

**AMENDMENT #3
TO THE STANDARD AGREEMENT
COUNTY OF MONTEREY
And
MEZZALUNA PASTERIA
TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE
GREAT PLATES DELIVERED & CARES PROGRAMS**

THIS AMENDMENT #3 is entered into this 8th day of March 2021 by and between the County of Monterey (herein called “County”) and Mezzaluna Pasteria (herein called “CONTRACTOR”).

WHEREAS, the State of California (“State”) authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics (collectively the “Program”);

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on September 24, 2020, Amendment #1 on December 16, 2020, and Amendment #2 on January 27, 2021 for the Great Plates Delivered program (collectively the “Agreement”);

WHEREAS, the Program is subject to State extension every thirty (30) days;

WHEREAS, the County has provided funding to support the AAA CARES meal program that will run concurrently with the Program;

WHEREAS, County and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term and replace Exhibit A-1.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of **\$1,109,112.00**.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with:

The term of this Agreement is from **June 1, 2020** to **June 30, 2021**, unless sooner terminated pursuant to the terms of this Agreement. Upon receipt of the State notice of program ending, the County shall provide CONTRACTOR with a two-week ramp-down period but shall not extend past June 30, 2021. This Agreement is of no force or effect until signed by both CONTRACTOR and County with County signing last.

Exhibit A-1 SCOPE OF SERVICES/PAYMENT PROVISIONS shall be deleted in its entirety and replaced with Exhibit A-2, attached to, and made part of the Agreement.

All other terms and conditions of the Original Standard Agreement, Amendment #1, and Amendment #2, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT #3 shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #5 to the Agreement on the dates set forth below.

CONTRACTOR

COUNTY OF MONTEREY

By: DocuSigned by:
Soerke Peters
C00434E1E5B648C...
Soerke Peters, Owner
3/20/2021
Date: _____

By: DocuSigned by:
Michael R. Derr
367942E6F649429...
Michael Derr
Contracts & Purchasing Officer
3/20/2021
Date: _____

By: _____
Date: _____

Approved as to form and legality
By: DocuSigned by:
William Litt
DA7DBB6CB0B348A...
William M. Litt
3/20/2021
Date: _____

Reviewed as to fiscal provisions:
By: DocuSigned by:
Gary Giboney
D3834BFEC1D8449...
Gary Giboney
3/20/2021
Date: _____

EXHIBIT A-2

**SCOPE OF SERVICES/PAYMENT PROVISIONS
MEZZALUNA PASTERIA
HOME DELIVERED MEAL SERVICES
JUNE 1, 2020 – JUNE 30, 2021**

I. CONTACT INFORMATION

CONTRACTOR – *COPY ALL CONTACTS ON ALL COMMUNICATIONS*

Contact Person &
Disaster Preparedness

Soeke Peters, Owner
1188 Forest Avenue
Pacific Grove, CA 93950
(310) 971-7567
chefischef@gmail.com

COUNTY Contract Manager:

Kathleen Murray-Phillips, Management Analyst
Area Agency on Aging
Department of Social Services
1000 South Main Street, Suite 301
Salinas, CA 93901
(831) 796-3530
murrayphillipsk@co.monterey.ca.us

II. OFFICE AND SITE LOCATIONS

Business and Restaurant Location:
1188 Forest Avenue
Pacific Grove CA 93950
(831) 372-5325

III. COMPLIANCE REQUIREMENTS

This Agreement is supported with State and Federal funds and requires compliance with all regulations under the following laws:

- a. Clean Air Act, as amended. [42 USC 7401]
- b. Clean Water Act, as amended. [33 USC 1251]
- c. Federal Water Pollution Control Act, as amended. [33 USC 1251, et.seq.]
- d. Environmental Protection Agency Regulations. [40 CFR, 29] [Executive Order 11738]
- e. Public Contract Code Section 10295.3
- f. Occupational Safety and Health Administration applicable regulations [OSHA Act]
- g. In accordance with all Food & Safety regulations.

IV. SERVICES TO BE PROVIDED BY CONTRACTOR (includes invoicing and reporting)

CONTRACTOR shall follow all requirements of the two programs to provide meals to seniors and provide up to three (3) meals per day to referred clients with the following guidelines:

- a. Two restaurant meals for seniors' programs:
 - i. Great Plates Delivered, and
 - ii. AAA CARES Meals.

- b. Meal Standards and Menu Planning
 - i. Must be able to accommodate dietary restrictions for clients.
 - ii. Breakfast
 - Low in sodium
 - No sugary drinks (<24 calories / 8oz)
 - Fruit juice must be 100% fruit based
 - iii. Lunch and Dinner
 - Low in sodium
 - Piece of fresh fruit or vegetable on each
 - No sugary drinks (<24 calories / 8oz)
 - Fruit juice must be 100% fruit based

- c. Menu Preparation and Approval
 - i. Prepare a weekly menu (Monday through Sunday) and deliver a paper copy to each participant on the previous Friday.
 - ii. The weekly menu must be emailed to the COUNTY Contract Manager by 12:00 pm on the Thursday before the menu will go into effect.
 - iii. The weekly menu shall be distributed to Clients with their regularly scheduled meal delivery on the Friday before the menu will go into effect.

