant in the premises; or
- structural alteration, new construction or demolition operations performed by or on behalf of them.

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#### **Subsidiary Or Newly Acquired Or Formed Organizations**

If there is no other insurance available, the following organizations will qualify as named insureds:

- a subsidiary organization of the first named insured shown in the Declarations of which, at the beginning of the policy period and at the time of loss, such first named insured controls, either directly or indirectly, more than fifty (50) percent of the interests entitled to vote generally in the election of the governing body of such organization; or
- a subsidiary organization of the first named insured shown in the Declarations that such first named insured acquires or forms during the policy period, if at the time of loss such first named insured controls, either directly or indirectly, more than fifty (50) percent of the interests entitled to vote generally in the election of the governing body of such organization.

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#### **Limitations On Who Is An Insured**

- A. Except to the extent provided under the Subsidiary Or Newly Acquired Or Formed Organizations provision above, no person or organization is an insured with respect to the conduct of any person or organization that is not shown as a named insured in the Declarations.
- B. No person or organization is an insured with respect to the:
1. ownership, maintenance or use of any assets; or
  2. conduct of any person or organization whose assets, business or organization;

Reference Copy

## General Liability

### Who Is An Insured

#### Limitations On Who Is An Insured (continued)

you acquire, either directly or indirectly, for any:

- **bodily injury or property damage** that occurred; or
- **advertising injury or personal injury** arising out of an offense first committed; in whole or in part, before you, directly or indirectly, acquired such assets, business or organization.

### Limits Of Insurance

The Limits Of Insurance shown in the Declarations and the rules below fix the most we will pay, regardless of the number of:

- **insureds;**
- **claims made or suits brought; or**
- **persons or organizations making claims or bringing suits.**

The Limits Of Insurance apply separately to each consecutive annual period and to any remaining period of less than twelve (12) months; starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than twelve (12) months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits Of Insurance.

#### General Aggregate Limit

Subject to the Each Occurrence Limit, the General Aggregate Limit is the most we will pay for the sum of:

- **damages for bodily injury and property damage**, except damages included in the **products-completed operations hazard**; and
- **medical expenses.**

#### Products-Completed Operations Aggregate Limit

Subject to the Each Occurrence Limit, the Products-Completed Operations Aggregate Limit is the most we will pay for the sum of damages for **bodily injury and property damage** included in the **products-completed operations hazard**.

#### Advertising Injury And Personal Injury Aggregate Limit

The Advertising Injury And Personal Injury Aggregate Limit is the most we will pay for the sum of damages for **advertising injury and personal injury**.

#### Each Occurrence Limit

The Each Occurrence Limit is the most we will pay for the sum of:

- **damages for bodily injury and property damage; and**
  - **medical expenses;**
- arising out of any one occurrence.

Any amount paid for damages or medical expenses will reduce the amount of the applicable aggregate limit available for any other payment.

### Reference Copy

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**Limits Of Insurance**

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**Each Occurrence Limit**  
(continued)

If the applicable aggregate limit has been reduced to an amount that is less than the Each Occurrence Limit, the remaining amount of such aggregate limit is the most that will be available for any other payment.

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**Damage To Premises  
Rented To You Limit**

Subject to the Each Occurrence Limit, the Damage To Premises Rented To You Limit is the most we will pay for the sum of damages for property damage to any one premises while rented to you or temporarily occupied by you with permission of the owner.

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**Medical Expenses Limit**

Subject to the Each Occurrence Limit, the Medical Expenses Limit is the most we will pay for the sum of medical expenses, under Medical Expenses coverage, for bodily injury sustained by any one person.

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**Bodily Injury/Property  
Damage Exclusions**

None of the following exclusions, except "Contracts", "Expected Or Intended Injury" and "Loss In Progress", apply to property damage to premises while rented to you or temporarily occupied by you with permission of the owner.

**Aircraft, Autos Or  
Watercraft**

This insurance does not apply to bodily injury or property damage arising out of the ownership, maintenance, use (use includes operation and loading or unloading) or entrustment to others of any:

- aircraft;
- auto; or
- watercraft;

owned or operated by or loaned or rented to any insured.

This exclusion does not apply to:

- A. a watercraft while ashore on premises owned by or rented to you;
- B. a watercraft you do not own, provided that it:
  - 1. is less than fifty-five (55) feet long; and
  - 2. does not transport persons or cargo for a charge;
- C. the parking of an auto on premises owned by or rented to you, provided the auto is not owned by or loaned or rented to you or the insured;
- D. the liability for damages assumed in an insured contract resulting from the ownership, maintenance or use, by others, of an aircraft or watercraft;
- E. the operation of the equipment described in subparagraphs F.2. or F.3. of the definition of mobile equipment; or
- F. an aircraft you do not own, provided that:
  - 1. the pilot in command holds a currently effective certificate, issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;

**Reference Copy**

## General Liability

### Bodily Injury/Property Damage Exclusions

Aircraft, Autos Or  
Watercraft  
(continued)

2. it is rented with a trained, paid crew; and
3. it does not transport persons or cargo for a charge

Alcoholic Beverage Type  
Businesses

This insurance does not apply to **bodily injury** or **property damage** for which any insured may be held liable by reason of:

- causing or contributing to the intoxication of any person;
- furnishing alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

Contracts

This insurance does not apply to **bodily injury** or **property damage** for which the insured is obligated to pay damages by reason of assumption of liability in a contract or agreement.

This exclusion does not apply to the liability for damages:

- that such insured would have in the absence of such contract or agreement; or
- assumed in an oral or written contract or agreement that is an **insured contract**, provided the **bodily injury** or **property damage**, to which this insurance applies, occurs after the execution of such contract or agreement.

Damage To Alienated  
Premises

This insurance does not apply to **property damage** to any premises you sell, give away or abandon, if the **property damage** arises out of any part of those premises.

This exclusion does not apply if the premises are **your work** and were never occupied, rented or held for rental by you.

Damage To Impaired  
Property Or Property Not  
Physically Injured

This insurance does not apply to **property damage** to:

- **impaired property**; or
  - **property** that has not been physically injured;
- arising out of any:
- defect, deficiency, inadequacy or dangerous condition in **your product** or **your work**; or

Reference Copy

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**Bodily  
Injured/Property  
Damage Exclusions**

**Damage To Impaired  
Property Or Property Not  
Physically Injured  
(continued)**

• delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms and conditions.

This exclusion does not apply to the loss of use of other tangible property resulting from sudden and accidental physical injury to your product or your work after it has been put to its intended use.

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**Damage To Owned  
Property**

This insurance does not apply to property damage to any property owned by you.

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**Damage To Various  
Property Of Others (Care,  
Control Or Custody)**

This insurance does not apply to property damage to any:

- personal property loaned or rented to you;
- property held by you or on your behalf for sale or entrusted to you for safekeeping or storage;
- property on your premises for purposes of performing operations on such property by you or on your behalf;
- tools or equipment used by you or on your behalf in performing operations; or
- property in your care, control or custody that will be erected, installed or used in construction operations by you or on your behalf.

This exclusion does not apply to the liability for damages assumed in a sidetrack agreement.

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**Damage To Your Product**

This insurance does not apply to property damage to your product arising out of it or any part of it.

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**Damage To Your Work**

This insurance does not apply to property damage to your work arising out of it or any part of it and included in the products-completed operations hazard.

This exclusion does not apply if the damaged work or the work causing the damage was performed on your behalf by a subcontractor.

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**Employer's Liability**

A. This insurance does not apply to bodily injury to an employee of the insured arising out of and in the course of:

1. employment by the insured; or
2. performing duties related to the conduct of the insured's business.

B. This insurance does not apply to bodily injury to the brother, child, parent, sister or spouse of such employee as a consequence of any injury described in paragraph A. above.

This exclusion applies:

- whether the insured may be liable as an employer or in any other capacity; and
- to any obligation to share damages with or repay someone else who must pay damages because of any injury described in paragraphs A. or B. above.

