

**AGREEMENT FOR LEGAL SERVICES  
BY AND BETWEEN  
THE CITY OF NATIONAL CITY  
AND  
BURKE, WILLIAMS & SORENSEN, LLP**

THIS AGREEMENT FOR LEGAL SERVICES (the "Agreement") is made as of the 7<sup>th</sup> day of May 2024 between THE CITY OF NATIONAL CITY, a municipal corporation, (the "CITY") and BURKE, WILLIAMS & SORENSEN, LLP, (the "FIRM"). This Agreement sets forth the parties' mutual understanding concerning legal services to be provided by the FIRM and the fee arrangement for said services.

**Article 1. Retainer.** The CITY hereby retains the FIRM to assist in representing the CITY in connection with litigation and government claim issues, subject to this Agreement.

**Article 2. Effective Date and Term.** This Agreement shall be effective on May 7<sup>th</sup>, 2024 and continue until written notice of cancellation. This Agreement may be terminated at any time by either party with sixty (60) days' written notice to the other. Notice of termination by the FIRM shall be given to the City Attorney.

**Article 3. Scope of Services.** The CITY shall have the right in its sole discretion to determine the particular services to be performed by the FIRM under this Agreement. These services may include the following: consultation with the City Attorney and Risk Management on government claims, defense of the CITY on litigated matters, advice and counsel to the City Council, and communications with CITY staff ("Legal Services"). In addition, the CITY may increase the scope of work with the FIRM's agreement, and such additional work will be confirmed via a letter that shall bring such work within the scope of this Agreement. It is expected that the FIRM will work with the City Attorney and CITY staff.

**Article 4. Compensation.** Compensation paid under this Agreement shall be as set forth in the Proposal Letter attached as Exhibit A.

A. The FIRM shall not use more than one attorney for the same specific task without the CITY'S approval. The FIRM may use the minimum number of attorneys for this engagement consistent with good professional practice after consulting with and obtaining approval by the CITY.

B. The FIRM agrees to document a plan and budget consistent with the scope of services described above in Article 3 to be agreed to by the City Attorney and the FIRM. The CITY shall not be obligated to pay the FIRM amounts not discussed, budgeted, and agreed to before being incurred by the FIRM.

C. The CITY has appropriated or otherwise duly authorized the payment of an amount not to exceed \$75,000.00 per case for the Legal Services identified in Article 3. In no event shall the total fees plus out-of-pocket disbursements exceed this amount without written authorization of the CITY.

D. The FIRM shall keep the CITY advised monthly as to the level of attorney hours and client services performed under Article 1. The FIRM will charge the CITY for travel time from the FIRM'S San Diego Office unless otherwise authorized in advance by the CITY.

E. The CITY further agrees to reimburse the FIRM, in accordance with the procedures set forth in this Article, for telephone, fax, mail, messengers, federal express deliveries, document reproduction, client-requested clerical overtime, lodging, and similar out-of-pocket expenses charged by the FIRM as a standard practice to its clients generally, with the exception of travel and meals. In any billing for disbursements, the FIRM shall provide the CITY with a statement breaking down the amounts by category of expense. The following items shall not be reimbursed, unless the CITY has specifically agreed otherwise:

(1) Word Processing, clerical or secretarial charges, whether expressed as a dollar disbursement or time charge.

(2) Storage of open or closed files, rent, electricity, local telephone, postage, receipts or transmission of telecopier documents, or any other items traditionally associated with overhead.

(3) Photocopy charges in excess of \$.15 (fifteen cents) per page.

(4) Auto mileage rates in excess of the rate approved by the Internal Revenue Service for income tax purposes.

(5) Secretarial overtime. Where case requirements demand overtime, the CITY will consider reimbursement on a case-by-case basis. The CITY will not reimburse overtime incurred for the convenience of the FIRM'S failure to meet deadlines known in advance.

(6) Equipment, books, periodicals, research materials, Westlaw/Lexis or like items.

(7) Express charges, overnight mail charges, messenger services or the like, without the CITY'S prior consent. The CITY expects these expenses to be incurred in emergency situations only. Where case necessity requires the use of these services, the CITY will consider reimbursement on a case-by-case basis.

(8) Travel and meals.

(9) Late payment charge or interest after 30-days of receipt of approved invoice.

F. Bills from the FIRM should be submitted to Barry J. Schultz., City Attorney, 1243 National City Boulevard, National City, CA 91950-4301. The individual time and disbursement records customarily maintained by the FIRM for billing evaluation and review purposes shall be made available to the CITY in support of bills rendered by the FIRM.

G. The FIRM agrees to forward to the CITY a statement of account for each one-month period of services under this Agreement, and the CITY agrees to compensate the FIRM on this basis. The FIRM will consult monthly with the CITY as to the number of attorney hours and client disbursements which have been incurred to date under this Agreement, and as to future expected levels of hours and disbursements.

H. Billing Format. Each billing entry must be complete, discrete and appropriate.

- (1) Complete.
  - (a) Each entry must name the person or persons involved. For instance, telephone calls must include the names of all participants.
  - (b) The date the work was performed must be included.
  - (c) The hours should be billed in .10 hour increments.
  - (d) The specific task performed should be described, and the related work product should be reference (“telephone call re: trial brief,” “interview in preparation for deposition”).
  - (e) The biller’s professional capacity (partner, associate, paralegal, etc.) should be included.

(2) Discrete: Each task must be set out as a discrete billing entry; neither narrative nor block billing is acceptable.

- (3) Appropriate.
  - (a) The CITY does not pay for clerical support, administrative costs, overhead costs, outside expenses or excessive expenses without prior authorization by the CITY. For example, the CITY will not pay for secretarial time, word processing time, air conditioning, rental of equipment, including computers, meals served at meetings, postage, online research, or the overhead costs of sending or receiving faxes. Neither will the CITY pay for outside expenses such as messenger delivery fees, outside photocopying, videotaping of depositions, investigative services, outside computer litigation support services, or overnight mail without prior authorization by the CITY.
  - (b) The CITY will pay reasonable late charges and the City will pay approved monthly invoices within 30 calendar days of receipt.

I. Staffing. Every legal matter should have a primary responsible attorney. Ultimately, staffing is a CITY decision, and the CITY’S representative may review staffing to ensure that it is optimal to achieve the goals of the engagement at the least cost.

(2) Once an attorney is given primary responsibility for an engagement, that person should continue on the legal matter until the matter is concluded or the attorney leaves the FIRM. The CITY will not pay the costs of bringing a new attorney up to speed.

(3) If more than one attorney is going to perform the same task, prior approval from the CITY must be had. This includes document review.

**Article 5. Independent Contractor.** The FIRM shall perform services as an independent contractor. It is understood that this contract is for unique professional services. Accordingly, the duties specified in this Agreement may not be assigned or delegated by the FIRM without prior written consent of the CITY. Retention of the FIRM is based on the particular professional expertise of the individuals rendering the services required in the Scope of Services.

**Article 6. Confidentiality of Work.** All work performed by the FIRM including but not limited to all drafts, data, correspondence, proposals, reports, and estimates compiled or composed by the FIRM pursuant to this Agreement is for the sole use of the CITY. All such work product shall be confidential and not released to any third party without the prior written consent of the CITY.

**Article 7. Compliance with Controlling Law.** The FIRM shall comply with all applicable laws, ordinances, regulations, and policies of the federal, state, and local governments as they pertain to this Agreement. In addition, the FIRM shall comply immediately with any and all directives issued by the CITY or its authorized representatives under authority of any laws statutes, ordinances, rules, or regulations. The laws of the State of California shall govern and control the terms and conditions of this Agreement.

**Article 8. Acceptability of Work.** The CITY shall decide any and all questions which may arise as to the quality or acceptability of the services performed and the manner of performance, the acceptable completion of this Agreement and the amount of compensation due. If the FIRM and the CITY cannot agree to the quality or acceptability of the work, the manner of performance, or the compensation payable to the FIRM in this Agreement, the CITY or the FIRM shall give to the other written notice. Within ten (10) business days, the FIRM and the CITY shall each prepare a report which supports their position and file the same with the other party. The CITY shall, with reasonable diligence, determine the quality or acceptability of the work, the manner of performance or the compensation payable to the FIRM.

**Article 9. Indemnification.** The FIRM agrees to indemnify, defend, and hold the CITY and its agents, officers, employees, and volunteers harmless from and against all claims asserted or liability established for damages or injuries to any person or property, including injury to the FIRM'S employees, agents, or officers, which arise from or are connected with or caused or claimed to be caused by the acts or omissions of the FIRM and its agents, officers, or employees in performing the work or other obligations under this Agreement, and all expenses of investigating and defending against same; provided, however, that this indemnification and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the CITY, its agents, officers, employees, or volunteers.

**Article 10. Insurance.** The FIRM, at its sole cost and expense, shall purchase and maintain throughout the term of this Agreement, the following insurance policies:

A. **Professional Liability** Insurance (errors and omissions) with minimum limits of \$1,000,000 per claim.

B. **Automobile Insurance** covering all bodily injury and property damage incurred during the performance of this Agreement, with a minimum coverage of \$1,000,000 combined single limit per accident. Such automobile insurance shall include owned, non-owned, and hired vehicles. The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided.