- d. Delivery Standards
 - i. Meals are to be delivered 7 days per week with 1 delivery per day to each client assigned to CONTRACTOR.
 - ii. Meal delivery should be scheduled for delivery during late morning and include:
 - 1. Lunch
 - 2. Dinner
 - 3. Breakfast for next day
 - 4. The actual meals delivered may vary depending on the client's needs.
 - iii. Delivery Process:
 - 1. Delivery Drivers must announce themselves by using either a doorbell or knocking loudly.
 - 2. Observe the front door to ensure meals are picked up by the Client.
 - 3. If meals are not picked up by the Client, the Delivery Driver shall try to reach the Client by telephone.
 - 4. If meals are not picked up by the Client, the Delivery Driver shall leave a note for the Client to call the CONTRACTOR.
 - 5. The Delivery Driver will not leave the meals and will take them back to the CONTRACTOR and discuss the details of the attempted delivery.
 - 6. CONTRACTOR will notify the County Contract Manager the same day if delivery is unsuccessful after an attempt to contact the Client by telephone and let them know that meal deliveries are being discontinued.

7. Meal service to Client shall not be reinitiated by CONTRACTOR until authorized by the County Contract Manager.

e. Delivery Service.

- i. Is CONTRACTOR using a delivery service (circle) YES or NO
 1. If yes, what is name of service: _____
- ii. If No, please supply background reports on the drivers being used.
 1. No Delivery Driver may be used until the County has received a copy of the Delivery Driver's background report.

f. Referral and Reservation System

- i. County Contract Manager or designee shall email CONTRACTOR two weekly lists of eligible Clients (one for each Program):
 1. County Contract Manager may add Clients at any time during the week.
 2. CONTRACTOR must be able to begin service to new Clients within 24-hours of receiving the notice.
- ii. Client referrals shall include:
 1. Client Name
 2. Client Phone Number
 3. Client Address
 4. Client Dietary Restrictions

V. CONTRACTOR RECORDS AND INVOICING

- a. Records must maintain details that include:
 - i. Verification that Client will be home during the delivery period.
 - ii. Verification that meals are wanted by the Client.
 1. A record of which meal(s) will not be delivered if such a request is made by Client.
- b. Restaurants will complete the two provided weekly participant listings with the meals delivered and return to the County with a weekly invoices (see EXHIBIT B and EXHIBIT C for Sample Invoices) and Weekly Delivery Tracking Sheet (see EXHIBIT D for Sample Weekly Delivery Tracking Sheet). If delivery service is used, a copy of the weekly delivery invoice needs to accompany the weekly invoice.
- c. County Contract Manager will review and validate the invoice for payment and shall forward to Fiscal for payment weekly.

VI. CONTRACT TERM

This contract is dependent on support by the Federal Emergency Management Agency (FEMA) and the State of California and may be discontinued at any time as per the terms in the contract Sections 3.0 and 7.0.

VII. PAYMENT SUMMARY

- a. Meal charges for Great Plates Delivered cannot exceed the amounts listed below per meals delivered and the once daily delivery fee cannot exceed six dollars (\$6). A maximum of sixty-six dollars (\$66) per day, per participant is allowed. However, meals not wanted by the participant must not be prepared, charged for, or delivered.

Breakfast	Lunch	Dinner	Delivery	Daily Total
\$15	\$17	\$28	\$6	\$66

- b. Meal charges for AAA Cares cannot exceed the amounts listed below per meals delivered and the once daily delivery fee cannot exceed six dollars (\$6). A maximum of thirty-six dollars (\$36) per day, per participant is allowed. However, meals not wanted by the participant must not be prepared, charged for, or delivered.

Breakfast	Lunch	Dinner	Delivery	Daily Total
\$7	\$9	\$14	\$6	\$36

- c. The maximum amount payable by County to CONTRACTOR for meals and delivery for participants of the Great Plates Delivered and AAA CARES Meals Programs for the term of the Agreement as amended shall not exceed **\$1,109,112.00**. The not to exceed amount is cumulative from inception of the Program.
- d. County shall reimburse CONTRACTOR by a County Procurement Visa Card within seven (7) business days of receipt of the invoice.
- i. If CONTRACTOR would prefer a check process instead, CONTRACTOR must notify County in writing at time of signing this amendment.
 - ii. CONTRACTOR understands that the “check” process is a longer turnaround for payment.
- e. All parties agree that Section 6.04 in the Standard Agreement does not apply to this agreement. The above-mentioned payment terms apply to this agreement.