**Reference Copy**

## General Liability

### Bodily Injured/Property Damage Exclusions

#### Employer's Liability (continued)

This exclusion does not apply to the liability for damages assumed by the insured in an insured contract.

#### Expected Or Intended Injury

This insurance does not apply to bodily injury or property damage arising out of an act that:

- is intended by the insured; or
- would be expected from the standpoint of a reasonable person in the circumstances of the insured;

to cause bodily injury or property damage, even if the actual bodily injury or property damage is of a different degree or type than intended or expected.

This exclusion does not apply to bodily injury or property damage resulting from the use of reasonable force to protect persons or tangible property.

#### Loss In Progress

This insurance does not apply to bodily injury or property damage that is a change, continuation or resumption of any bodily injury or property damage known by you, prior to the beginning of the policy period, to have occurred.

Bodily injury or property damage will be deemed to be known by you:

- A. if such injury or damage is known by, or should have been known from the standpoint of a reasonable person in the circumstances of:
  - 1. you;
  - 2. any of your directors, managers, members, officers (or their designees) or partners (whether or not an employee); and
- B. when any person described in paragraph A. above:
  - 1. reports all, or any part, of any such injury or damage to us or any other insurer;
  - 2. receives a claim or a demand for damages because of any such injury or damage; or
  - 3. becomes aware that any such injury or damage has occurred or has begun to occur.

#### Mobile Equipment Transportation

This insurance does not apply to bodily injury or property damage arising out of the transportation of mobile equipment by an auto owned or operated by or loaned or rented to any insured.

## Reference Copy

### **Advertising Injury/Personal Injury Exclusions**

#### **Breach Of Contract**

This insurance does not apply to advertising injury or personal injury arising out of breach of contract.

#### **Continuing Offenses**

This insurance does not apply to advertising injury or personal injury that arises out of that part of an offense that continues or resumes after the later of the end of the policy period of:

- A. this insurance; or
- B. a subsequent, continuous renewal or replacement of this insurance, that:
  - 1. is issued to you by us or by an affiliate of ours;
  - 2. remains in force while the offense continues; and
  - 3. would otherwise apply to advertising injury and personal injury.

#### **Contracts**

This insurance does not apply to advertising injury or personal injury for which the insured is obligated to pay damages by reason of assumption of liability in a contract or agreement.

This exclusion does not apply to the liability for damages:

- that such insured would have in the absence of such contract or agreement; or
- assumed in a written contract or agreement that is an insured contract, provided the advertising injury or personal injury, to which this insurance applies, is caused by an offense first committed after the execution of such contract or agreement.

#### **Crime Or Fraud**

This insurance does not apply to advertising injury or personal injury arising out of any criminal or fraudulent conduct committed by or with the consent or knowledge of the insured.

#### **Expected Or Intended Injury**

This insurance does not apply to advertising injury or personal injury arising out of an offense, committed by or on behalf of the insured, that:

- is intended by such insured; or
  - would be expected from the standpoint of a reasonable person in the circumstances of such insured;
- to cause injury.

#### **Failure To Conform To Representations Or Warranties**

This insurance does not apply to advertising injury or personal injury arising out of the failure of goods, products or services to conform with any electronic, oral, written or other representation or warranty of durability, fitness, performance, quality or use.

#### **Internet Activities**

This insurance does not apply to advertising injury or personal injury arising out of:

- controlling, creating, designing or developing of another's Internet site;

**Reference Copy**

## General Liability

### Advertising Injury/Personal Injury Exclusions

#### Internet Activities (continued)

- controlling, creating, designing, developing, determining or providing the content or material of another's Internet site;
- controlling, facilitating or providing, or failing to control, facilitate or provide, access to the Internet or another's Internet site; or
- publication of content or material on or from the Internet, other than material developed by you or at your direction.

#### Media Type Businesses

This insurance does not apply to advertising injury or personal injury arising out of an offense committed by or on behalf of an insured whose business is advertising, broadcasting, cablecasting, publishing, telecasting or telemarketing.

This exclusion does not apply to personal injury caused by an offense described in subparagraphs A., B. or C. of the definition of personal injury.

#### Prior Offenses

This insurance does not apply to advertising injury or personal injury arising out of any offense first committed before the beginning of the policy period.

#### Publications With Knowledge Of Falsity

This insurance does not apply to advertising injury or personal injury arising out of any electronic, oral, written or other publication of content or material by or with the consent of the insured:

- with knowledge of its falsity; or
- if a reasonable person in the circumstances of such insured would have known such content or material to be false.

#### Wrong Description Of Prices

This insurance does not apply to advertising injury or personal injury arising out of any wrong description of the price of goods, products or services.

### Medical Expenses Exclusions

#### Athletic Activities

This insurance does not apply to medical expenses arising out of bodily injury to any person injured while taking part in athletics.

#### Injury To Insureds

This insurance does not apply to medical expenses arising out of a bodily injury to any insured, except a volunteer worker.

## Reference Copy

**Medical Expenses  
Exclusions**  
(continued)

**Nuclear Energy**

This insurance does not apply to medical expenses arising out of bodily injury in any way related to the:

- nuclear hazardous properties of nuclear material; and
- operation of a nuclear facility by any person or organization.

**Products-Completed  
Operations Hazard**

This insurance does not apply to medical expenses arising out of bodily injury included in the products-completed operations hazard.

**Workers' Compensation  
Or Similar Laws**

This insurance does not apply to medical expenses arising out of bodily injury to any person, whether or not an employee of any insured, if benefits for such bodily injury are payable or must be provided under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

**Policy Exclusions**

**Asbestos**

- A. This insurance does not apply to bodily injury, property damage, advertising injury or personal injury arising out of the actual, alleged or threatened contaminative, pathogenic, toxic or other hazardous properties of asbestos.
- B. This insurance does not apply to any loss, cost or expense arising out of any:
  - 1. request, demand, order or regulatory or statutory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of asbestos; or
  - 2. claim or proceeding by or on behalf of a governmental authority or others for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of asbestos.

**Employment-Related  
Practices**

- A. This insurance does not apply to any damages sustained at any time by any person, whether or not sustained in the course of employment by any insured, arising out of any employment-related act, omission, policy, practice or representation directed at such person, occurring in whole or in part at any time, including any:
  - 1. arrest, detention or imprisonment;
  - 2. breach of any express or implied covenant;
  - 3. coercion, criticism, humiliation, prosecution or retaliation;
  - 4. defamation or disparagement;
  - 5. demotion, discipline, evaluation or reassignment;
  - 6. discrimination, harassment or segregation;

Reference Copy

## General Liability

### Policy Exclusions

#### Employment-Related Practices (continued)

7. a. eviction; or  
b. invasion or other violation of any right of occupancy;
8. failure or refusal to advance, compensate, employ or promote;
9. invasion or other violation of any right of privacy or publicity;
10. termination of employment; or
11. other employment-related act, omission, policy, practice, representation or relationship in connection with any insured at any time.

- B. This insurance does not apply to any damages sustained at any time by the brother, child, parent, sister or spouse of such person at whom any employment-related act, omission, policy, practice or representation is directed, as described in paragraph A. above, as a consequence thereof.

This exclusion applies:

- whether the insured may be liable as an employer or in any other capacity; and
- to any obligation to share damages with or repay someone else who must pay damages because of any of the foregoing.

#### Enhancement, Maintenance Or Prevention Expenses

This insurance does not apply to any loss, cost or expense incurred by you or others for any:

- A. enhancement or maintenance of any property; or
- B. prevention of any injury or damage to any:
  1. person or organization; or
  2. property you own, rent or occupy.

#### Intellectual Property Laws Or Rights

This insurance does not apply to any actual or alleged bodily injury, property damage, advertising injury or personal injury arising out of, giving rise to or in any way related to any actual or alleged:

- assertion; or
- infringement or violation;

by any person or organization (including any insured) of any intellectual property law or right, regardless of whether this insurance would otherwise apply to all or part of any such actual or alleged injury or damage in the absence of any such actual or alleged assertion, infringement or violation.