C. **Commercial General Liability Insurance**, with minimum limits of either \$2,000,000 per occurrence and \$4,000,000 aggregate, or \$1,000,000 per occurrence and \$2,000,000 aggregate with a \$2,000,000 umbrella policy, covering all bodily injury and property damage arising out of its operations, work, or performance under this Agreement. The policy shall name the CITY and its officers, agents, employees, and volunteers as additional insureds, and a separate additional insured endorsement shall be provided. The general aggregate limit must apply solely to the “location”. The “location” should be noted with specificity on an endorsement that shall be incorporated into the policy.

D. **Workers’ Compensation Insurance** in an amount sufficient to meet statutory requirements covering all of FIRM’S employees and employers’ liability insurance with limits of at least \$1,000,000 per accident. In addition, the policy shall be endorsed with a waiver of subrogation in favor of the CITY. Said endorsement shall be provided prior to commencement of work under this Agreement.

E. The aforesaid policies shall constitute primary insurance as to the CITY, its officers, officials, employees, and volunteers, so that any other policies held by the CITY shall not contribute to any loss under said insurance. Said policies shall provide for thirty (30) days prior written notice to the CITY’S Risk Manager, at the address listed in subsection G below, of cancellation or material change.

F. If required insurance coverage is provided on a “claims made” rather than “occurrence” form, the FIRM shall maintain such insurance coverage for three years after expiration of the term (and any extensions) of this Agreement. In addition, the “retro” date must be on or before the date of this Agreement.

G. The Certificate Holder for all policies of insurance required by this Section shall be:

City of National City  
c/o Risk Manager  
1243 National City Boulevard  
National City, CA 91950-4397

H. Insurance shall be written with only insurers authorized to conduct business in California that 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 CITY’S Risk Manager. In the event coverage is provided by non-admitted “surplus lines” carriers, they must be included on the most recent List of Approved Surplus Line Insurers (“LASLI”) and otherwise meet rating requirements.

I. This Agreement shall not take effect until certificate(s) or other sufficient proof that these insurance provisions have been complied with, are filed with and approved by the CITY’S Risk Manager. If the FIRM does not keep all insurance policies required by this Article 10 in full force and effect at all times during the term of this Agreement, the CITY may treat the failure to maintain the requisite insurance as a breach of this Agreement and terminate the Agreement as provided herein.

J. All deductibles and self-insured retentions in excess of \$10,000 must be disclosed to and approved by the CITY. CITY reserves the right to modify the insurance requirements of this Article 10, including limits, based on the nature of the risk, prior experience, insurance, coverage, or other special circumstances.

K. If the FIRM maintains broader coverage or higher limits (or both) than the minimum limits shown above, the CITY shall be entitled to the broader coverage or higher limits (or both) maintained by the FIRM. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the CITY.

**Article 11. Drug Free Work Place.** The FIRM agrees to comply with the CITY'S Drug-Free Workplace requirements. Every person awarded a contract by the CITY for the provision of services shall certify to the CITY that it will provide a drug-free workplace. Any subcontract entered into by the FIRM pursuant to this Agreement shall contain this provision.

**Article 12. Non-Discrimination Provisions.** The FIRM shall not discriminate against any subcontractor, vendor, employee or applicant for employment because of age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. The FIRM will take positive action to insure that applicants are employed without regard to their age, race, color, ancestry, religion, sex, sexual orientation, marital status, national origin, physical handicap, or medical condition. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The FIRM agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

**Article 13. Notification of Change in Form.** The FIRM has the right to effect changes in form including but not limited to the change in form from a partnership to a professional law corporation; the change in form of any partner or partners from an individual or individuals to a professional law corporation; the change in form of any corporate partner or partners to any individual partners. The CITY shall be promptly notified in writing of any change in form.

**Article 14. Notices.** In all cases where written notice is to be given under this Agreement, service shall be deemed sufficient if said notice is deposited in the United States mail, postage paid. When so given, such notice shall be effective from the date of mailing of the notice. Unless otherwise provided by notice in writing from the respective parties, notice to the Agency shall be addressed to:

City Attorney  
City of National City  
1243 National City Boulevard  
National City, CA 91950-4397

cc: Executive Assistant to the City Attorney  
City of National City

1243 National City Boulevard  
National City, CA 91950-4397

and to: [Bschultz@nationalcityca.gov](mailto:Bschultz@nationalcityca.gov)  
[leahm@nationalcityca.gov](mailto:leahm@nationalcityca.gov)

Notice to the FIRM shall be addressed to:

Johanna N. Canlas  
Burke, Williams & Sorensen, LLP  
501 West Broadway, Suite 1600  
San Diego, California 92101

and to: [jcanlas@bwsllaw.com](mailto:jcanlas@bwsllaw.com)

Nothing contained in this Agreement shall preclude or render inoperative service or such notice in the manner provided by law.

**Article 15. Administrative Provisions.**

A. *Time of Essence.* Time is of the essence for each provision of this Agreement.

B. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute but one and the same instrument.

C. *Headings.* Any captions to, or headings of, the sections or subsections of this Agreement are solely for the convenience of the parties hereto, are not a part of this Agreement, and shall not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.

D. *California Law.* This Agreement shall be construed and interpreted in accordance with the laws of the State of California. The venue for any legal action arising under this Agreement shall be in either state or federal court in the County of San Diego, State of California.

E. *Integrated Agreement.* This Agreement including attachments and exhibits contains all of the agreements of the parties and all prior negotiations and agreements are merged in this Agreement. This Agreement cannot be amended or modified except by written agreement, and mutually agreed upon by the CITY and the FIRM.

F. *Severability.* The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid, or illegal.

G. *Waiver.* The failure of the CITY to enforce a particular condition or provision of this Agreement shall not constitute a waiver of that condition or provision or its enforceability.

H. *Conflict of Interest.* During the term of this Agreement, the FIRM shall not perform services of any kind for any person or entity whose interests' conflict in any way with those of the CITY. This prohibition shall not preclude the CITY from expressly agreeing to a waiver of a potential conflict of interest under certain circumstances.

I. *No Obligations to Third Parties.* Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, or obligate any of the parties hereto, to any person or entity other than the parties hereto.

J. *Exhibits and Schedules.* The Exhibits and Schedules attached hereto are hereby incorporated herein by this reference for all purposes. To the extent any exhibits, schedules, or provisions thereof conflict or are inconsistent with the terms and conditions contained in this Agreement, the terms and conditions of this Agreement shall control.

K. *Construction.* The parties acknowledge and agree that (i) each party is of equal bargaining strength, (ii) each party has actively participated in the drafting, preparation and negotiation of this Agreement, and (iii) any rule or 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 portions hereof, or any amendments hereto.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

**CITY OF NATIONAL CITY**

By

[Redacted Signature]

*Ron Morrison, Mayor*

**APPROVED AS TO FORM:**

By

[Redacted Signature]

*Barry Schulz Esq., City Attorney*

**BURKE, WILLIAMS & SORENSEN, LLP**

*(Corporation – signatures of two corporate officers)*

By

[Redacted Signature], Esq.

Title: *Johanna N. Canlas, Partner*

By

[Redacted Signature], Esq.

Title: *Eric S. Vail, Partner*



501 West Broadway - Suite 1600  
San Diego, California 92101-8474  
voice 619.814.5800 - fax 619.814.6799  
www.bwslaw.com

EXHIBIT A

Direct No.: 619.814.5813  
Our File No.: F0002-0001  
jcanlas@bwslaw.com

December 18, 2023

**Via email to [bschultz@nationalcityca.gov](mailto:bschultz@nationalcityca.gov)**

Barry J. Schultz  
City Attorney  
City of National City  
1243 National City Boulevard  
National City, CA 91950

Re: Proposal to Provide Legal Services to the City of National City

Dear Barry:

Thank you for reaching out and considering us for special litigation counsel. On behalf of Burke, Williams & Sorensen, LLP ("Burke"), I am pleased to submit this proposal to expand our representation of the City with general civil litigation matters.

Founded in 1927, Burke is a diverse, dynamic, and preeminent public law firm. For over 90 years, the representation of public agencies has been the cornerstone of Burke's legal practice. The firm currently serves the legal needs of over 200 local governmental entities, including cities, counties, joint powers authorities, and water and school districts. We take pride in our long-standing tradition of providing excellent legal services at reasonable rates and believe our team at Burke offers the depth, expertise, and commitment that the City seeks from their counsel. Ours is a rich tradition of providing high quality advice and services to public agencies. We are prepared to work closely with you in budgeting, performing, reporting on, and updating the legal services you need.

As described below, we propose that I serve as lead attorney and point of contact. I will assign cases to the team in a method that assures coverage and attention to each matter that is most consistent with the prior experience and time availability of each lawyer. This gatekeeper role will assure the City receives the services they need. We propose a professional and collaborative team selected to provide high caliber legal representation tailored to the needs of the City including Charles H. Abbott, Mark J. Austin, Susan E. Coleman, Lisa W. Lee, Alan A. Sozio and Natalie F. Price.