VIII. MISCELLANEOUS PROVISIONS

- a. All parties agree to add the following Section 7.04 to the Standard Agreement:

CONTRACTOR may cancel and terminate this Agreement for good cause effective immediately upon written notice to the County. Out of respect to the clients being served, CONTRACTOR will provide as much notice as is feasible so that County may seek these services elsewhere. Good Cause shall include, but not be limited to, labor shortages and supply chain problems that limit availability of raw materials necessary to carry out the work.

COUNTY OF MONTEREY STANDARD AGREEMENT

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

(hereinafter "CONTRACTOR").

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

1.0 GENERAL DESCRIPTION:

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:

COVID-19 - For the duration of the Great Plates Delivered program, one-time per day delivery of breakfast, lunch and dinner to eligible households as directed by the Department of Social Services

2.0 PAYMENT PROVISIONS:

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 shall not exceed the sum of: \$95,000.00

3.0 TERM OF AGREEMENT:

3.01 The term of this Agreement is from September 28, 2020 to December 10, 2020, 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:

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 Other: Sample Invoice & Weekly Delivery Tracking Sheet

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 in this paragraph. 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:

CONTRACTOR shall indemnify, defend, and hold harmless the County, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

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.)

Requestor must check the appropriate Automobile Insurance Threshold:

Requestor must check the appropriate box.

Agreement Under \$100,000 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.

Agreement Over \$100,000 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 \$1,000,000 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 always 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:**

- 10.1 **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.
- 10.2 **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.
- 10.3 **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.
- 10.4 **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.
- 10.5 **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:

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:

In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is always 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 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:

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: Kathleen Murray-Phillips	FOR CONTRACTOR: Soerke Peters Owner
<hr/> Name and Title 1000 South Main St., Suite 301 Salinas, CA 93901	<hr/> Name and Title 1188 Forest Avenue Pacific Grove, CA 93950
<hr/> Address 831-796-3550	<hr/> Address 310-971-7567
<hr/> Phone:	<hr/> 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; venue shall be Monterey County.
- 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.

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: Michael R. Derr
DocuSigned by: 367942E6F649429...
 Contracts/Purchasing Officer

Date: 9/24/2020 | 2:19 PM PDT

By: _____
 Department Head (if applicable)

Date: _____

By: _____
 Board of Supervisors (if applicable)

Date: _____

Approved as to Form¹

By: Marina Pantchenko
DocuSigned by: 65EE9F1502BD412...
 County Counsel

Date: 9/24/2020 | 1:50 PM PDT

Approved as to Fiscal Provisions²

By: Gary Giboney
DocuSigned by: D3834BFECTD8449...
 Auditor/Controller

Date: 9/24/2020 | 2:15 PM PDT

Approved as to Liability Provisions³

By: _____
 Risk Management

Date: _____

CONTRACTOR

Mezzaluna Pasteria
 Contractor's Business Name*

By: Soerke Peters
DocuSigned by: C00434E1E5B040C...
 (Signature of Chair, President, or Vice-President) *

Soerke Peters PRESIDENT
 Name and Title

Date: 9/24/2020 | 10:24 AM PDT

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

 Name and Title

Date: _____

County Board of Supervisors' Agreement Number: _____, approved on (date): _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managers. If CONTRACTOR is a partnership, the full legal 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 or Amendment to said Agreement.

¹Approval by County Counsel is required
²Approval by Auditor-Controller is required
³Approval by Risk Management is necessary only if changes are made in paragraphs 8 or 9

**AMENDMENT #1
TO THE STANDARD AGREEMENT
COUNTY OF MONTEREY
And
MEZZALUNA PASTERIA
TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE
GREAT PLATES DELIVERED & CARES PROGRAMS**

THIS AMENDMENT #1 is entered into this 10th day of December 2020 by and between the County of Monterey (herein called "County") and Mezzaluna Pasteria (herein called "CONTRACTOR").

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on September 24, 2020 for the Great Plates Delivered program (collectively the "Agreement");

WHEREAS, the Great Plates Delivered program is subject to State extension every 30 days and is currently scheduled to end on January 7, 2020;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through at least December 30, 2020;

WHEREAS, Grantee and Subrecipient wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of **\$255,000.00**.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with:

The term of this Agreement is from **September 28, 2020** to **January 7, 2021**, 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 with COUNTY signing last, and CONTRACTOR may not continue working beyond December 10, 2020 before County signs Amendment #1 to the Agreement.

All other terms and conditions of the Original Standard Agreement and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated September 28, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #1 to the Agreement on the dates set forth below.