This exclusion applies, unless such injury:

- is caused by an offense described in the definition of advertising injury; and
- does not arise out of, give rise to or in any way relate to any actual or alleged assertion, infringement or violation of any intellectual property law or right, other than one described in the definition of advertising injury.

Reference Copy

**Policy Exclusions**  
(continued)

**Nuclear Energy**

- A. This insurance does not apply to **bodily injury, nuclear property damage, advertising injury or personal injury**:
1. with respect to which any insured under this policy also has status as an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would have had status as an insured under any such policy but for its termination upon exhaustion of its limit of insurance; or
  2. arising out of the nuclear hazardous properties of nuclear material and with respect to which:
    - a. any person or organization is required to maintain financial protection pursuant to the United States of America Atomic Energy Act of 1954, or any law amendatory thereof; or
    - b. the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- B. This insurance does not apply to **bodily injury, nuclear property damage, advertising injury or personal injury** arising out of the nuclear hazardous properties of nuclear material:
1. if the nuclear material:
    - a. is at any nuclear facility owned by, or operated by or on behalf of, any insured;
    - b. has been discharged or dispersed therefrom; or
    - c. is contained in nuclear spent fuel or nuclear waste at any time transported, handled, stored, disposed of, processed, treated, possessed or used by or on behalf of any insured; or
  2. in any way related to the furnishing by any insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility. But if such facility is located within the United States of America (including its possessions or territories) or Canada, this subparagraph 2. applies only to nuclear property damage to such nuclear facility and any property thereat.

**Pollution**

- A. This insurance does not apply to **bodily injury, property damage, advertising injury or personal injury** arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants:
1. at or from any premises, site or location which is or was at any time owned or occupied by, or loaned or rented to, any insured;
  2. at or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

Reference Copy

## General Liability

### Policy Exclusions

#### Pollution (continued)

3. which are or were at any time transported, handled, stored, disposed of, processed or treated as waste by or for any:
  - a. insured; or
  - b. person or organization for whom any insured may be legally responsible; or
4. at or from any premises, site or location on which any insured or any contractor or subcontractor working directly or indirectly on any insured's behalf is performing operations, if the:
  - a. pollutants are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor; or
  - b. operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.

Subparagraph A.4.a. above does not apply to bodily injury or property damage caused by the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of mobile equipment or its parts, if such operating fluids escape directly from that particular part of such mobile equipment designed by its manufacturer to hold, store or receive them. But, this exception does not apply if such bodily injury or property damage arises out of any discharge, dispersal, seepage, migration, release or escape of pollutants, that:

- was intended by the insured;
- would have been expected from the standpoint of a reasonable person in the circumstances of the insured;
- was a necessary part of operations performed by any insured, contractor or subcontractor; or
- occurred during the process of fueling the mobile equipment or changing or replenishing any operating fluid.

Subparagraph A.4.a. above does not apply to bodily injury or property damage if sustained within a building and caused by the release of gaseous irritants or contaminants from materials brought into that building, in connection with the operations being performed by you or on your behalf by the contractor or subcontractor.

Subparagraph A.1. above does not apply to bodily injury if sustained within a building and caused by the escape of gaseous irritants or contaminants from equipment used to heat that building.

Subparagraphs A.1. and A.4.a. above do not apply to bodily injury or property damage caused by heat, smoke or fumes from a hostile fire.

- B. This insurance does not apply to any loss, cost or expense arising out of any:
1. request, demand, order or regulatory or statutory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants; or

### Reference Copy

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### **Policy Exclusions**

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**Pollution**  
(continued)

2. claim or proceeding by or on behalf of a governmental authority or others for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of pollutants.

Paragraph B. above does not apply to the liability for damages, for property damage, that the insured would have in the absence of such request, demand, order or regulatory or statutory requirement, or such claim or proceeding by or on behalf of a governmental authority.

This exclusion does not apply to the liability for damages, for property damage, to premises while rented to you or temporarily occupied by you with permission of the owner and caused by a hostile fire, explosion, smoke or leakage from fire protective equipment.

This exclusion applies regardless of whether or not the pollution was accidental, expected, gradual, intended, preventable or sudden.

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**Recall Of Products, Work  
Or Impaired Property**

This insurance does not apply to any damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- your product;
- your work; or
- impaired property;

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

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**Workers' Compensation  
Or Similar Laws**

This insurance does not apply to any obligation of the insured under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

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### **Conditions**

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**Arbitration**

We are entitled to exercise all of the insured's rights in the choice of arbitrators and in the conduct of any arbitration proceeding, except when the proceeding is between us and the insured.

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**Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this insurance.

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Reference Copy

## General Liability

### Conditions

(continued)

#### Disclosures And Representations

We have issued this insurance;

- based upon representations you made to us; and
- in reliance upon your representations.

Unintentional failure of an employee of the insured to disclose a hazard or other material information will not violate this condition, unless an officer (whether or not an employee) of any insured or an officer's designee knows about such hazard or other material information.

#### Duties In The Event Of Occurrence, Offense, Claim Or Suit

- A. You must see to it that we and any other insurers are notified as soon as practicable of any occurrence or offense that may result in a claim, if the claim may involve us or such other insurers. To the extent possible, notice should include:
1. how, when and where the occurrence or offense happened;
  2. the names and addresses of any injured persons and witnesses; and
  3. the nature and location of any injury or damage arising out of the occurrence or offense.
- B. If a claim is made or suit is brought against any insured, you must:
1. immediately record the specifics of the claim or suit and the date received;
  2. notify us and other insurers as soon as practicable; and
  3. see to it that we receive written notice of the claim or suit as soon as practicable.
- C. You and any other involved insured must:
1. immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or suit;
  2. authorize us to obtain records and other information;
  3. cooperate with us and other insurers in the:
    - a. investigation or settlement of the claim; or
    - b. defense against the suit; and
  4. assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of loss to which this insurance may also apply.
- D. No insureds will, except at that insured's own cost, make any payment, assume any obligation or incur any expense, other than for first aid, without our consent.
- E. Notice given by or on behalf of:
1. the insured;
  2. the injured person; or
  3. any other claimant;
- to a licensed agent of ours with particulars sufficient to identify the insured shall be deemed notice to us.

Reference Copy

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## Conditions

### *Duties In The Event Of Occurrence, Offense, Claim Or Suit (continued)*

- F. Knowledge of an occurrence or offense by an agent or employee of the insured will not constitute knowledge by the insured, unless an officer (whether or not an employee) of any insured or an officer's designee knows about such occurrence or offense.
- G. Failure of an agent or employee of the insured, other than an officer (whether or not an employee) of any insured or an officer's designee, to notify us of an occurrence or offense that such person knows about will not affect the insurance afforded to you.
- H. If a claim or loss does not reasonably appear to involve this insurance, but it later develops into a claim or loss to which this insurance applies, the failure to report it to us will not violate this condition, provided the insured gives us immediate notice as soon as the insured is aware that this insurance may apply to such claim or loss.

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### *Legal Action Against Us*

No person or organization has a right under this insurance to:

- join us as a party or otherwise bring us into a suit seeking damages from an insured; or
- sue us on this insurance unless all of the terms and conditions of this insurance have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured obtained after an actual:

- trial in a civil proceeding; or
- arbitration or other alternative dispute resolution proceeding;

but we will not be liable for damages that are not payable under the terms and conditions of this insurance or that are in excess of the applicable Limits Of Insurance.

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### *Other Insurance*

If other valid and collectible insurance is available to the insured for loss we would otherwise cover under this insurance, our obligations are limited as follows.

#### *Primary Insurance*

~~This insurance is primary~~ except when the Excess Insurance provision described below applies.

If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in the Method of Sharing provision described below.