4876-3622-6455 v3

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Burke maintains a full-service litigation practice, covering over a dozen specialized areas of the law. Of the firm's 168 lawyers, over 85 practice in litigation, including trials, arbitrations and appeals, in state and federal courts throughout California. Our litigators have experience in:

- Administrative Hearings
- Bankruptcy and Collection Litigation
- Commercial Litigation
- Constitutional Law Claims
- Disability Discrimination Claims
- Environmental, Land Use, and Natural Resources Litigation
- Insurance Coverage Litigation
- Labor and Employment Litigation
- Professional Liability Litigation
- Real Estate Litigation
- Torts, Products Liability
- Writs And Appeals
- Alternative Dispute Resolution
- Class Action Defense
- Complex Civil Litigation
- Construction Litigation
- Financial Services Litigation
- Eminent Domain and Inverse Condemnation
- Intellectual Property Litigation
- Law Enforcement Defense
- Public Law Litigation
- Securities, Corporate Litigation
- Trust And Probate Litigation

Burke has extensive experience in defending all types of tort-related litigation for public entities. Those cases include assault and battery, wrongful death, motor vehicle collisions, dangerous conditions of public property, and premises liability. Burke lawyers have also defended public entities' employees against a wide range of negligence and other tort claims including those arising from interactions with the public. In most cases, including some cited below, the matters involve both federal constitutional claims as well as state law tort claims.

We have also successfully litigated cases against notable or prominent plaintiffs' personal-injury attorneys in Southern California. We have litigated and tried cases to verdict for both public agencies and private clients in the areas of wrongful death, personal injury, and complex litigation, mass torts, and premises liability.

Burke has worked with many public joint powers insurance authorities (PRISM, CJPIA, SDRMA, etc.) as well as private insurers, and the firm is experienced with handling claims in a manner meeting strict claim administration requirements. We pride ourselves on regular and effective communication with our clients to meet their needs throughout all aspects of litigation. Most of all, we pride ourselves on winning cases and on good results.

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Drawing on the experience and expertise of our lawyers spanning many decades, Burke is capable of handling nearly all of a public entity's potential tort and other litigation needs such as dangerous conditions, complex civil, class actions, and general liability defense. Having both public law and litigation acumen "under one roof" affords Burke the opportunity to tailor its litigation services to better meet the particular needs of its municipal clients and promotes more effective litigation management. Defense of municipal clients often entails detailed knowledge of claims handling procedures, statutory immunities, pre-litigation notice requirements, and other circumstances unique to public entity litigation. Burke's vast experience in these areas enables it to draw upon prior work product to provide more efficient and successful solutions for its clients statewide.

We believe in taking a proactive role in handling claims for the public entities we represent. It is our experience that training staff on methods to avoid litigation, early recognition of liability exposure through evaluations, incident reviews prior to the receipt of claims and lawsuits, and review of settled and resolved claims with involved staff and management to enhance "best practices," are all elements that have reduced the possibilities and instances of litigation.

We also believe in keeping management and city or county councils or boards fully informed as to the status of claims and to provide early advice on whether settlement is advisable. If a matter should be settled, then that decision should be reached as soon as possible.

Once matters are in litigation, we take a hands-on approach by personally investigating incident or accident sites with appropriate City staff and claims administrators, as well as developing a comprehensive litigation approach to minimize legal costs while providing an aggressive defense of our clients. When Burke attorneys are assigned a lawsuit to defend employees, they initially communicate with the clients about details of the incident and/or allegations; review the Complaint to evaluate the appropriate responsive pleading; and determine whether any affirmative defenses or procedural bars may apply. After consulting with the client about the merits, Burke may file a motion to dismiss or demurrer (depending on the venue), to have the case or claims/parties dismissed at the earliest possible stage. Once the complaint is at issue, Burke attorneys typically proceed to conduct discovery to assist in a summary judgment motion and/or trial. We would adhere to any client guidelines, such as obtaining advance approval for depositions, videotaping depositions, and investigator costs.

Burke attorneys are very successful in our motions for summary judgment, winning a substantial number of our cases before trial. When we file a motion for summary

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judgment, we believe the same attorney handling discovery and routine aspects of the case should also prepare the summary judgment motion, rather than delegating the motion to a law and motion department attorney who has to learn the case before preparing the motion. This practice keeps our teams lean, and saves attorneys' fees by encouraging specialized knowledge on a case and avoiding duplication of work/billing.

Depending on the wishes of the client, the position of the plaintiff, and the posture of the case, we may also negotiate a settlement in order to save costs of litigation. (Some of our clients, such as the Department of Corrections, prefer to go to trial even when settling will save fees/costs, in order to support its peace officers, unless there is a relatively high risk of liability exposure.) Burke has negotiated innumerable settlements at a huge savings to their clients, particularly after taking strong depositions, with a dispositive motion pending, or in the pre-trial preparation stages. Burke litigators are not afraid of trial, and are comfortable and experienced in the courtroom. This often results in our opponents, who are less trial-ready, settling at a significant discount.

If the matter is headed for trial, we file motions in limine, prepare for trial by prepping our clients to testify, selecting exhibits, and all other necessary items. Even before trial, however, it is important to conduct and respond to discovery with a view toward trial, in order to protect our clients and collect useful evidence on the issues and for impeachment. Burke has many experienced litigators who vigorously and successfully defend our clients before and at trial.

Burke has attorneys experienced in handling a wide variety of public entity litigation issues in the areas of torts and dangerous conditions of public property, to name but a few. This is especially important given that these areas often overlap in more complex cases. Having defense experience in these interrelated areas, in addition to litigation expertise, allows Burke to tailor its legal-defense services to better meet the particular needs of its municipal clients and promotes more effective case management and strategies. Defense of governmental clients often entails detailed knowledge of claim-handling procedures, statutory immunities, pre-litigation notice requirements, and other circumstances unique to public entity and peace officer litigation. Burke's experience in these areas enables it to draw upon prior work product to provide more efficient and successful solutions for its clients.

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## Litigation and Trial Experience

### Land Use/Writ Petition

- *Wentworth v. City of Coronado and Californians for Homeownership v. City of Coronado*. These cases involved challenges to certain decisions of the City of Coronado relating to ADUs, and to the city's ADU ordinance. The issue in the cases was whether the city could apply its zoning limitations relating to floor area ratio ("FAR") to preclude a requested residential expansion in conjunction with a requested ADU—including counting the ADU towards the FAR—even though the statute required the City to disregard the FAR limitations in approving the separate ADU. Mark successfully represented the City in both cases, with the trial court upholding the city's local control over the residential expansion. The *Wentworth* matter is now on appeal. [Mark Austin]
- *Lathus v. City of Huntington Beach*. In this case, the plaintiff sued the City of Huntington Beach for First Amendment retaliation after she was allegedly removed from a city advisory board for attending a rally at which Antifa members were believed to be present, and for failing to effectively denounce Antifa. Mark won the case on a motion to dismiss, and this decision was upheld on appeal, which Mark also handled. The case resulted in a published opinion from the Ninth Circuit, 56 F.4th 1238 (2023).
- *DeNardi v. Coronado City Council*. In this case, the City of Coronado was sued for claimed violations of the Ralph M. Brown Act relating to alleged interactions between members of the City Council and their constituents on the subject of a public hearing before the hearing occurred. Mark prevailed in getting the matter dismissed via an anti-SLAPP motion under Code of Civil Procedure section 425.16.
- *Peoples Homeless Task Force Orange County v. City of Anaheim, et al.* This case involved a Brown Act challenge to the City of Anaheim's sale of Angel Stadium to an affiliate of the Angels baseball team. Mark and his partner handled the case through trial and prevailed on all claims.
- *CATER v. City of Anaheim (Angels Lease Litigation)*. This case involved Brown Act challenges to certain contracts between Anaheim and the Angels regarding the lease of Angels Stadium, as well as claims under the Public Records Act. Mark brought a series of successful demurrers that winnowed the case down to a single Public Records Act claim. After the parties reached a settlement on that claim

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involving the production of certain documents, Mark defeated the plaintiff's motion for attorneys' fees in its entirety.

- *CATER v. City of Anaheim* (Bond Litigation). This was a reverse-validation action challenging resolutions for the issuance of \$300 million in bonds by a JPA to fund the expansion of the Anaheim Convention Center. Mark handled the case successfully through trial and on appeal.
- *Sevacherian v. Montebello Redevelopment Agency*. In this case, Mark represented a property owner who sued the Montebello Redevelopment Agency for breach of a purchase contract. The case was complicated and delayed by the dissolution of redevelopment agencies that occurred the month before trial was originally scheduled to begin. The case ultimately settled on very favorable terms in the face of a motion for summary judgment filed by Mark (the client obtained the entire relief he sought).
- *Cerritos Redevelopment Agency v. All Persons Interested*. This was a contested validation action involving an affordable housing project that Mark handled through trial and appeal. He was successful at each stage. It resulted in a published opinion, *City of Cerritos v. Cerritos Taxpayers Assoc., et al.* (2010) 183 Cal.App.4th 1417.
- *Omdahl v. Vista Irrigation District*. In this case, Mark successfully defended the Vista Irrigation District in a lawsuit alleging the breach of an easement agreement. He prevailed on a motion for summary judgment.
- *Department of Water Resources v. All Persons Interested*. This was a contested validation action seeking to validate the issuance of bonds by the California Department of Water Resources for the construction of the Delta Conveyance Project (formerly Waterfix). Mark successfully represented the Metropolitan Water District of Southern California as an interested party and ally of DWR throughout the proceedings, winning on multiple key issues during the case despite strong opposition.