CONTRACTOR

COUNTY OF MONTEREY

DocuSigned by:
Soerke Peters
By: _____
C60434E1E5B646C...
Soerke Peters, Owner

DocuSigned by:
Debra Wilson, Contracts/Purchasing Supervisor
By: _____
7B741937AA0D41B...
Debra R. Wilson
Contracts/Purchasing Supervisor

Date: 12/16/2020

Date: 12/16/2020

By: _____

Approved as to form and legality
DocuSigned by:
Marina Pantchenko
By: _____
65EE9F1502BD412...
Marina Pantchenko

Date: _____

Date: 12/16/2020

By: _____

Reviewed as to fiscal provisions:
DocuSigned by:
Gary Giboney
By: _____
D3834BFEC1D8449...
Gary Giboney

Date: _____

Date: 12/16/2020

**AMENDMENT #2
TO THE STANDARD AGREEMENT
COUNTY OF MONTEREY
And
MEZZALUNA PASTERIA
TO PROVIDE HOME DELIVERED MEAL SERVICES THROUGH THE
GREAT PLATES DELIVERED & CARES PROGRAMS**

THIS AMENDMENT #2 is entered into this 7th day of January 2021 by and between the County of Monterey (herein called “County”) and Mezzaluna Pasteria (herein called “CONTRACTOR”).

WHEREAS, the State of California authorized local agencies to implement the Great Plates Delivered program to: 1) provide meals to adults 65 and older and adults who are 60-64 who are at high-risk and who are unable to access meals while staying at home and are ineligible for other nutrition programs; and, 2) to support local restaurants and other food provider/agricultural workers and to support owners who have closed or are struggling to remain open due to COVID-19 mitigation tactics.

WHEREAS, the County and the CONTRACTOR executed a County of Monterey Standard Agreement on September 24, 2020 and Amendment #1 December 16, 2020 on for the Great Plates Delivered program (collectively the “Agreement”);

WHEREAS, the Great Plates Delivered program is subject to State extension every thirty (30) days and is currently estimated to end on March 8, 2021;

WHEREAS, the State has provided CARES funding that can be used to compliment the Great Plates Delivered program through December 30, 2020;

WHEREAS, County and CONTRACTOR wish to amend the terms of the Agreement to increase the maximum amount payable and to extend the term.

NOW, THEREFORE, it is agreed between the parties hereto that:

I. Changes to Existing Agreement

Section 2 – PAYMENT PROVISIONS shall be deleted in its entirety and replaced with:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, subject to the limitation set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of 543,486.00.

Section 3.01 – TERM OF AGREEMENT shall be deleted in its entirety and replaced with:

The term of this Agreement is from **June 1, 2020** to **March 8, 2021**, 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 with COUNTY signing last.

All other terms and conditions of the Original Standard Agreement and Amendment #1, and all Exhibits remain unchanged.

II. A copy of this AMENDMENT shall be attached to the original Standard Agreement, dated June 1, 2020.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment #2 to the Agreement on the dates set forth below.

CONTRACTOR

By: DocuSigned by:
Soerke Peters
660434E1E5B646C...
Soerke Peters, Owner

Date: 1/22/2021

COUNTY OF MONTEREY

By: DocuSigned by:
Michael R. Derr
367942E6F649429...
Michael Derr
Contracts & Purchasing Officer

Date: 1/26/2021

Approved as to form and legality

By: _____

By: DocuSigned by:
Marina Pantchenko
65EE9F1502BD412...
Marina Pantchenko

Date: _____

Date: 1/26/2021

Reviewed as to fiscal provisions:

By: DocuSigned by:
Gary Giboney
D3834BFEC1D8440...
Gary Giboney

Date: 1/26/2021



BUSINESSOWNERS LIABILITY ENHANCEMENTS FOR RESTAURANTS/FOOD SERVICES

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

TABLE OF CONTENTS

	Page
Supplementary Payments – Bail Bonds And Bonds To Appeal Judgments – No Sublimit	1
Delivery Errors And Omissions Coverage	2
Medical Expenses – Three Years To Report Expenses	3
Non-Owned Watercraft Under 55 Feet	3
Non-Owned Aircraft	3
Damage To Property – Exception For Equipment Loaned Or Rented To Insured	3
Who Is An Insured – Subsidiaries Or Newly Acquired Or Formed Organizations	3
Who Is An Insured – Employees (Including For CPR and First Aid) And Volunteer Workers	4
Additional Insured – Lessor Of Leased Equipment	4
Additional Insured – Managers Or Lessors Of Premises	5
Additional Insured - Vendors	5
Additional Insured – Other Persons Or Organizations Pursuant To Contract Or Agreement	6
Damage To Premises Rented To You – \$1,000,000	7
Per Location General Aggregate Limit With Combined Total Aggregate Limit	7
Knowledge/Notice Of Occurrence	8
Bodily Injury, Including Resulting Mental Anguish	9
Coverage Territory, Limited Worldwide	9
Personal Injury, Including Discrimination, Harassment And Segregation	9
Additional Definitions	9
Unintentional Failure To Disclose Hazards	10
Other Insurance, Including Primary Provision	10
Waiver Of Subrogation Required By Contract	11

This endorsement modifies the coverages provided under the Businessowners Coverage Form.

Notwithstanding anything to the contrary, the provisions of the Businessowners Coverage Form apply, except as provided in this endorsement. The titles of the various paragraphs of this endorsement are inserted solely for convenience or reference and are not to be deemed in any way to limit or affect the provisions to which they relate.