#### *Excess Insurance*

This insurance is excess over any other insurance, whether primary, excess, contingent or on any other basis:

- A. that is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar insurance for your work;
- B. that is insurance that applies to property damage to premises rented to you or temporarily occupied by you with permission of the owner;
- C. if the loss arises out of aircraft, autos or watercraft (to the extent not subject to the Aircraft, Autos Or Watercraft exclusion);

## Reference Copy

## General Liability

### Conditions

#### Other Insurance (continued)

- D. that is insurance:
1. provided to you by any person or organization working under contract or agreement for you; or
  2. under which you are included as an insured; or
- E. that is insurance under any Property section of this policy.

When this insurance is excess, we will have no duty to defend the insured against any suit if any other insurer has a duty to defend such insured against such suit. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of loss, if any, that exceeds the sum of the total:

- amount that all other insurance would pay for loss in the absence of this insurance; and
- of all deductible and self-insured amounts under all other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not negotiated specifically to apply in excess of the Limits Of Insurance shown in the Declarations of this insurance.

#### Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this method each insurer contributes equal amounts until it has paid its applicable limits of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limits of insurance to the total applicable limits of insurance of all insurers.

#### Premium Audit

We will compute all premiums for this insurance in accordance with our rules and rates.

In accordance with the Estimated Premiums section of the Premium Summary, premiums shown with an asterisk (\*) are estimated premiums and are subject to audit.

In addition to or in lieu of such designation in the Premium Summary, premiums may be designated as estimated premiums elsewhere in this policy. In that case, these premiums will also be subject to audit, and the second paragraph of the Estimated Premiums section of the Premium Summary will apply.

#### Separation Of Insureds

Except with respect to the Limits Of Insurance, and any rights or duties specifically assigned in this insurance to the first named insured, this insurance applies:

- as if each named insured were the only named insured; and
- separately to each insured against whom claim is made or suit is brought.

### Reference Copy

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**Conditions**

(continued)

**Transfer Or Waiver Of  
Rights Of Recovery  
Against Others**

We will waive the right of recovery we would otherwise have had against another person or organization, for loss to which this insurance applies, provided the insured has waived their rights of recovery against such person or organization in a contract or agreement that is executed before such loss.

To the extent that the insured's rights to recover all or part of any payment made under this insurance have not been waived, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring suit or transfer those rights to us and help us enforce them.

This condition does not apply to medical expenses.

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Reference Copy

## General Liability

### Definitions

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT, WORDS AND PHRASES THAT APPEAR IN BOLD PRINT HAVE THE SPECIAL MEANINGS DESCRIBED BELOW:

#### Advertisement

Advertisement means an electronic, oral, written or other notice, about goods, products or services, designed for the specific purpose of attracting the general public or a specific market segment to use such goods, products or services.

Advertisement does not include any e-mail address, Internet domain name or other electronic address or metalanguage.

#### Advertising Injury

Advertising injury means injury, other than bodily injury, property damage or personal injury, sustained by a person or organization and caused by an offense of infringing, in that particular part of your advertisement about your goods, products or services, upon their:

- copyrighted advertisement; or
- registered collective mark, registered service mark or other registered trademarked name, slogan, symbol or title

#### Agreed Settlement

Agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

#### Asbestos

Asbestos means asbestos in any form, including its presence or use in any alloy, by-product or other material or waste. Waste includes material to be recycled, reconditioned or reclaimed.

#### Auto

Auto means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But auto does not include mobile equipment.

#### Bodily Injury

Bodily injury means physical:

- injury;
- sickness; or
- disease;

sustained by a person, including resulting death, humiliation, mental anguish, mental injury or shock at any time. All such loss shall be deemed to occur at the time of the physical injury, sickness or disease that caused it.

#### Employee

Employee includes a leased worker. Employee does not include a temporary worker.

#### Hostile Fire

Hostile fire means one which becomes uncontrollable or breaks out from where it was intended to be.

## Reference Copy

**Definitions**  
(continued)

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT, WORDS AND PHRASES THAT APPEAR IN BOLD PRINT HAVE THE SPECIAL MEANINGS DESCRIBED BELOW:

**Impaired Property**

**Impaired property** means tangible property, other than your product or your work, that cannot be used or is less useful because:

- it incorporates your product or your work that is known or thought to be defective, deficient, inadequate or dangerous; or
- you have failed to fulfill the terms or conditions of a contract or agreement;

if such property can be restored to use by:

- the repair, replacement, adjustment or removal of your product or your work; or
- your fulfilling the terms or conditions of the contract or agreement.

**Insured**

**Insured** means a person or an organization qualifying as an insured in the Who Is An Insured section of this contract.

**Insured Contract**

**Insured contract:**

A. means:

1. a lease of premises;
2. a sidetrack agreement;
3. an easement or license agreement;
4. an obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
5. an elevator maintenance agreement; or
6. any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for such municipality) in which you assume the tort liability of another person or organization to pay damages, to which this insurance applies, sustained by a third person or organization.

B. does not include that part of any contract or agreement that indemnifies an architect, engineer or surveyor for damages arising out of:

1. preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, field orders, change orders, designs or specifications; or
2. giving directions or instructions, or failing to give them.

Reference Copy

## General Liability

### Definitions

(continued)

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT, WORDS AND PHRASES THAT APPEAR IN BOLD PRINT HAVE THE SPECIAL MEANINGS DESCRIBED BELOW:

#### Intellectual Property Law Or Right

Intellectual property law or right means any:

- certification mark, copyright, patent or trademark (including collective or service marks);
- right to, or judicial or statutory law recognizing an interest in, any trade secret or confidential or proprietary non-personal information;
- other right to, or judicial or statutory law recognizing an interest in, any expression, idea, likeness, name, slogan, style of doing business, symbol, title, trade dress or other intellectual property; or
- other judicial or statutory law concerning piracy, unfair competition or other similar practices.

#### Leased Worker

Leased worker means a person leased to a party by a labor leasing firm, in a contract or agreement between such party and the labor leasing firm, to perform duties related to the conduct of the party's business. Leased worker does not include a temporary worker.

#### Loading Or Unloading

Loading or unloading:

- A. means the handling of property:
  - 1. after it is moved from the place where it is accepted for movement into or onto an aircraft, auto or watercraft;
  - 2. while it is in or on an aircraft, auto or watercraft; or
  - 3. while it is being moved from an aircraft, auto or watercraft to the place where it is finally delivered.
- B. does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, auto or watercraft.

#### Medical Expenses

Medical expenses means reasonable expenses for necessary:

- first aid administered at the time of an accident;
- medical, surgical, x-ray and dental services, including prosthetic devices; and
- ambulance, hospital, professional nursing and funeral services.

#### Mobile Equipment

Mobile equipment means any of the following types of land vehicles, including any attached machinery or equipment:

- A. bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- B. vehicles maintained for use solely on premises owned by or rented to you;
- C. vehicles that travel on crawler treads;

Reference Copy

**Definitions**

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT, WORDS AND PHRASES THAT APPEAR IN BOLD PRINT HAVE THE SPECIAL MEANINGS DESCRIBED BELOW:

**Mobile Equipment**  
(continued)

- D. vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
1. power cranes, shovels, loaders, diggers or drills; or
  2. road construction or resurfacing equipment such as graders, scrapers or rollers;
- E. vehicles not described in subparagraphs A., B., C. or D. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
1. air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
  2. cherry pickers and similar devices used to raise or lower workers; and
- F. vehicles not described in subparagraphs A., B., C. or D. above maintained primarily for purposes other than the transportation of persons or cargo.
- Mobile equipment does not include self-propelled vehicles with the following types of permanently attached equipment, and such vehicles will be considered autos:
1. equipment designed primarily for:
    - a. snow removal;
    - b. road maintenance, but not construction or resurfacing; or
    - c. street cleaning;
  2. cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
  3. air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

**Nuclear Facility**

Nuclear facility means any:

- A. nuclear reactor;
- B. equipment or device designed or used for:
1. separating the isotopes of plutonium or uranium;
  2. processing or utilizing nuclear spent fuel; or
  3. handling, processing or packaging nuclear waste;
- C. equipment or device used for the processing, fabricating or alloying of nuclear material, if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than:
1. twenty-five (25) grams of plutonium or uranium 233, or any combination thereof; or
  2. two-hundred-fifty (250) grams of uranium 235; or

Reference Copy

## General Liability

### Definitions

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT, WORDS AND PHRASES THAT APPEAR IN BOLD PRINT HAVE THE SPECIAL MEANINGS DESCRIBED BELOW:

#### **Nuclear Facility** (continued)

D. structure, basin, excavation, premises or place prepared or used for the storage or disposal of nuclear waste;

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

#### **Nuclear Hazardous Properties**

Nuclear hazardous properties includes radioactive, toxic or explosive properties.