In addition, Mark has five published appellate opinions in which he was lead counsel, including the following, four of which involve issues concerning public agencies:

- *Lathus v. City of Huntington Beach* (2023) 56 F.4th 1238 (First Amendment challenge to council member's decision to remove appointed individual from advisory committee).

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- *Oxford Preparatory Academy v. Edlighten Learning Solutions* (2019) 34 Cal.App.5th 605 (enforceability of contractual arbitration agreement);
- *City of Cerritos v. Cerritos Taxpayers Assoc., et al.* (2010) 183 Cal.App.4th 1417 (complex validation action concerning purchase and development of senior-housing project);
- *In re County of Monterey Initiative Matter* (N.D. Cal. 2006) 427 Fed.Supp.2d 958 (voting rights case); and
- *City of Long Beach v. Department of Industrial Relations* (2004) 34 Call.4th 942 (amicus; prevailing wage issue).

#### **Police/In-Custody**

Susan has handled Officer-Involved Shooting (OIS) trials for the City of Los Angeles (*Curry v. LA*), City of Modesto, (*Reed v. Modesto*), and the CDCR (*Moord v. CDCR*); She has won summary judgment in OIS cases for City of Los Angeles, CDCR, and others. Susan has tried and won many cases involving uses of force for the CDCR, City of Alhambra, and City of Hemet; She has also obtained summary judgment decisions in numerous use of force cases. Susan has also tried wrongful death cases (both in custody and during restraint/arrest) separate from the OIS cases, and won summary judgment on many others. Susan has regularly handled putative class action cases involving law enforcement agencies, with varying allegations, and she is currently handling a class action case involving the San Diego County jails.

- *Corey Smith, et al. v. Arnold Schwarzenegger*, USDC, Case No. 1:14-cv-00060-LJO-SAB (E.D. Cal.). Judgment for Defendants on 10/23/2015. Issues: deliberate indifference to medical needs and various state laws brought by 150+ plaintiffs who allegedly contracted Valley Fever. Defendants: Dr. Winslow and Igbiosa (current and former employee of CDCR). [Susan Coleman]
- *Martinez v. Governor Brown, et al.*: Putative federal class action against the California Department of Corrections and Rehabilitation alleging violation of rights of Native American inmates statewide to observe religious practice. Burke defeated class certification and achieved a settlement for nominal sum. [Susan Coleman]
- *Jordan, Wetmore & Moler v. County of San Bernardino* (2016) San Bernardino Superior Court, Case No. CIVDS1411180. Opposing counsel: Chris Gaspard,

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Corey Hall. Issues: whistleblower retaliation (Labor Code 1102.5), constructive discharge. Defendant: County of San Bernardino, Sheriff's Department. Defense verdict. [Susan Coleman]

- *Wabakken v. CDCR, et al.* (2016) USDC, Central District, Case No. 12-cv-01503-GW. Opposing counsel: Derek Anderson. Issues: whistleblower retaliation (Govt Code), wrongful termination, First Amendment retaliation. Defendant: Officer Morgan (retired CDCR correctional officer). Defense verdict. [Susan Coleman]

### Employment

- *Bukeka McCrary v. Regents of the University of California* (2023) UCSD Central District, Case No. 2:18-cv-10001-JAK-JPR. Issues: Race discrimination and retaliation. Unanimous defense verdict after 5-day trial. [Anneet and Price]
- *Micko White v. City of Pasadena* (2022) Los Angeles Superior Court, Case No. 19GDCV00855. Issues: FEHA, disability discrimination. Opposing Counsel: Omero Banuelos. Defense verdict after 6-day trial. [Frater and Price]
- *Cory Coleman v. City of Los Angeles* (2023) Los Angeles Superior Court, Case No. 19STCV25176. Issues: FEHA disability discrimination and failure to accommodate. Opposing Counsel: McNicholas & McNicholas. Defense verdict after 9-day trial. [Price and co-counsel]
- *Bukeka McCrary v. Regents of the University of California* (2023) United States District Court Central District, Case No. 18-cv-10001-JAK. Issues: Race discrimination and retaliation. Unanimous defense verdict after 5-day trial. [Anneet and Price]
- *In re Manuel M. Verazas* (2023) Arbitration. Issues: Existence of proper cause to terminate under the collective bargaining agreement with SunLine Transit Agency. Employee's grievance denied and termination upheld after 2-day arbitration. [Price]
- *Micko White v. City of Pasadena* (2022) Los Angeles Superior Court, Case No. 19GDCV00855. Issues: FEHA disability discrimination, retaliation, and failure to prevent discrimination and retaliation. Opposing Counsel: Omero Banuelos. Defense verdict after 6-day trial. [Frater and Price]

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- *Hamilton v. Orange County Sheriff's Dep't* (2021) Ninth Circuit Court of Appeals, Case No. 20-55208. Issues: racial discrimination and retaliation under 42 U.S.C. § 1983 and FEHA. Obtained an order affirming the grant of summary judgment below, which Price also briefed and argued. [Price]
- *Hamilton v. Orange County Sheriff's Dep't* (2020) California Court of Appeal, Case No. G057049. Issues: FEHA racial discrimination. Following oral argument, the Court of Appeal affirmed the grant of summary judgment. [Price]
- *Jones v. County of Los Angeles* (2017) United States District Court Central District, Case No. 13-cv-5306-DSF. Issues: Failure to promote on account of military reserve status, in violation of USERRA. Unanimous defense verdict after 4-day trial. [Price, co-counsel]

#### **Tort, Catastrophic Personal Injury and Wrongful Death Litigation**

- *Ong v. City of Beverly Hills*. Obtained a defense judgment in a bench trial involving a volunteer for the Beverly Hills Police Department who allegedly moved a pedestrian to a dangerous location where the pedestrian was struck by a motorist. [Charles Abbott and Michael Nebenzahl]
- *Amirtalesh v. City of Beverly Hills*. Obtained a defense verdict on a motion for summary judgment in a traumatic injury case involving a claim of dangerous condition of public property. [Charles Abbott]
- *Hernandez et al. v. Los Angeles County Metropolitan Transportation Authority*. Oversaw the defense of six different complaints involving over a dozen plaintiffs, all of whom were injured when a bus driver fell asleep and crashed into parked cars and individuals gathered around a taco stand. The collision resulted in a death and several catastrophic injuries. The cases involved years of discovery and tens of thousands of pages of medical records and resulted in favorable settlements for our client. [Charles Abbott and Michael Nebenzahl]
- *Bolitiensky v. City of Beverly Hills*. Obtained a defense verdict on a motion for summary judgment in a traumatic injury case for an alleged dangerous condition of public property. [Charles Abbott]
- *Martinez v. City of Beverly Hills*. After winning at summary judgment, argued and prevailed on appeal with the appellate court issuing a published opinion, which

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raised the notice standard for walkways, which are not sidewalks. *Martinez v. City of Beverly Hills*, 71 Cal.App.5th 508. [Charles Abbott]

- *Gelfand v. Los Angeles Dep't Water and Power* (LASC Case No. 23STCV13016). Defending the LADWP in a significant injury resulting after a downed power line electrocuted Plaintiff. We filed a Motion for Summary Judgment, which is pending. [Charles Abbott]
- *Dib v. Kurbanov, et al.* (LASC Case No. BC70112). This wrongful death and serious personal injury matter arose out of two pedestrians (husband and wife) standing on a street corner in Beverly Hills when one car ran a red light and the other jumped the green. On impact, the SUV jumped the curb and killed the wife in front of her husband who was seriously injured on impact. The settlement included one of the driver's paying significantly beyond her auto policy limits. [Michael Nebenzahl and Charles Abbott]
- *Marez v. City of Los Angeles, et al.* (LASC Case No. BC610951, Aug. 2019). Excessive force jury trial. Defense verdict. [Lisa Lee]
- *Vaughn v. City of Los Angeles, et al.* (USDC – Central District Case No. 2:16-cv-03086-AB). Excessive force and wrongful death jury trial. Defense verdict. [Lisa Lee]
- *Medies v. City of Los Angeles, et al.* (USDC – Central District Case No. 2:14-cv-05377-DDP). Excessive force jury trial. Defense verdict. [Lisa Lee]
- *Otero v. City of Los Angeles, et al.* (USDC – Central District Case No. 2:05-cv-04248-PLA). Excessive force jury trial. Partial defense verdict. [Lisa Lee]

#### **Inverse Condemnation Litigation**

- *Minney v. City of Burbank* (LASC Case No. 22BBCV00174). Inverse condemnation case brought by homeowner after a City tree fell. This matter will require a summary-judgment motion. [Charles Abbott]
- *Interinsurance Exchange v. City of Claremont, et al* (LASC Case No. 23PSCV00355). Inverse condemnation case brought by homeowner's insurance against City for fallen tree. This case is one of many anticipated after a wind storm blew trees down throughout the City. This matter will require a summary-judgment motion. [Charles Abbott and Michael Nebenzahl]