A. SUPPLEMENTARY PAYMENTS – BAIL BONDS AND BONDS TO APPEAL JUDGMENTS - NO SUBLIMIT

In **Section II - Liability**, Paragraph **A. Coverages, 1. f. Coverage Extension – Supplementary Payments**, subparagraphs **(1)(b) and (c)** are replaced by the following:

(b) The cost of bail bonds, but only for bond amounts within the available limit of insurance. We do not have to furnish these bonds.

- (c) The cost of bonds to appeal judgments or release attachments, but only for amounts within the available limit of insurance. We do not have to furnish these bonds.

B. ADDITIONAL COVERAGES - DELIVERY ERRORS AND OMISSIONS & MERCHANDISE WITHDRAWAL EXPENSES

In **Section II – Liability**, the following is added to Paragraph **A. Coverages**:

1. Delivery Errors And Omissions Coverage

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of a failure to deliver or a misdelivery of items you hold for sale by you, any of your "employees" or by a concessionaire trading under your name. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for delivery errors and omissions to which this insurance does not apply. We may, at our discretion, investigate the circumstances of any misdelivery or failure to deliver and settle any claim or "suit" that may result. But:
 - (1) The amount we will pay for damages is limited as described in Paragraph **1.e.** below;
 - (2) We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds \$250. We will then pay the amount of loss or damage in excess of \$250 up to the applicable Limit of Insurance for this coverage; and
 - (3) Our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of judgments or settlements under this Delivery Errors And Omissions Coverage.
- b. This coverage applies only to errors in deliveries that take place or omissions of such deliveries that should have taken place in the "coverage territory" and during the policy period
- c. This coverage does not apply to:
 - (1) Intentional error or intentional misdelivery or failure to deliver "your product".
 - (2) "Bodily injury", "property damage" or "personal and advertising injury".
 - (3) Discrimination based on a customer's race, color, national origin, religion, gender, marital status, age, sexual orientation or preference, physical or mental condition or residence location.
- d. The Supplementary Payments provision applicable to the Bodily Injury, Property Damage, and Personal And Advertising Injury Liability Coverages also applies to this Delivery Errors And Omissions Coverage.
- e. The most we will pay for the sum of all damages under this coverage because of all failures or misdelsiveries is \$10,000 in any annual period starting with the beginning of the policy period shown in the Declarations. This limit applies separately to each premises described in the Declarations.
- f. The following replaces **the Duties In The Event Of Occurrence, Offense, Claim Or Suit Condition** under Paragraph **E. Liability And Medical Expenses General Conditions of Section II – Liability** for the **Delivery Errors Or Omissions Coverage**:

Duties In The Event Of A Delivery Error Or Omission

- (1) You must see to it that we are notified as soon as practicable of an error or omission which may result in a claim. To the extent possible, notice should include:
 - (a) How, when and where the error or omission took place; and
 - (b) The name(s) and address(es) of the affected customer(s).
- (2) If a claim is made or "suit" is brought against any insured, you must:
 - (a) Immediately record the specifics of the claim or "suit" and the date received; and
 - (b) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

(3) You and any other involved insured must:

- (a)** Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (b)** Authorize us to obtain records and other information;
- (c)** Cooperate with us in our investigation or settlement of the claim or defense against the "suit"; and
- (d)** Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of error or omission to which this insurance may apply.

(4) No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent.

C. MEDICAL EXPENSES – THREE YEARS TO REPORT EXPENSES

In **Section II – Liability**, Paragraph **A. Coverages, 2. Medical Expenses**, subparagraph **a.(b)** is replaced by the following:

(b) The expenses are incurred and reported to us within three years of the date of the accident; and

D. NON-OWNED WATERCRAFT UNDER 55 FEET

In **Section II - Liability**, Paragraph **B. Exclusions**, subparagraph **(2)** of Exclusion **1.g. Aircraft, Auto Or Watercraft** is replaced by the following:

This exclusion does not apply to:

(a) A watercraft you do not own that is:

- (a)** Less than 55 feet long; and
- (b)** Not being used to carry persons or property for a charge;

E. NON-OWNED AIRCRAFT

In **Section II - Liability**, Paragraph **B. Exclusions**, the following exception is added to Exclusion **1.g. Aircraft, Auto or Watercraft in Section II – Liability**:

This exclusion does not apply to an aircraft you do not own provided:

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

F. DAMAGE TO PROPERTY - EXCEPTION FOR EQUIPMENT LOANED OR RENTED TO THE INSURED

In **Section II - Liability**, Paragraph **B. Exclusions**, the following exception is added to Exclusion **1.k. Damage To Property**:

Paragraphs **(3)** and **(1)** of this exclusion do not apply to "property damage" to equipment rented or loaned to the insured, provided such equipment is not being used to perform any operations at a construction job site.