#### **Nuclear Material**

Nuclear material means by-product material, source material or special nuclear material.

By-product material, source material and special nuclear material have the meanings given them in the United States of America Atomic Energy Act of 1954 or in any law amendatory thereof.

#### **Nuclear Property Damage**

Nuclear property damage includes all forms of radioactive contamination of property.

#### **Nuclear Reactor**

Nuclear reactor means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

#### **Nuclear Spent Fuel**

Nuclear spent fuel means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor.

#### **Nuclear Waste**

Nuclear waste means any waste material:

- containing nuclear material, other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content; and
- resulting from the operation by any person or organization of any nuclear facility described in subparagraphs A. or B. of the definition of nuclear facility.

#### **Occurrence**

Occurrence means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

#### **Officer**

Officer means a person holding any of the officer positions created by an organization's charter, constitution, by-laws or any other similar governing document.

## Reference Copy

**Definitions**  
(continued)

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT, WORDS AND PHRASES THAT APPEAR IN BOLD PRINT HAVE THE SPECIAL MEANINGS DESCRIBED BELOW.

**Personal Injury**

Personal injury means injury, other than bodily injury, property damage or advertising injury, caused by an offense of:

- A. false arrest, false detention or other false imprisonment;
- B. malicious prosecution;
- C. wrongful entry into, wrongful eviction of a person from or other violation of a person's right of private occupancy of a dwelling, premises or room that such person occupies, if committed by or on behalf of its landlord, lessor or owner;
- D. electronic, oral, written or other publication of material that:
  - 1. libels or slanders a person or organization (which does not include disparagement of goods, products, property or services); or
  - 2. violates a person's right of privacy; or
- E. discrimination, harassment or segregation based on a person's age, color, national origin, race, religion or sex.

**Pollutants**

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

**Products-Completed Operations Hazard**

Products-completed operations hazard:

- A. includes all bodily injury and property damage taking place away from premises owned or occupied by or loaned or rented to you and arising out of your product or your work, except:
  - 1. products that are still in your physical possession; or
  - 2. work that has not yet been completed or abandoned.

Your work will be deemed completed when:

- all of the work called for in your contract or agreement has been completed.
- all of the work to be performed at the site has been completed, if your contract or agreement calls for work at more than one site.
- that part of the work completed at a site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- B. does not include bodily injury or property damage arising out of:
  - 1. the transportation of property, unless the injury or damage results from a condition in or on a vehicle not owned or operated by or loaned or rented to you and that condition was created by the loading or unloading of that vehicle by any insured;

**Reference Copy**

## General Liability

### Definitions

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT, WORDS AND PHRASES THAT APPEAR IN BOLD PRINT HAVE THE SPECIAL MEANINGS DESCRIBED BELOW:

#### **Products-Completed Operations Hazard** (continued)

2. the existence of tools, uninstalled equipment or abandoned or unused materials; or
3. products or operations for which the classification in our rules indicates that such products or operations are not subject to the Products-Completed Operations Aggregate Limit of insurance.

#### **Property Damage**

Property damage means:

- physical injury to tangible property, including resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the occurrence that caused it.

Tangible property does not include any software, data or other information that is in electronic form.

#### **Suit**

Suit means a civil proceeding in which damages, to which this insurance applies, are sought. Suit includes an arbitration or other dispute resolution proceeding in which such damages are sought and to which the insured must submit or does submit with our consent.

#### **Temporary Worker**

Temporary worker means a person who is furnished to a party to substitute for a permanent employee on leave or to meet seasonal or short-term workload conditions.

#### **Your Product**

Your product:

- A. means any:
  1. goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
    - a. you;
    - b. others trading under your name; or
    - c. a person or organization whose assets or business you have acquired; and
  2. containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
- B. includes:
  1. representations or warranties made at any time with respect to the durability, fitness, performance, quality or use of your product; and
  2. the providing of or failure to provide instructions or warnings.
- C. does not include vending machines or other property loaned or rented to or located for the use of others but not sold.

## Reference Copy

**Definitions**  
(continued)

WHEN USED WITH RESPECT TO INSURANCE UNDER THIS CONTRACT, WORDS AND PHRASES THAT APPEAR IN BOLD PRINT HAVE THE SPECIAL MEANINGS DESCRIBED BELOW:

**Your Work**

**Your work:**

A. means any:

1. work or operations performed by:
  - a. you or on your behalf; or
  - b. a person or organization whose assets or business you have acquired; and
2. materials, parts or equipment furnished in connection with such work or operations.

B. includes:

1. representations or warranties made at any time with respect to the durability, fitness, performance, quality or use of your work; and
2. the providing of or failure to provide instructions or warnings.

Reference Copy

## COMMERCIAL AUTOMOBILE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

#### BUSINESS AUTO COVERAGE FORM

This endorsement modifies the Business Auto Coverage Form.

##### 1. EXTENDED CANCELLATION CONDITION

Paragraph A.2.b. - CANCELLATION - of the COMMON POLICY CONDITIONS form IL 00 17 is deleted and replaced with the following:

- b. 60 days before the effective date of cancellation if we cancel for any other reason.

##### 2. BROAD FORM INSURED

###### A. Subsidiaries and Newly Acquired or Formed Organizations As Insureds

The Named Insured shown in the Declarations is amended to include:

1. Any legally incorporated subsidiary in which you own more than 50% of the voting stock on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
2. Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
  - (a) That is an "insured" under any other automobile policy;
  - (b) That has exhausted its Limit of Insurance under any other policy; or
  - (c) 180 days or more after its acquisition or formation by you, unless you have given us written notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

###### B. Employees as Insureds

Paragraph A.1. - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add the following:

- d. Any "employee" of yours while using a covered "auto" you don't own, hire or

borrow in your business or your personal affairs.

##### C. Lessors as Insureds

Paragraph A.1. - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add the following:

- e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
    - (1) The agreement requires you to provide direct primary insurance for the lessor; and
    - (2) The "auto" is leased without a driver. Such leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.
- However, the lessor is an "insured" only for "bodily injury" or "property damage" resulting from the acts or omissions by:
1. You;
  2. Any of your "employees" or agents; or
  3. Any person, except the lessor or any "employee" or agent of the lessor, operating an "auto" with the permission of any of 1. and/or 2. above.

##### D. Persons And Organizations As Insureds Under A Written Insured Contract

Paragraph A.1 - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add the following:

- f. Any person or organization with respect to the operation, maintenance or use of a covered "auto", provided that you and such person or organization have agreed under an express provision in a written "insured contract", written agreement or a written permit issued to you by a governmental or public authority to add such person or organization to this policy as an "insured". However, such person or organization is an "insured" only:

- (1) with respect to the operation, maintenance or use of a covered "auto"; and
- (2) for "bodily injury" or "property damage" caused by an "accident" which takes place after:
  - (a) You executed the "insured contract" or written agreement; or
  - (b) The permit has been issued to you.

**3. FELLOW EMPLOYEE COVERAGE**

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply.

**4. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE**

Paragraph A.4.a. - TRANSPORTATION EXPENSES - of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$50 per day for temporary transportation expense, subject to a maximum limit of \$1,000.