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- *Mid-Century v. City of Pasadena* (LASC 21AHCV00142). Inverse condemnation case brought by homeowner after house fire allegedly caused by faulty agency-owned and operated electrical system. This matter was settled after mediation. [Alan Sozio]
- *GS Bates v. San Gabriel Valley Council of Governments* (LASC 21PSCV00097). Inverse condemnation case brought by aggrieved business owner claiming traffic delays caused by nearby grade separation project resulted in a substantial impairment of access. This matter was dismissed by plaintiff following tentative ruling in favor of the agency granting summary judgment, which found there to be no taking. [Alan Sozio]
- *Jorjezian Investments, Inc. v. City of Santa Clarita* (LASC BC402173). Inverse condemnation and deprivation of civil rights action brought by property owners seeking damages in excess of \$7.8 million due to the City's alleged denials of development permits. Successfully defeated initial attempts to designate the matter as a complex class action suit, and thereafter obtained a judgment of dismissal by demonstrating the landowners failed to adequately and timely exhaust their administrative remedies. [Alan Sozio]
- *4X Projects Co. v. City of Moorpark* (Ventura Sup. Ct. SC048687) Successfully defeated inverse condemnation claim brought by property owner in trial and appellate court related to a change in City's parking code, which owner claimed amounted to a taking of property. [Alan Sozio]

### Complex Civil Litigation

- *BV Industries v. Los Angeles Dep't Water & Power et al.* (LASC 22STCV17296). Defended the City of Los Angeles and its Department of Water and Power in a dispute with a property owner and its tenant about civil rights and property rights violations. [Charles Abbott]
- *State of Cal. v. Return Management Services*. Defended logistics company in a six-year civil investigation conducted by the State of California and County District Attorney's Offices. Investigation involved document discovery, witness interviews, and multiple inspections of three facilities in California. The defense resulted in a 2023 letter from the prosecutors declining to file a complaint. [Charles Abbott]
- *Cannon Const. v Metro-Goldwyn Mayer Studios* (2018) Represented in MGM in a breach of contract action after threat agents infiltrated a building contractor and

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defrauded MGM. Engagement involved working with public and private forensic investigators and reaching an amicable settlement with the contractor. [Charles Abbott]

- *Masimo v. IQVIA Holdings* (2018) Represented defendant in a breach of contract involving trade secrets and product formulations. Filed a successful motion to stay proceedings and transfer venue so client could prosecute similar claims in a favorable jurisdiction. [Charles Abbott]
- *Move, Inc. v. Zillow* (Washington State Court 2016). Represented Move, Inc. in a trade secret case after two senior executives left Move for Zillow. Obtained spoliation sanctions against one executive for deleting information from his computer, and reached a favorable settlement for \$130 million for Move, Inc. [Charles Abbott]

### Proposed Team

#### **Charles H. Abbott**

Charles Abbott is a highly skilled litigator with nearly 20 years of experience in complex civil litigation and public entity tort defense. He defends the Cities of Beverly Hills, Pasadena, Calabasas, and Alhambra in tort actions, ranging from slip-and-fall accidents to complex wrongful death actions. This year, Abbott helped secure a defense verdict in a bench trial for the City of Beverly Hills. Last year, Abbott helped secure summary judgment against several personal injury actions filed against municipalities. Abbott has also served as first chair for numerous civil jury trials, and he also represents Beverly Hills and Pasadena in California appellate courts when plaintiffs attempt to overturn judgments against their personal-injury complaints. Last year, for example, he briefed and argued *Martinez v. City of Beverly Hills*, a reported decision by the Second Appellate District. The Martinez holding establishes a new, stricter standard for plaintiffs to overcome if they were injured in an alley or another public area primarily used for purposes other than walking.

#### **Mark J. Austin**

Mark Austin focuses his practice on public-entity litigation, real estate litigation, corporate/partnership disputes, land-use and environmental litigation, and municipal tort defense (including dangerous condition cases, employment-related torts, and wrongful death matters). Mark has extensive trial experience, having handled multiple successful jury trials, bench trials, and arbitrations, and has successfully argued before the California Court of Appeal over a dozen times.

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Mark began his career representing public entities on both litigation and transactional matters, including real-estate transactions and disputes, constitutional claims, complex land-use matters, employment disputes, and tort claims. His focus on real estate litigation has given him substantial insights into drafting pitfalls, disclosure requirements, and judicial interpretations of written agreements.

### **Susan E. Coleman**

Susan is a partner at Burke and an Advocate level (requiring 50+ jury trials) in the American Board of Trial Advocates (ABOTA). She brings 29+ years litigation experience to the table, as well as a strong background in constitutional law and section 1983 civil rights litigation. Susan has defended individuals and officials, governmental entities and corporations in over 50 civil jury trials in federal and state courts throughout California, with very successful results (over 95% defense verdicts).

Susan worked for the California Department of Justice, Office of the Attorney General, for over 13 years. Since going to private practice, Susan has represented various entities such as the cities of Alhambra, Burbank, Hemet, Long Beach, Los Angeles, Modesto, Newport Beach, Oxnard, Pasadena, San Jose, Simi Valley, Stockton, and Riverside; the counties of San Diego and San Bernardino; the GEO Group; Management & Training Corporation; Alcohol Monitoring Systems Inc., the U.S. Bureau of Prisons, the California Department of Corrections and Rehabilitation, The Regents of the University of California, and those entities' individual employees and executives.

Susan has specialties in certain unique areas of law including officer-involved shootings and other uses of force, alleged wrongful conviction cases, and ankle-monitor related litigation (for companies such as AMS, B.I. Inc., Track/Secure Alert, and LCA Inc.). She is well-versed in POBRA, governmental immunities, the Government claims act, qualified immunity, and other tools to help government clients.

Susan also has extensive experience with class action litigation, including currently handling a San Diego county class action case involving the county jails (Dunsmore), and previously handling class actions on behalf of the Department of Corrections and the Board of Parole Hearings. In the last few years, Susan has defeated class certification in cases for various clients including AMS and LCA (ankle monitoring).

Susan has consistently taken measures to ensure excellent representation of her clients in a cost-effective manner. For example, she recommends LVN review and summary of medical records (providing a medical expertise at a fraction of attorney billing rates); she keeps brief banks on common areas of law in order to avoid re-inventing the wheel for

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each case; and she takes every effort to eliminate defendants and/or claims from the case at the earliest opportunity, prevailing on many cases at the motion to dismiss or demurrer stage. While many cases cannot be defeated at the initial motion stage, Susan has had excellent results in prevailing in summary judgment and at trial. She is also in favor of, and actively pursues, measures to decrease future litigation, such as pursuing the award and recovery of costs after prevailing, having plaintiffs declared as vexatious litigants where appropriate, or seeking recovery of fees and costs under FRCP 41(d) for prior lawsuits when there are successive similar lawsuits.

#### **Lisa W. Lee**

Lisa is a partner and is a member the firm's Litigation Practice Group and Labor and Employment Practice Group. Lisa has over 26 years of litigation experience and a strong background in constitutional law/civil rights litigation, contract litigation, employment litigation and criminal law. She is a trial lawyer who has successfully represented individuals, businesses, police officers and governmental entities in more than 90 jury trials throughout California.

Lisa worked as a Deputy City Attorney with the Los Angeles City Attorney's Office for six years representing Los Angeles Police Department officers, as well as the Los Angeles Police Department and City of Los Angeles, in a variety of police civil rights matters in both state and federal court. She successfully litigated and tried use of force matters, including officer involved shootings. Prior to that, Lisa was Criminal Prosecutor for 9 years, and then litigated a variety of contract, employment, tort and business litigation matters.

#### **Natalie F. Price**

Natalie is a partner in Burke's Orange County office and is a member of the firm's Labor and Employment practice. She has litigated a wide range of cases for public entities and their employees, such as officer-involved shootings, civil rights, employment, dangerous conditions of public property, wrongful death, personal injury, and general government tort liability matters in state and federal trial and appellate courts. Natalie has second-chaired trials, including a USERRA employment trial which resulted in a defense verdict and a fatal officer-involved shooting trial wherein the involved deputy avoided an award of punitive damages against him. Additionally, Natalie has assisted in trial preparation in numerous cases which settled shortly before trial. Natalie advises firm clients regarding potential exposure, complex and novel legal issues, litigation budgets, and strategies to avoid future litigation.

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Natalie handles cases from pre-litigation through appeal, and has successfully drafted and argued demurrers, motions to dismiss, summary judgment motions, discovery motions, Daubert motions, motions in limine, and jury instructions. Most recently, Natalie successfully argued an employment discrimination matter before the California Court of Appeal and obtained an order from the Ninth Circuit affirming summary judgment in a 42 U.S.C. § 1983 and FEHA discrimination and retaliation case.