G. WHO IS AN INSURED - SUBSIDIARIES OR NEWLY ACQUIRED OR FORMED ORGANIZATIONS

In **Section II - Liability**, Paragraph **C. Who is an Insured** is amended to include the following:

If there is no other insurance available, each of the following is also a Named Insured:

- 1.** 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, the first Named Insured controls, either directly or indirectly, more than 50 percent of the interests entitled to vote generally in the election of the governing body of

such organization; or

2. A subsidiary organization of the first Named Insured shown in the Declarations that the first Named Insured acquires or forms during the policy period, if at the time of loss the first Named Insured controls, either directly or indirectly, more than 50 percent of the interests entitled to vote generally in the election of the governing body of such organization.

H. WHO IS AN INSURED - EMPLOYEES (INCLUDING CPR AND FIRST AID) AND VOLUNTEER WORKERS

In **Section II - Liability**, Paragraph **C. Who is an Insured**, Paragraph **2.a.** is replaced by the following:

2. Each of the following is also an insured:
 - a. Your "employees" but 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:
 - (1) "Bodily injury" or "personal and advertising injury":
 - (a) To you, to any of your directors, managers, members, "executive 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;
 - (b) To the brother, child, parent, sister or spouse of such injured person as a consequence of any injury described in Paragraph (a) above; or
 - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of any injury described in Paragraph (a) or (b) above.With respect to "bodily injury" only, the limitations described in Paragraph **2.a.(1)** above do not apply to you or to your directors, managers, members, "executive officers", partners or supervisors as insureds. The limitations also do not apply to your "employees" as insureds, with respect to such damages caused by cardiopulmonary resuscitation or first aid services administered by such an "employee".
 - (2) "Property damage" to any property owned, occupied or used by you or by any of your directors, managers, members, "executive 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 the permission of the owner.
 - b. Your "volunteer workers", but only while acting within the scope of their activities for you and at your direction.

I. ADDITIONAL INSUREDS

In **Section II - Liability**, Paragraph **C. Who is an Insured**, the following is added:

2. Each of the following is also an insured:

LESSOR OF LEASED EQUIPMENT

- e. Any person or organization from whom you lease equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization and only if you are required by a contract or agreement to provide them with such insurance as is afforded by this policy.

However, the insurance afforded to such additional insured:

- (1) Only applies to the extent permitted by law; and
- (2) Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to

any "occurrence" which takes place after the equipment lease expires.

MANAGERS OR LESSORS OF PREMISES

- f. Any person or organization from whom you lease premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and only if you are required by a contract or agreement to provide them with such insurance as is afforded by this policy.

However, the insurance afforded to such additional insured:

- (1) Only applies to the extent permitted by law; and
- (2) Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- (1) Any "occurrence" that takes place after you cease to be a tenant in such premises.
- (2) Structural alterations, new construction or demolition operations performed by or for such additional insureds.

VENDORS

- g. Any person or organization who is a vendor of "your products", but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business.

However:

- (1) The insurance afforded to such vendor only applies to the extent permitted by law; and
- (2) If coverage provided to the vendor is required by a contract or agreement,

the insurance afforded to such vendor will not be broader than that which you are required by the contract or agreement to provide for such vendor.

With respect to the insurance afforded to these vendors, the following additional exclusions apply:

- (1) This insurance afforded the vendor does not apply to:
 - (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to the liability for damages that the vendor would have in the absence of the contract or agreement;
 - (b) Any express warranty unauthorized by you;
 - (c) Any physical or chemical change in the product made intentionally by the vendor;
 - (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - (e) Any 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 the products;
 - (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
 - (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
 - (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its

own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i) The exceptions contained in Subparagraph (d) or (f); or
 - (ii) 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 the products.
- (2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container entering into, accompanying or containing such products.

With respect to the insurance afforded to these vendors, the following is added to Paragraph **D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided by the vendor is required by a contract or agreement, the most we will pay on behalf of the vendor is the amount of insurance:

- (1) Required by the contract or agreement; or
 - (2) Available under the applicable Limits Of Insurance shown in the Declarations;
- whichever is less.

This shall not increase the applicable Limits Of Insurance shown in the Declarations.

OTHER PERSONS OR ORGANIZATIONS PURSUANT TO CONTRACT OR AGREEMENT

h. Any persons or organizations that you are required by a contract or agreement to provide with such insurance as is afforded by this policy. However, such a person or organization is an insured only:

- (1) To the extent such contract or agreement requires the additional insured to be afforded status as an insured; and
- (2) For activities that did not occur, in whole or in part, before the execution of the contract or agreement.

No person or organization is an insured under this provision:

- (1) That is more specifically identified under any other provision of Paragraph **C. Who Is An Insured** (regardless of any limitation applicable thereto).
- (2) With respect to any assumption of liability in a contract or agreement. This limitation does not apply to the liability for damages the additional insured would have in the absence of the contract or agreement.

However, the insurance afforded to such persons or organizations:

- (1) Only applies to the extent permitted by law; and
- (2) Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

The following is added at the end of Paragraph **C. Who Is An Insured:**

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

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

- a.** Ownership, maintenance or use of any assets; or
- b.** Conduct of any person or organization whose assets, business or organization; any Named Insured acquires, either directly or indirectly, for any:
 - (1) "Bodily injury" or "property damage" that occurred; or

(2) "Personal and advertising injury" arising out of an offense first committed; in whole or in part, before such acquisition is executed.