**5. AUTO LOAN/LEASE GAP COVERAGE**

Paragraph A. 4. - COVERAGE EXTENSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to add the following:

**c. Unpaid Loan or Lease Amounts**

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the loan or lease for a covered "auto" minus:

1. The amount paid under the Physical Damage Coverage Section of the policy; and
2. Any:
  - a. Overdue loan/lease payments at the time of the "loss";
  - b. Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
  - c. Security deposits not returned by the lessor;
  - d. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
  - e. Carry-over balances from previous loans or leases.

We will pay for any unpaid amount due on the loan or lease if caused by:

1. Other than Collision Coverage only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
2. Specified Causes of Loss Coverage only if the Declarations indicate that Specified Causes of Loss Coverage is provided for any covered "auto"; or
3. Collision Coverage only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

**6. RENTAL AGENCY EXPENSE**

Paragraph A. 4. - COVERAGE EXTENSIONS - of

SECTION III - PHYSICAL DAMAGE COVERAGE is amended to add the following:

**d. Rental Expense**

We will pay the following expenses that you or any of your "employees" are legally obligated to pay because of a written contract or agreement entered into for use of a rental vehicle in the conduct of your business:

**MAXIMUM WE WILL PAY FOR ANY ONE CONTRACT OR AGREEMENT:**

1. \$2,500 for loss of income incurred by the rental agency during the period of time that vehicle is out of use because of actual damage to, or "loss" of, that vehicle, including income lost due to absence of that vehicle for use as a replacement;
2. \$2,500 for decrease in trade-in value of the rental vehicle because of actual damage to that vehicle arising out of a covered "loss"; and
3. \$2,500 for administrative expenses incurred by the rental agency, as stated in the contract or agreement.
4. \$7,500 maximum total amount for paragraphs 1., 2. and 3. combined.

**7. EXTRA EXPENSE - BROADENED COVERAGE**

Paragraph A.4. - COVERAGE EXTENSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to add the following:

**e. Recovery Expense**

We will pay for the expense of returning a stolen covered "auto" to you.

**8. AIRBAG COVERAGE**

Paragraph B.3.a. - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE does not apply to the accidental or unintended discharge of an airbag. Coverage is excess over any other collectible insurance or warranty specifically designed to provide this coverage.

**9. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT - BROADENED COVERAGE**

Paragraph B.4. - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE is deleted and replaced with the following:

4. We will not pay for "loss" to any of the following:
  - a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
  - b. Any device designed or used to detect speed-measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed-measuring equipment.
  - c. Any electronic equipment, without regard to whether this equipment is permanently installed, that reproduces, receives or transmits audio, visual or data signals.

- d. Any accessories used with the electronic equipment described in paragraph c. above.

Exclusions 4.c. and 4.d. do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- a. Permanently installed in or upon the covered "auto";
- b. Removable from a housing unit which is permanently installed in or upon the covered "auto";
- c. An integral part of the same unit housing any electronic equipment described in Paragraphs a. and b. above, or
- d. Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

\$2,000 is the most we will pay for "loss" in any one "accident" to all electronic equipment that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

- a. Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
- b. Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
- c. An integral part of such equipment.

#### 10. GLASS REPAIR – WAIVER OF DEDUCTIBLE

Under Paragraph D. - DEDUCTIBLE – of SECTION III – PHYSICAL DAMAGE COVERAGE the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

#### 11. TWO OR MORE DEDUCTIBLES

Paragraph D.- DEDUCTIBLE – of SECTION III – PHYSICAL DAMAGE COVERAGE is amended to add the following:

If this Coverage Form and any other Coverage Form or policy issued to you by us that is not an automobile policy or Coverage Form applies to the same "accident", the following applies:

- 1. If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived; or
- 2. If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

#### 12. AMENDED DUTIES IN THE EVENT OF

#### ACCIDENT, CLAIM, SUIT OR LOSS

Paragraph A.2.a. - DUTIES IN THE EVENT OF AN ACCIDENT, CLAIM, SUIT OR LOSS of SECTION IV - BUSINESS AUTO CONDITIONS is deleted and replaced with the following:

- a. In the event of "accident", claim, "suit" or "loss", you must promptly notify us when the "accident" is known to:
  - (1) You or your authorized representative, if you are an individual;
  - (2) A partner, or any authorized representative, if you are a partnership;
  - (3) A member, if you are a limited liability company; or
  - (4) An executive officer, insurance manager, or authorized representative, if you are an organization other than a partnership or limited liability company.

Knowledge of an "accident", claim, "suit" or "loss" by other persons does not imply that the persons listed above have such knowledge. Notice to us should include:

- (1) How, when and where the "accident" or "loss" occurred;
- (2) The insured's name and address; and
- (3) To the extent possible, the names and addresses of any injured persons or witnesses.

#### 13. WAIVER OF SUBROGATION

Paragraph A.5. - TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US of SECTION IV – BUSINESS AUTO CONDITIONS is deleted and replaced with the following:

- 5. We will waive the right of recovery we would otherwise have against another person or organization for "loss" to which this insurance applies, provided the "insured" has waived their rights of recovery against such person or organization under a contract or agreement that is entered into before such "loss".

To the extent that the "insured's" rights to recover damages for all or part of any payment made under this insurance has not been waived, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them. At our request, the insured will bring suit or transfer those rights to us and help us enforce them.

#### 14. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Paragraph B.2. – CONCEALMENT, MISREPRESENTATION or FRAUD of SECTION IV – BUSINESS AUTO CONDITIONS - is deleted and replaced with the following:

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will

not void coverage under this Coverage Form because of such failure.

**15. AUTOS RENTED BY EMPLOYEES**

Paragraph B.5. - OTHER INSURANCE of SECTION IV - BUSINESS AUTO CONDITIONS - is amended to add the following:

- e. Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire. If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

**16. HIRED AUTO - COVERAGE TERRITORY**

Paragraph B.7.e. (1) - POLICY PERIOD, COVERAGE TERRITORY of SECTION IV - BUSINESS AUTO CONDITIONS is deleted and replaced with the following:

- (1) A covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 45 days or less; and

**17. RESULTANT MENTAL ANGUISH COVERAGE**

Paragraph C. of - SECTION V - DEFINITIONS is deleted and replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death as a result of the "bodily injury" sustained by that person.

**BUSINESS AUTO COVERAGE FORM**

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V — Definitions.

**SECTION I — COVERED AUTOS**

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

**A. Description Of Covered Auto Designation Symbols**

Symbol	Description Of Covered Auto Designation Symbols	
1	Any "Auto"	
2	Owned "Autos" Only	Only those "autos" you own (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the policy begins.
3	Owned Private Passenger "Autos" Only	Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the policy begins.
4	Owned "Autos" Other Than Private Passenger "Autos" Only	Only those "autos" you own that are not of the private passenger type (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the policy begins.
5	Owned "Autos" Subject To No-fault	Only those "autos" you own that are required to have no-fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are required to have no-fault benefits in the state where they are licensed or principally garaged.
6	Owned "Autos" Subject To A Compulsory Uninsured Motorists Law	Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.
7	Specifically Described "Autos"	Only those "autos" described in Item Three of the Declarations for which a premium charge is shown (and for Liability Coverage any "trailers" you don't own while attached to any power unit described in Item Three).
8	Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.
9	Non-owned "Autos" Only	Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households but only while used in your business or your personal affairs.

19	Mobile Equipment Subject To Compulsory Or Financial Responsibility Or Other Motor Vehicle Insurance Law Only	Only those "autos" that are land vehicles and that would qualify under the definition of "mobile equipment" under this policy if they were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where they are licensed or principally garaged.
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#### B. Owned Autos You Acquire After The Policy Begins

1. If Symbols 1, 2, 3, 4, 5, 6 or 19 are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if Symbol 7 is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
  - a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
  - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

#### C. Certain Trailers, Mobile Equipment And Temporary Substitute Autos

If Liability Coverage is provided by this coverage form, the following types of vehicles are also covered "autos" for Liability Coverage:

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. "Mobile equipment" while being carried or towed by a covered "auto".
3. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
  - a. Breakdown;
  - b. Repair;
  - c. Servicing;
  - d. "Loss"; or
  - e. Destruction.