### **Alan A. Sozio**

Alan Sozio is a partner based in Burke's Los Angeles office and serves as co-chair of the firm's Eminent Domain and Inverse Condemnation practice group. Alan has a long history with Burke, having joined the firm as an Associate in 1999. Alan devotes the entirety of his practice to representing public agencies in eminent domain, inverse condemnation and related real estate matters, where he is recognized as a leading practitioner and trial lawyer. Alan has played a lead role in numerous multi-parcel property acquisition projects throughout California. In addition to providing eminent domain legal services to more than 17 public agencies, since 2001 Alan has served as special acquisition counsel for the Alameda Corridor-East Construction Authority in property acquisitions spanning more than 11 grade separation projects in the San Gabriel Valley. He has substantial experience in all facets of property acquisition litigation including administrative hearings, city council meetings (open and closed session), jury/bench trials, appeals, expert witness depositions, and alternative dispute resolution.

Alan is co-author of the seminal practice guide "*Eminent Domain: A Step-by-Step Guide to the Acquisition of Real Property*" released by Solano Press in 2015, and is a regular author and speaker on current topics related to eminent domain. He also is the author of the popular eminent domain blog, "Right to Take | Doing it the Right (of) Way—Recommended Steps for the Acquisition of Real Property by Eminent Domain."

Alan counsels public clients on early considerations and pre-acquisition activities necessary to the condemnation process. He litigates eminent domain and inverse condemnation actions and, when necessary, takes the matters through trial. Alan also drafts transactional documents, including purchase and sale agreements, right-of-entry agreements and leases, and provides advice regarding state and federal relocation assistance. He has appeared in both open and closed session with city councils, agency boards and other legislative bodies to speak on matters related to the acquisition of property, the condemnation process and the disposal of surplus property.

Alan and his eminent domain team are proud of their success in delivering properties for projects on time and within budget. Although an early resolution and settlement is the

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 December 18, 2023  
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most desired result, when necessary Alan and his eminent domain attorneys have enjoyed success at trial and in the court of appeal.

**Rates**

**Tort, Personal Injury, and Employment Litigation Hourly Rates**

Staffing	Hourly Rate
Partners	\$375
Senior Associates	\$290
Associates	\$275
Paralegals	\$135

**Complex Litigation, Class Action, and Land Use Litigation Hourly Rates**

Staffing	Hourly Rate
Partners	\$485
Senior Associates	\$375
Associates	\$355
Paralegals	\$175

**Adjustments**

The rates for legal services quoted in this proposal will remain in effect for the first year of the contract. Thereafter, unless otherwise negotiated, rates will be adjusted based on a standard annual adjustment, equal to the average San Diego- Carlsbad Consumer Price Index for the previous four quarters .

**Reimbursements**

We routinely charge our clients for our direct out-of-pocket expenses and costs incurred in performing the services. These costs and expenses commonly include such items as reproduction of documents, facsimile, mileage reimbursement for travel at the IRS approved rate, and other costs reasonably and necessarily incurred in performing services for the City. We do not charge a service fee or overhead for cost reimbursement

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December 18, 2023  
Page 17

items. We also do not charge for computer or word processing time. Reimbursement amounts may be adjusted annually.

Expense	Rate
In-house reproduction charges	
black and white	20¢ per page
color	\$1 per page
Mileage	67¢ per mile (or current IRS rate)
Facsimile	\$1 per page
All other costs reasonably and necessarily incurred in performing services for the City	at cost

**Billing Format and Procedure**

Bills are sent out each month invoicing charges for the prior month. Fees for our services are charged in increments of 1/10th of an hour. The bills provide a specific description of the work performed by all attorneys, the time actually spent on the work item, and the billing rate of the attorney. These bills also contain itemized descriptions of any out-of-pocket expenses incurred during the prior month.

Sincerely,

BURKE, WILLIAMS & SORENSEN, LLP

[Redacted signature block]

Jonathan N. Canlas

[Redacted contact information]

JNC:tmw

cc: Richard E. Romero  
[rromero@nationalcityca.gov](mailto:rromero@nationalcityca.gov)



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
07/14/2023

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 have ADDITIONAL INSURED provisions or 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> Stanton and Associates Inc. ISU Stanton & Associates 3625 Thousand Oaks Blvd #292 Westlake Village CA 91362		<b>CONTACT NAME:</b> Kasey Litz <b>PHONE (A/C, No, Ext):</b> (805) 413-1498 <b>E-MAIL ADDRESS:</b> kasey@isustanton.com <b>FAX (A/C, No):</b> (805) 435-3737	
<b>INSURED</b>		<b>INSURER(S) AFFORDING COVERAGE</b>	
Burke, Williams & Sorensen, LLP 444 S. Flower St., Suite 2400 Los Angeles CA 90071		<b>INSURER A:</b> Hartford Fire Insurance Company <b>INSURER B:</b> Hartford Casualty Insurance Company <b>INSURER C:</b> Property & Casualty Insurance Co. of Hartford <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	<b>NAIC #</b> 19682 29424 34690

**COVERAGES**      **CERTIFICATE NUMBER:** 23-24 City      **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 INSD	SUBR 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 type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	Y		72UUNUR4713	08/01/2023	08/01/2024	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"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			72UENCG7716	08/01/2023	08/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			72XHUUR4585	08/01/2023	08/01/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$
C	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	N/A	72WEAB2915	08/01/2023	08/01/2024	<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

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

Hartford CGL policy form HG0001 includes Additional Insured status, Primary and Non-Contributory wording, and Waiver of Subrogation where required by written contracts.  
IH 0303 - 30 Day NOC applies  
CG2026 - Additional Insured - Designated Person or Organization  
WC 990394 - 30-Day Notice of Cancellation to Certificate Holders  
WC040306 - WC Waiver of Subrogation

### CERTIFICATE HOLDER

City of National City  
1243 National City Boulevard  
National City CA 91950-4397

### CANCELLATION

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



# CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)  
01/16/2024

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 have ADDITIONAL INSURED provisions or 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> Aon Risk Services Central, Inc. Chicago IL Office 200 East Randolph Chicago IL 60601 USA	<b>CONTACT NAME:</b> PHONE (A/C. No. Ext): (312) 381-1000      FAX (A/C. No.): (312) 381-7007		
	<b>E-MAIL ADDRESS:</b>		
<b>INSURED</b> Burke, Williams & Sorensen, LLP 444 South Flower St., Ste 2400 Los Angeles CA 90071-2953 USA	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	<b>INSURER A:</b> MSIG Specialty Insurance USA Inc.		34886
	<b>INSURER B:</b> Ironshore Specialty Insurance Company		25445
	<b>INSURER C:</b> Endurance American Specialty Ins Co.		41718
	<b>INSURER D:</b> Evanston Insurance Company		35378
	<b>INSURER E:</b> Westfield Specialty Insurance Comp		16992
<b>INSURER F:</b>			

**COVERAGES**      **CERTIFICATE NUMBER:** 570103601847      **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.      **Limits shown are as requested**

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG
	<b>AUTOMOBILE LIABILITY</b>  <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY ( Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED    RETENTION						EACH OCCURRENCE AGGREGATE
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		<input type="checkbox"/> Y / <input type="checkbox"/> N / A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT E.L. DISEASE-EA EMPLOYEE E.L. DISEASE-POLICY LIMIT
A C D	Lawyers Professional			MSTLPL00107 LPN30030693101 MKLV7PL0006238	01/15/2024 01/15/2024 01/15/2024	01/15/2025 01/15/2025 01/15/2025	Per Occurrence \$5,000,000 Aggregate \$10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 Deductible: \$350,000 Each Claim, \$700,000 in the Aggregate and \$50,000 Step-Down, including defense costs

<b>CERTIFICATE HOLDER</b>  City of National City Insurance Compliance PO Box 100085 - HJ Duluth GA 30096 USA	<b>CANCELLATION</b>  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  
---	--

Holder Identifier :

Certificate No : 570103601847





# ADDITIONAL REMARKS SCHEDULE

AGENCY Aon Risk Services Central, Inc.		NAMED INSURED Burke, Williams & Sorensen, LLP	
POLICY NUMBER See Certificate Number: 570103601847			
CARRIER See Certificate Number: 570103601847	NAIC CODE	EFFECTIVE DATE:	

**ADDITIONAL REMARKS**

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,  
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance**

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER	
INSURER	
INSURER	
INSURER	

**ADDITIONAL POLICIES** If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
	OTHER						
B				LPL7CABW3D1005	01/15/2024	01/15/2025	
E				LPL00003Y202	01/15/2024	01/15/2025	



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)**

This policy is subject to the following additional Conditions:

- A.** If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B.** If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)**

**Policy Number:** 72 WE AB2915

**Endorsement Number:**

**Effective Date:** 08/01/23

Effective hour is the same as stated on the Information Page of the policy.

**Named Insured and Address:** BURKE, WILLIAMS & SORENSEN LLP

444 S FLOWER ST STE 2400

LOS ANGELES CA 90071

This policy is subject to the following additional Conditions:

- A. If this policy is cancelled by the Company, other than for non-payment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.
- B. If this policy is cancelled by the Company for non-payment of premium, or by the insured, notice of such cancellation will be provided within ten (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

#### 1. BROAD FORM INSURED

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

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

- (1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% 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 a partnership or joint venture,
  - (b) That is an "insured" under any other policy,
  - (c) That has exhausted its Limit of Insurance under any other policy, or
  - (d) 180 days or more after its acquisition or formation by you, unless you have given us 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:

- 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:

- 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 a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

##### D. Additional Insured if Required by Contract

(1) Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

- f. When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

- (1) During the policy period, and
- (2) Subsequent to the execution of such written contract, and
- (3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- (a) The limits of insurance specified in the written contract or written agreement; or
- (b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties in The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - OF SECTION IV - BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

**E. Primary and Non-Contributory if Required by Contract**

Only with respect to insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

(3) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(4) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (3) and (4) do not apply to other insurance to which the additional insured has been added as an additional insured.