With respect to the insurance afforded to the persons or organizations described in Paragraphs e., f., and h. above, the following is added to Paragraph D. **Liability And Medical Expenses Limits Of Insurance**:

The most we will pay on behalf of such person or organization is the amount of insurance:

- (1) Required by the contract or agreement; or
- (2) Available under the applicable Limits Of Insurance shown in the Declarations; whichever is less.

This shall not increase the applicable Limits Of Insurance shown in the Declarations.

J. DAMAGE TO PREMISES RENTED TO YOU – \$1,000,000

In **Section II - Liability**, Paragraph **D. Liability and Medical Expenses Limits of Insurance**, Paragraphs **3.** and **4.** are deleted and replaced with the following:

- 3.** Subject to the **Liability And Medical Expenses Limits Of Insurance**, the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises while rented to you or while temporarily occupied by you with permission of the owner is \$1,000,000.
- 4. Aggregate Limits**

The most we will pay for:

- a.** All "bodily injury" and "property damage" that is included in the "products-completed operations hazard" is twice the Liability and Medical Expenses limit.
- b.** All:
 - (1) "Bodily injury" and "property damage" except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
 - (2) Plus medical expenses;
 - (3) Plus all "personal and advertising injury" caused by offenses committed;is twice the Liability and Medical Expenses Limit.

The Limits of Insurance of Section II – Liability apply separately to each consecutive annual period and to any remaining period of less than 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 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.

K. PER LOCATION GENERAL AGGREGATE LIMIT WITH COMBINED TOTAL AGGREGATE LIMIT

In **Section II - Liability**, Paragraph **D. Liability and Medical Expenses Limits of Insurance**, the following is added:

- 1.** Subject to the Combined Total Aggregate Limit shown in the Declarations, for the sum of all damages that the insured becomes legally obligated to pay for all "bodily injury" and "property damage" caused by "occurrences" under Paragraph **A.1. Business Liability**, and for all medical expenses caused by accidents under Paragraph **A.2. Medical Expenses**, which can be attributed only to a single "location":
 - a.** A separate Location General Aggregate Limit will apply to each "location", and that limit is equal to the Other than Products/Completed Operations Aggregate Limit shown in the Declarations.

- b. The separate Location General Aggregate Limit is the most we will pay for the sum of all damages for "bodily injury" or "property damage" under Paragraph **A.1. Business Liability**, except in connection with "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Paragraph **A.2. Medical Expenses**, regardless of the number of:
 - (1) Insureds;
 - (2) Claims made or "suits" brought; or
 - (3) Persons or organizations making claims or bringing "suits".
 - c. Any payments made under Paragraph **A.1. Business Liability** or under Paragraph **A.2. Medical Expenses** shall reduce the separate Location General Aggregate Limit for that "location". Such payments shall not reduce the Other Than Products/Completed Operations Aggregate Limit shown in the Declarations nor shall they reduce the separate Location General Aggregate Limit for any other "location".
 - d. The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the Other Than Products/Completed Operations Aggregate Limit shown in the Declarations, such limits will be subject to the applicable separate Location General Aggregate Limit.
2. Subject to the Combined Total Aggregate Limit shown in the Declarations, for the sum of all damages that the Insured becomes legally obligated to pay for all "bodily injury" or "property damage" caused by occurrences under Paragraph **A.1. Business Liability** and for all medical expenses caused by accidents under Paragraph **A.2. Medical Expenses**, which cannot be attributed only to operations at a single "location".
 - a. Any payments made under Paragraph **A.1. Business Liability** for damages or under Paragraph **A.2. Medical Expenses** for medical expenses shall reduce the amount available under the Other Than Products/Completed Operations Aggregate Limit or the Products/Completed Operations Aggregate Limit, whichever is applicable; and
 - b. Such payments shall not reduce the separate Location General Aggregate Limit applicable to a single "location".
 3. Subject to the separate Location General Aggregate Limit and all other applicable limits, the Combined Total Aggregate Limit shown in the Declarations is the most we will pay for the combined sum of amounts described above, regardless of the number of "locations".
 4. Any payments we make for "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit regardless of the number of "locations", and not reduce the Other Than Products/Completed Operations Aggregate Limit nor the separate Location General Aggregate Limit applicable to a single "location".
 5. As used in this endorsement, "location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.
 6. The provisions of Paragraph **D. Liability and Medical Expenses Limits Of Insurance** not otherwise modified by this endorsement shall continue to apply as stipulated.