## SECTION II - LIABILITY COVERAGE

### A. Coverage

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance has been exhausted by payment of judgments or settlements.

#### 1. Who Is An Insured

The following are "insureds":

- a. You for any covered "auto".
- b. Anyone else while using with your permission a covered "auto" you own, hire or borrow except:
  - (1) The owner or anyone else from whom you hire or borrow a covered "auto".

This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.

(2) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.

(3) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.

(4) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company) or a lessee or borrower or any of their "employees", while moving property to or from a covered "auto".

(5) A partner (if you are a partnership) or a member (if you are a limited liability company) for a covered "auto" owned by him or her or a member of his or her household.

c. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

## 2. Coverage Extensions

### a. Supplementary Payments

We will pay for the "insured";

(1) All expenses we incur.

(2) Up to \$2,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

(3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$250 a day because of time off from work.

(5) All court costs taxed against the "insured" in any "suit" against the "insured" we defend. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the "insured".

(6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend, but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the Limit of Insurance.

### b. Out-of-state Coverage Extensions

While a covered "auto" is away from the state where it is licensed we will:

(1) Increase the Limit of Insurance for Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.

(2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

## B. Exclusions

This insurance does not apply to any of the following:

### 1. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured".

### 2. Contractual

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

a. Assumed in a contract or agreement that is an "insured contract" provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or

b. That the "insured" would have in the absence of the contract or agreement.

### 3. Workers' Compensation

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

4. Employee Indemnification And Employer's Liability

"Bodily injury" to:

- a. An "employee" of the "insured" arising out of and in the course of:
  - (1) Employment by the "insured"; or
  - (2) Performing the duties related to the conduct of the "insured's" business; or
- b. The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph a. above.

This exclusion applies:

- (1) Whether the "insured" may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract". For the purposes of the coverage form, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

5. Fellow Employee

"Bodily injury" to:

- a. Any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business; or
- b. The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of Paragraph a. above.

6. Care, Custody Or Control

"Property damage" to or "covered pollution cost or expense" involving property owned or transported by the "insured" or in the "insured's" care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement.

7. Handling Of Property

"Bodily injury" or "property damage" resulting from the handling of property:

- a. Before it is moved from the place where it is accepted by the "insured" for movement into or onto the covered "auto"; or

- b. After it is moved from the covered "auto" to the place where it is finally delivered by the "insured".

8. Movement Of Property By Mechanical Device

"Bodily injury" or "property damage" resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered "auto".

9. Operations

"Bodily injury" or "property damage" arising out of the operation of:

- a. Any equipment listed in Paragraphs 6.b. and 6.c. of the definition of "mobile equipment"; or
- b. Machinery or equipment that is on, attached to or part of a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

10. Completed Operations

"Bodily injury" or "property damage" arising out of your work after that work has been completed or abandoned.

In this exclusion, your work means:

- a. Work or operations performed by you or on your behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in Paragraph a. or b. above.

Your work will be deemed completed at the earliest of the following times:

- (1) When all of the work called for in your contract has been completed.
- (2) When all of the work to be done at the site has been completed if your contract calls for work at more than one site.
- (3) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

#### 11. Pollution

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
  - (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
  - (2) Otherwise in the course of transit by or on behalf of the "insured"; or
  - (3) Being stored, disposed of, treated or processed in or upon the covered "auto";
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraphs 6.b. and 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above of this exclusion do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
- (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

#### 12. War

"Bodily injury" or "property damage" arising directly or indirectly out of:

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

#### 13. Racing

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

#### C. Limit Of Insurance

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined resulting from any one "accident" is the Limit of Insurance for Liability Coverage shown in the Declarations.

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this coverage form and any Medical Payments Coverage endorsement, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

### SECTION III - PHYSICAL DAMAGE COVERAGE

#### A. Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:

- a. Comprehensive Coverage

From any cause except:

- (1) The covered "auto's" collision with another object; or
    - (2) The covered "auto's" overturn.

- b. Specified Causes Of Loss Coverage

Caused by:

- (1) Fire, lightning or explosion;
    - (2) Theft;
    - (3) Windstorm, hail or earthquake;
    - (4) Flood;
    - (5) Mischief or vandalism; or
    - (6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".

- c. Collision Coverage

Caused by:

- (1) The covered "auto's" collision with another object; or
    - (2) The covered "auto's" overturn.

2. Towing

We will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

3. Glass Breakage - Hitting A Bird Or Animal - Falling Objects Or Missiles

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

- a. Glass breakage;
  - b. "Loss" caused by hitting a bird or animal; and

- c. "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

#### 4. Coverage Extensions

- a. Transportation Expenses

We will pay up to \$20 per day to a maximum of \$600 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes Of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

- b. Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
    - (2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or
    - (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is \$20 per day, to a maximum of \$600.

#### B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

- a. Nuclear Hazard

- (1) The explosion of any weapon employing atomic fission or fusion; or
    - (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. War Or Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

2. We will not pay for "loss" to any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such a contest or activity.

3. We will not pay for "loss" due and confined to:

- a. Wear and tear, freezing, mechanical or electrical breakdown,
- b. Blowouts, punctures or other road damage to tires.

This exclusion does not apply to such "loss" resulting from the total theft of a covered "auto".

4. We will not pay for "loss" to any of the following:

- a. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
- b. Any device designed or used to detect speed-measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed-measurement equipment.
- c. Any electronic equipment, without regard to whether this equipment is permanently installed, that reproduces, receives or transmits audio, visual or data signals.
- d. Any accessories used with the electronic equipment described in Paragraph c. above.

5. Exclusions 4.c. and 4.d. do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

- a. Permanently installed in or upon the covered "auto";

b. Removable from a housing unit which is permanently installed in or upon the covered "auto";

c. An integral part of the same unit housing any electronic equipment described in Paragraphs a. and b. above; or

d. Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

6. We will not pay for "loss" to a covered "auto" due to "diminution in value".

C. Limit Of Insurance

1. The most we will pay for "loss" in any one "accident" is the lesser of:

- a. The actual cash value of the damaged or stolen property as of the time of the "loss"; or
- b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

2. \$1,000 is the most we will pay for "loss" in any one "accident" to all electronic equipment that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

- a. Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
- b. Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
- c. An integral part of such equipment.

3. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".

4. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.

D. Deductible

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations. Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning.

#### SECTION IV – BUSINESS AUTO CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

##### A. Loss Conditions

###### 1. Appraisal For Physical Damage Loss

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

###### 2. Duties In The Event Of Accident, Claim, Suit Or Loss

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss". Include:
  - (1) How, when and where the "accident" or "loss" occurred;
  - (2) The "insured's" name and address; and
  - (3) To the extent possible, the names and addresses of any injured persons and witnesses.
- b. Additionally, you and any other involved "insured" must:
  - (1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.
  - (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".
  - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".
  - (4) Authorize us to obtain medical records or other pertinent information.

- (5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.

###### c. If there is "loss" to a covered "auto" or its equipment you must also do the following:

- (1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.
- (2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.
- (3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.
- (4) Agree to examinations under oath at our request and give us a signed statement of your answers.

###### 3. Legal Action Against Us

No one may bring a legal action against us under this coverage form until:

- a. There has been full compliance with all the terms of this coverage form; and
- b. Under Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the "insured's" liability.

###### 4. Loss Payment – Physical Damage Coverages

At our option we may:

- a. Pay for, repair or replace damaged or stolen property;
- b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or
- c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

###### 5. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this coverage form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

## B. General Conditions

### 1. Bankruptcy

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this coverage form.

### 2. Concealment, Misrepresentation Or Fraud

This coverage form is void in any case of fraud by you at any time as it relates to this coverage form. It is also void if you or any other "insured", at any time, intentionally conceal or misrepresent a material fact concerning:

- a. This coverage form;
- b. The covered "auto";
- c. Your interest in the covered "auto"; or
- d. A claim under this coverage form.