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.

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; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

**2. AUTOS RENTED BY EMPLOYEES**

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:

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.

### 3. AMENDED FELLOW EMPLOYEE EXCLUSION

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

### 4. HIRED AUTO PHYSICAL DAMAGE COVERAGE

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

- (1) \$100,000;
- (2) The actual cash value of the damaged or stolen property at the time of the "loss"; or
- (3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of \$1000 per "accident".

This extension of coverage does not apply to any "auto" you hire 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.

### 5. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$50 per day and a maximum limit of \$1,000.

### 6. LOAN/LEASE GAP COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life Insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

### 7. AIRBAG COVERAGE

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

### 8. ELECTRONIC EQUIPMENT - BROADENED COVERAGE

a. The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

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:

- (1) Permanently installed in or upon the covered "auto";
- (2) Removable from a housing unit which is permanently installed in or upon the covered "auto";
- (3) An integral part of the same unit housing any electronic equipment described in Paragraphs (1) and (2) above; or

- (4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

b. Section III – Version CA 00 01 03 10 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C.2 and Version CA 00 01 10 01 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C are each amended to add the following:

\$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment (other than equipment designed solely for the reproduction of sound, and accessories used with such equipment) that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

- (1) 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;
- (2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
- (3) An integral part of such equipment.

c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or \$250, whichever deductible is less.

#### **9. EXTRA EXPENSE - BROADENED COVERAGE**

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

#### **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**

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

If another Hartford Financial Services Group, Inc. company policy or coverage form 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;
- (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**

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) A member, if you are a limited liability company; or
- (4) An executive officer or insurance manager, if you are a corporation.

#### **13. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

#### **14. HIRED AUTO - COVERAGE TERRITORY**

Paragraph e. of GENERAL CONDITIONS 7. - POLICY PERIOD, COVERAGE TERRITORY - of SECTION IV - BUSINESS AUTO CONDITIONS is replaced by the following:

e. For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought 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.

#### **15. WAIVER OF SUBROGATION**

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS is amended by adding the following:

We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

#### **16. RESULTANT MENTAL ANGUISH COVERAGE**

The definition of "bodily injury" in SECTION V-DEFINITIONS is replaced by the following:

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

#### **17. EXTENDED CANCELLATION CONDITION**

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

#### **18. HYBRID, ELECTRIC, OR NATURAL GAS VEHICLE PAYMENT COVERAGE**

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

- a. If the auto is replaced with a "hybrid" auto or an auto powered solely by electricity or natural gas, we will pay an additional 10%, to a maximum of \$2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less.
- b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"

c. Regardless of the number of autos deemed a total loss, the most we will pay under this Hybrid, Electric, or Natural Gas Vehicle Payment Coverage provision for any one "loss" is \$10,000.

For the purposes of the coverage provision,

- a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto but does not include autos powered solely by electricity or natural gas.
- b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

#### **19. VEHICLE WRAP COVERAGE**

In the event of a total loss to an "auto" for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended to add the following:

In addition to the actual cash value of the "auto", we will pay up to \$1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage provision for any one "loss" is \$5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### SCHEDULE

**Name Of Additional Insured Person(s) Or Organization(s):**

ANY PERSON OR ORGANIZATION FROM WHOM YOU ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT TO OBTAIN ADDITIONAL INSURED STATUS.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured 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 endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

Paragraph references:

Additional Insured: II.5. (p12)

Primary and Non-Contributory: IV.4.b.(7)(b) (p16)

Waiver of Subrogation: IV.8.b. (p17)

## COMMERCIAL GENERAL LIABILITY 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, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section II - Who Is An Insured.

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

### SECTION I - COVERAGES

#### COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

##### 1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. 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 "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:

- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
- (2) The "bodily injury" or "property damage" occurs during the policy period; and
- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

##### e. Incidental Medical Malpractice And Good Samaritan Coverage

"Bodily injury" arising out of the rendering of or failure to render the following health care services by any "employee" or "volunteer worker" shall be deemed to be caused by an "occurrence" for:

- (1) Professional health care services such as:
  - (a) Medical, surgical, dental, laboratory, x-ray or nursing services or treatment, advice or instruction, or the related furnishing of food or beverages;
  - (b) Any health or therapeutic service, treatment, advice or instruction; or
  - (c) The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances; or
- (2) First aid services, which include:
  - (a) Cardiopulmonary resuscitation, whether performed manually or with a defibrillator; or
  - (b) Services performed as a Good Samaritan.

For the purpose of determining the limits of insurance, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

However, this Incidental Medical Malpractice And Good Samaritan Coverage provision applies only if you are not engaged in the business or occupation of providing any of the services described in this provision.

## 2. Exclusions

This insurance does not apply to:

### a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

### b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) 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. Solely for the purposes of liability assumed in an "insured contract", reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

- (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
- (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

### c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

### d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

### e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:

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

This exclusion does not apply to liability assumed by the insured under an "insured contract".

**f. Pollution**

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

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) 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;

- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

- (i) Any insured; or
- (ii) Any person or organization for whom you may be legally responsible;

- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

- (i) "Bodily injury" or "property damage" arising out of 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 fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

- (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the

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".

(2) Any loss, cost or expense arising out of any:

(a) 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

(b) 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".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

**g. Aircraft, Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

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

(a) Less than 51 feet long; and

(b) Not being used to carry persons for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;

(5) "Bodily injury" or "property damage" arising out of:

(a) The operation of machinery or equipment that is 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; or

(b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment"; or

(6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

**h. Mobile Equipment**

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

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

**i. War**

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

(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.

**j. Damage To Property**

"Property damage" to:

(1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement,

enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" arising from the use of elevators.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at the job site.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

**k. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**l. Damage To Your Work**

"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 out of which the damage arises was performed on your behalf by a subcontractor.

**m. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

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

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

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:

- (1) "Your product";
- (2) "Your work"; or
- (3) "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.

**o. Personal And Advertising Injury**

"Bodily injury" arising out of "personal and advertising injury".

**p. Access or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

**q. Employment-Related Practices**

"Bodily injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**r. Asbestos**

- (1) "Bodily injury" or "property damage" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
  - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
  - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
  - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating,

detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

**s. Recording And Distribution Of Material Or Information In Violation Of Law**

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

**Damage To Premises Rented To You - Exception For Damage By Fire, Lightning Or Explosion**

Exclusions c. through h. and j. through n. do not apply to damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - Limits Of Insurance.

**COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**

**1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. 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 "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:
  - (1) The amount we will pay for damages is limited as described in Section III - Limits Of Insurance; and
  - (2) 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 Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A and B.

- b. This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

## 2. Exclusions

This insurance does not apply to:

### a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" arising out of an offense committed by, at the direction or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

### b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral, written or electronic publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

### c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral, written or electronic publication, in any manner, of material whose first publication took place before the beginning of the policy period.

### d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

### e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

### f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement".

### g. Quality Or Performance Of Goods - Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

### h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services.

### i. Infringement Of Intellectual Property Rights

(1) "Personal and advertising injury" arising out of any actual or alleged infringement or violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, trade dress, service mark or other designation of origin or authenticity; or

(2) Any injury or damage alleged in any claim or "suit" that also alleges an infringement or violation of any intellectual property right, whether such allegation of infringement or violation is made by you or by any other party involved in the claim or "suit", regardless of whether this insurance would otherwise apply.

However, this exclusion does not apply if the only allegation in the claim or "suit" involving any intellectual property right is limited to:

(1) Infringement, in your "advertisement", of:

(a) Copyright;

(b) Slogan; or

(c) Title of any literary or artistic work; or

(2) Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement".

### j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

(1) Advertising, broadcasting, publishing or telecasting;

(2) Designing or determining content of web sites for others; or

(3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs a., b. and c. of the definition of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

### k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the

insured hosts, owns, or over which the insured exercises control.

**l. Unauthorized Use Of Another's Name Or Product**

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

**m. Pollution**

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

**n. Pollution-Related**

Any loss, cost or expense arising out of any:

- (1) 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) 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".

**o. War**

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (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.

**p. Internet Advertisements And Content Of Others**

"Personal and advertising injury" arising out of:

- (1) An "advertisement" for others on your web site;
- (2) Placing a link to a web site of others on your web site;
- (3) Content, including information, sounds, text, graphics, or images from a web site of others displayed within a frame or border on your web site; or

(4) Computer code, software or programming used to enable:

- (a) Your web site; or
- (b) The presentation or functionality of an "advertisement" or other content on your web site.

**q. Right Of Privacy Created By Statute**

"Personal and advertising injury" arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act.