L. KNOWLEDGE/NOTICE OF OCCURRENCE

In **Section II - Liability**, Paragraph **E. Liability and Medical Expenses General Conditions, 2. Duties In the Event Of Occurrence, Offense, Claim or Suit** is amended to include the following:

- e. Knowledge of an "occurrence" or offense by an agent or "employee" of the insured will not constitute knowledge by the insured, unless an "executive officer" (whether or not an "employee") of any insured or an "executive officer's" designee knows about such "occurrence" or offense. Failure of an agent or "employee" of the insured, other than an "executive officer" (whether or not an "employee") of any insured or an "executive officer's" designee, to notify us of an "occurrence" or offense that such person knows about will not affect the insurance afforded to you.
- f. 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 loss or claim.

M. BODILY INJURY, INCLUDING RESULTING MENTAL ANGUISH

In **Section II - Liability**, Paragraph **F. Liability and Medical Expenses Definitions**, paragraph **3.** is deleted and replaced with the following:

3. "Bodily injury" means physical:

- a.** Injury;
- b.** Sickness; or
- c.** 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.

N. COVERAGE TERRITORY, LIMITED WORLDWIDE

In **Section II - Liability**, Paragraph **F. Liability and Medical Expenses Definitions**, paragraph **4.** is deleted and replaced by the following:

4. "Coverage territory" means all parts of the world.

However, "coverage territory" does not include any:

- a.** "Bodily injury" or "property damage" that takes place or any offense committed outside of the United States of America (including its possessions and territories), Canada and Puerto Rico, unless the insured's responsibility to pay damages is determined by a "suit" on the merits that is brought in the United States of America (including its possessions and territories), Canada or Puerto Rico; or
- b.** Injury or damage in connection with any "suit" brought outside the United States of America (including its possessions and territories), Canada and Puerto Rico.

O. PERSONAL INJURY, INCLUDING DISCRIMINATION, HARASSMENT AND SEGREGATION

In **Section II - Liability**, Paragraph **F. Liability and Medical Expenses Definitions**, paragraph **14.** is amended to include the following:

h. Discrimination, harassment or segregation based on a person's age, color, national origin, race, religion or sex unless committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

P. ADDITIONAL DEFINITIONS

In **Section II - Liability**, Paragraph **F. Liability And Medical Expenses Definitions**, the following definitions are added:

- 1.** "Defect" means a defect, deficiency or inadequacy that creates a dangerous condition.
- 2.** "Merchandise tampering" is an act of intentional alteration of "your product" which has caused or is reasonably expected to cause "bodily injury".

When "merchandise tampering" is known, suspected or threatened, a "merchandise withdrawal" will be limited to those batches of "your product" which are known or suspected to have been tampered with.

3. "Merchandise withdrawal" means the recall or withdrawal:

- a.** From the market; or
- b.** From use by any other person or organization;

of "your products" or products which contain "your products", because of known or suspected "defects" in "your product", or known or suspected "merchandise tampering", which has caused or is reasonably expected to cause "bodily injury".

4. "Merchandise withdrawal expenses" means those reasonable and necessary extra expenses listed below, paid and directly related to a "merchandise withdrawal":
 - a. Costs of notification;
 - b. Costs of stationery, envelopes, production of announcements and postage or facsimiles;
 - c. Costs of overtime paid to your regular nonsalaried employees and costs incurred by your employees including costs of transportation and accommodations;
 - d. Costs of computer time;
 - e. Costs of hiring independent contractors and other temporary employees;
 - f. Costs of transportation, shipping or packaging;
 - g. Costs of warehouse or storage space; or
 - h. Costs of proper disposal of "your products" or products that contain "your products" that cannot be reused, not exceeding your purchase price or your cost to produce the products.
5. "Profit" means the positive gain from business operation after subtracting for all expenses.

Q. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

In **Section III – Common Policy Conditions**, Paragraph **C. Concealment, Misrepresentation or Fraud** is amended to include the following additional paragraph:

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

R. OTHER INSURANCE, INCLUDING PRIMARY PROVISION

In **Section III – Common Policy Conditions**, Paragraph **H. Other Insurance**, subparagraphs **2.** and **3.** are replaced by the following:

H. Other Insurance

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

1. Primary Insurance

This insurance is primary except when Paragraph 2 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 Paragraph 3 below.

2. Excess Insurance

a. This insurance is excess over:

(1) Any of the other insurance, whether primary, excess, contingent or on any other basis:

- (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage 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; or
- (c) If the loss arises out of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section II.B. Exclusions, 1. Applicable to Business Liability Coverage; or

(2) Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured.

b. 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 the insured against that "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.

- c. When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:
 - (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance;
 - (2) The total of all deductible and self-insured amounts under all that other insurance.
- d. We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not brought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

3. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit 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 limit of insurance to the total applicable limits of insurance of all insurers.

S. WAIVER OF SUBROGATION REQUIRED BY CONTRACT

In **Section III – Common Policy Conditions**, Paragraph **K. Transfer of Rights of Recovery Against Others To Us**, subparagraph **2.** is replaced by the following:

2. Applicable to Businessowners Liability Coverage:

We will waive the rights 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 Coverage Part 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 paragraph does not apply to Medical Expenses Coverage.

All other terms and conditions of the policy remain unchanged.