### 3. Liberalization

If we revise this coverage form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

### 4. No Benefit To Baflee — Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this coverage form.

### 5. Other Insurance

a. For any covered "auto" you own, this coverage form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this coverage form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Liability Coverage this coverage form provides for the "trailer" is:

- (1) Excess while it is connected to a motor vehicle you do not own.
- (2) Primary while it is connected to a covered "auto" you own.

b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

c. Regardless of the provisions of Paragraph a. above, this coverage form's Liability Coverage is primary for any liability assumed under an "insured contract".

d. When this coverage form and any other coverage form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our coverage form bears to the total of the limits of all the coverage forms and policies covering on the same basis.

### 6. Premium Audit

a. The estimated premium for this coverage form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.

b. If this policy is issued for more than one year, the premium for this coverage form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

### 7. Policy Period, Coverage Territory

Under this coverage form, we cover "accidents" and "losses" occurring:

a. During the policy period shown in the Declarations; and

b. Within the coverage territory.

The coverage territory is:

- (1) The United States of America;
- (2) The territories and possessions of the United States of America;
- (3) Puerto Rico;
- (4) Canada; and
- (5) Anywhere in the world if:

(a) A covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less; and

(b) The "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

We also cover "loss" to, or "accidents" involving, a covered "auto" while being transported between any of these places.

**8. Two Or More Coverage Forms Or Policies Issued By Us**

If this coverage form and any other coverage form or policy issued to you by us or any company affiliated with us applies to the same "accident", the aggregate maximum Limit of Insurance under all the coverage forms or policies shall not exceed the highest applicable Limit of Insurance under any one coverage form or policy. This condition does not apply to any coverage form or policy issued by us or an affiliated company specifically to apply as excess insurance over this coverage form.

**SECTION V - DEFINITIONS**

A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".

B. "Auto" means:

1. A land motor vehicle, "trailer" or semitrailer designed for travel on public roads; or
2. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

C. "Bodily injury" means bodily injury, sickness or disease sustained by a person including death resulting from any of these.

D. "Covered pollution cost or expense" means any cost or expense arising out of:

1. Any request, demand, order or statutory or regulatory requirement that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
2. Any claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

a. That are, or that are contained in any property that is:

- (1) Being transported or towed by, handled or handled for movement into, onto or from the covered "auto";
- (2) Otherwise in the course of transit by or on behalf of the "insured"; or
- (3) Being stored, disposed of, treated or processed in or upon the covered "auto";

b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

- (1) The "pollutants" escape, seep, migrate or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants"; and
- (2) The "bodily injury", "property damage" or "covered pollution cost or expense" does not arise out of the operation of any equipment listed in Paragraph 6.b. or 6.c. of the definition of "mobile equipment".

Paragraphs b. and c. above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (a) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
  - (b) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.
- E. "Diminution in value" means the actual or perceived loss in market value or resale value which results from a direct and accidental "loss".
- F. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- G. "Insured" means any person or organization qualifying as an insured in the Who Is An Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.
- H. "Insured contract" means:
- 1. A lease of premises;
  - 2. A sidetrack agreement;
  - 3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
  - 4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
  - 5. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement;
  - 6. That part of any contract or agreement entered into, as part of your business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay for "property damage" to any "auto" rented or leased by you or any of your "employees".

An "insured contract" does not include that part of any contract or agreement:

- a. That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
  - b. That pertains to the loan, lease or rental of an "auto" to you or any of your "employees", if the "auto" is loaned, leased or rented with a driver; or
  - c. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.
- I. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
- J. "Loss" means direct and accidental loss or damage.
- K. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
- 1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  - 2. Vehicles maintained for use solely on or next to premises you own or rent;
  - 3. Vehicles that travel on crawler treads;
  - 4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
    - a. Power cranes, shovels, loaders, diggers or drills; or
    - b. Road construction or resurfacing equipment such as graders, scrapers or rollers;
  - 5. Vehicles not described in Paragraph 1., 2., 3. or 4. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
    - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well-servicing equipment; or
    - b. Cherry pickers and similar devices used to raise or lower workers; or

6. Vehicles not described in Paragraph 1., 2., 3. or 4. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- a. Equipment designed primarily for:
  - (1) Snow removal;
  - (2) Road maintenance, but not construction or resurfacing; or
  - (3) Street cleaning;
- b. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well-servicing equipment.

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

L. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

M. "Property damage" means damage to or loss of use of tangible property.

N. "Suit" means a civil proceeding in which:

1. Damages because of "bodily injury" or "property damage"; or
  2. A "covered pollution cost or expense";
- to which this insurance applies, are alleged.

"Suit" includes:

- a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" must submit or does submit with our consent; or
- b. Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the insured submits with our consent.

O. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

P. "Trailer" includes semitrailer.



# COUNTY OF MONTEREY

## PURCHASE ORDER

ORDER DATE 10-10-2014

DO 3000 0000008016

### IMPORTANT

THE ABOVE NUMBER AND SHIP TO DEPARTMENT MUST  
APPEAR ON ALL SHIPPING LABELS, PACKING SLIPS,  
TRANSPORT DOCUMENTS, INVOICES AND CORRESPONDENCE.

VENDOR  
Augustine Consulting, Inc  
400 Pearl Street  
Monterey CA 93940

VENDOR NUMBER: VS0000003328

SHIP TO  
PUBLIC WRK  
168 W. ALISAL ST.,  
2ND FLOOR  
SALINAS CA 93901

DELIVERY DATE:

F.O.B.:

BILL TO  
RMA FINANCE  
168 W ALISAL STREET  
2ND FLOOR  
SALINAS CA 93901

ITEM	QUANTITY	UNIT	COMMODITY CODE	ITEM DESCRIPTION	UNIT PRICE	SALES TAX	EXTENDED PRICE
1	0.0		91883	PURCH DESC: STANDARD AGREEMENT (SA) (MYA 3000 *1428) BETWEEN AUGUSTINE CONSULTING, INC. AND THE COUNTY OF MONTEREY TO PROVIDE AN ASSESSMENT OF THE RESOURCE MANAGEMENT AGENCY'S GRANT MANAGEMENT SYSTEMS AND PROCESSES (RFP#10472) IN THE AMOUNT NOT TO EXCEED \$100,000.00. THE TERM OF THIS SA IS FROM SEPTEMBER 22, 2014 TO SEPTEMBER 22, 2015 WITH THE OPTION TO RENEW FOR ONE (1) ADDITIONAL YEAR PERIOD. PLEASE NOTE THAT OF \$100,000.00 ONLY \$19,992.00 SHALL BE ENCUMBERED FOR FISCAL YEAR (FY) 2014-2015. THE REMAINING \$80,008.00 SHALL BE ENCUMBERED IN FUTURE FY. THIS PURCHASE ORDER IS VALID FROM 09/24/14 THRU 06/30/15.	.00	.00	19,992.00
COMM LINE DESC: Organizational Development Consulting							
MSDS: Not Required							
001 - 3000 - 8222 - RMA013 - 8613 -							19992.00

RECEIVED  
DATE 10/18/14  
Printed from Advantage

THE SHADED ROWS ARE FOR MONTEREY COUNTY DEPARTMENT USE ONLY

ORDER TOTAL 19,992.00

All Vendors are required to review the Monterey County general terms and conditions which apply to all contracts, purchase orders, and other electronic procurements made with the County unless otherwise noted. Said terms and conditions can be found on the County website at [http://www.co.monterey.ca.us/admin/terms\\_conditions.htm](http://www.co.monterey.ca.us/admin/terms_conditions.htm)

TAX EXEMPTION INFORMATION:  
FEDERAL EXCISE TAX EXEMPTION NUMBER 94-6000524

AUTHORIZED BY COUNTY OF MONTEREY  
DEPUTIZED PURCHASING AGENT

*Michael R. Ten*

COUNTY BUYER INFORMATION

EMAIL:

TELEPHONE:

CONTRACTS/PURCHASING DIVISION  
168 W. Alisal St. 3rd Floor, Salinas, CA 93901

PRINT DATE: 10/18/14

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