**r. Violation Of Anti-Trust law**

"Personal and advertising injury" arising out of a violation of any anti-trust law.

**s. Securities**

"Personal and advertising injury" arising out of the fluctuation in price or value of any stocks, bonds or other securities.

**t. Recording And Distribution Of Material Or Information In Violation Of Law**

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

**u. Employment-Related Practices**

"Personal and advertising injury" to:

- (1) A person arising out of any "employment-related practices"; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any "employment-related practices" are directed.

This exclusion applies:

- (1) Whether the injury-causing event described in the definition of "employment-related practices" occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**v. Asbestos**

- (1) "Personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:
  - (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
  - (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
  - (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

**w. Access Or Disclosure Of Confidential Or Personal Information**

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

**COVERAGE C MEDICAL PAYMENTS**

**1. Insuring Agreement**

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or
  - (3) Because of your operations;
- provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within three years of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

**2. Exclusions**

We will not pay expenses for "bodily injury":

**a. Any Insured**

To any insured, except "volunteer workers".

**b. Hired Person**

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

**c. Injury On Normally Occupied Premises**

To a person injured on that part of premises you own or rent that the person normally occupies.

**d. Workers Compensation And Similar Laws**

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

**e. Athletics Activities**

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. **Products-Completed Operations Hazard**  
Included within the "products-completed operations hazard".

g. **Coverage A Exclusions**  
Excluded under Coverage A.

**SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
  - a. All expenses we incur.
  - b. Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
  - c. The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
  - d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
  - e. All court costs taxed against the insured in the "suit". However, such costs do not include attorneys' fees, attorneys' expenses, witness or expert fees, or any other expenses of a party taxed to the insured.
  - f. Prejudgment interest awarded against the insured on that part of the 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.
  - g. All interest on the full amount of any 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.

These payments will not reduce the limits of insurance.

2. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:
  - a. The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
  - b. This insurance applies to such liability assumed by the insured;
  - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been

assumed by the insured in the same "insured contract";

- d. The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e. The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f. The indemnitee:
  - (1) Agrees in writing to:
    - (a) Cooperate with us in the investigation, settlement or defense of the "suit";
    - (b) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
    - (c) Notify any other insurer whose coverage is available to the indemnitee; and
    - (d) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
  - (2) Provides us with written authorization to:
    - (a) Obtain records and other information related to the "suit"; and
    - (b) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph 2.b.(2) of Section I - Coverage A - Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

## SECTION II - WHO IS AN INSURED

### 1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

### 2. Each of the following is also an insured:

#### a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

- (1) "Bodily injury" or "personal and advertising injury":
  - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
  - (b) To the spouse, child, parent, brother or sister of that co-"employee" or that

"volunteer worker" as a consequence of Paragraph (1)(a) above;

- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (1)(b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services:

- (a) Subparagraphs (1)(a), (1)(b) and (1)(c) above do not apply to any "employee" or "volunteer worker" providing first aid services; and
- (b) Subparagraph (1)(d) above does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

#### (2) "Property damage" to property:

- (a) Owned, occupied or used by,
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

#### b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

#### c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

#### d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

#### e. Unnamed Subsidiary

Any subsidiary, and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of the Coverage Part.

The insurance afforded herein for any subsidiary not named in this Coverage Part as a named insured does not apply to injury or damage with respect to which such insured is also a named insured under another policy or would be a named insured under such policy but for its termination or the exhaustion of its limits of insurance.

### 3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

### 4. Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

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

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

### 5. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The following person(s) or organization(s) are an additional insured when you have agreed, in a written contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement.

A person or organization is an additional insured under this provision only for that period of time required by the contract or agreement.

However, no such person or organization is an insured under this provision if such person or organization is included as an insured by an endorsement issued by us and made a part of this Coverage Part.

#### a. Vendors

Any person(s) or organization(s) (referred to below as vendor), 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 and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded the vendor is subject to the following additional exclusions:

This insurance 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 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 Sub-paragraphs (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.

**b. Lessors Of Equipment**

(1) Any person(s) or organization(s) from whom you lease equipment; but only with respect to their 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(s) or organization(s).

(2) 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.

**c. Lessors Of Land Or Premises**

Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

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

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to lease that land; or

2. Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**d. Architects, Engineers Or Surveyors**

Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or

omissions of those acting on your behalf:

(1) In connection with your premises; or

(2) In the performance of your ongoing operations performed by you or on your behalf.

With respect to the insurance afforded these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

1. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

**e. Permits Issued By State Or Political Subdivisions**

Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

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

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

**f. Any Other Party**

Any other person or organization who is not an additional insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(1) In the performance of your ongoing operations;

- (2) In connection with your premises owned by or rented to you; or
- (3) In connection with "your work" and included within the "products-completed operations hazard", but only if
  - (a) The written contract or agreement requires you to provide such coverage to such additional insured; and
  - (b) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

However:

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

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services by or for you.

The limits of insurance that apply to additional insureds is described in Section III - Limits Of Insurance.

How this insurance applies when other insurance is available to the additional insured is described in the Other Insurance Condition in Section IV - Commercial General Liability Conditions.

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.

### SECTION III - LIMITS OF INSURANCE

#### 1. The Most We Will Pay

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

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

#### 2. General Aggregate Limit

The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage C;
- b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage B.

#### 3. Products-Completed Operations Aggregate Limit

The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

#### 4. Personal And Advertising Injury Limit

Subject to 2. above, the Personal and Advertising Injury Limit is the most we will pay under Coverage B for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

#### 5. Each Occurrence Limit

Subject to 2. or 3. above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

- a. Damages under Coverage A; and
- b. Medical expenses under Coverage C because of all "bodily injury" and "property damage" arising out of any one "occurrence".

#### 6. Damage To Premises Rented To You Limit

Subject to 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

#### **7. Medical Expense Limit**

Subject to 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person.

#### **8. How Limits Apply To Additional Insureds**

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

- a. The limits of insurance specified in the written contract or written agreement; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

The Limits of Insurance of this Coverage Part 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.

### **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**

#### **1. Bankruptcy**

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

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

##### **a. Notice Of Occurrence Or Offense**

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (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. Notice Of Claim**

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

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

##### **c. Assistance And Cooperation Of The Insured**

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 in the investigation or settlement of the claim or defense against the "suit"; and
- (4) 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 injury or damage to which this insurance may also apply.

##### **d. Obligations At The Insureds Own Cost**

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

##### **e. Additional Insureds Other Insurance**

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

##### **f. Knowledge Of An Occurrence, Offense, Claim Or Suit**

Paragraphs a. and b. apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or the additional insured is a partnership;

- (3) Any manager, if you or the additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or the additional insured is a corporation;
- (5) Any trustee, if you or the additional insured is a trust; or
- (6) Any elected or appointed official, if you or the additional insured is a political subdivision or public entity.

This duty applies separately to you and any additional insured.

### 3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms 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; but we will not be liable for damages that are not payable under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### 4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

#### a. Primary Insurance

This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### b. Excess Insurance

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

##### (1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

##### (2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

### (3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

### (4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

### (5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion j. of Section I - Coverage A - Bodily Injury And Property Damage Liability;

### (6) When You Are Added As An Additional Insured To Other Insurance

Any other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

### (7) When You Add Others As An Additional Insured To This Insurance

Any other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this coverage part.

#### (a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

#### (b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement, or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under Coverages A or B 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.

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; and
- (2) The total of all deductible and self-insured amounts under all that 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 bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. 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.

**5. Premium Audit**

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium

computation, and send us copies at such times as we may request.

**6. Representations**

**a. When You Accept This Policy**

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this policy in reliance upon your representations.

**b. Unintentional Failure To Disclose Hazards**

If unintentionally you should fail to disclose all hazards relating to the conduct of your business that exist at the inception date of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

**7. Separation Of Insureds**

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

**8. Transfer Of Rights Of Recovery Against Others To Us**

**a. Transfer Of Rights Of Recovery**

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, 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.

**b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)**

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

**9. When We Do Not Renew**

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the

nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

#### SECTION V - DEFINITIONS

1. **"Advertisement"** means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper; or

b. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

- a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or
- b. An interactive conversation between or among persons through a computer network.

2. **"Advertising idea"** means any idea for an "advertisement".

3. **"Asbestos hazard"** means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. **"Auto"** means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. 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".

5. **"Bodily injury"** means physical:

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

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. **"Coverage territory"** means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or

c. All other parts of the world if the injury or damage arises out of:

- (1) Goods or products made or sold by you in the territory described in a. above;
- (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
- (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory or in a settlement we agree to.

7. **"Employee"** includes a "leased worker". "Employee" does not include a "temporary worker".

8. **"Employment-Related Practices"** means:

- a. Refusal to employ that person;
- b. Termination of that person's employment; or
- c. Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person.

9. **"Executive officer"** means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

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

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

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms 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 of the contract or agreement.

12. **"Insured contract"** means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage to

Premises Rented To You Limit described in Section III - Limits of Insurance;

- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. 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 party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. includes that part of any contract or agreement 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, road-beds, tunnel, underpass or crossing.

However, Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

**13. "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".

**14. "Loading or unloading"** means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" 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, watercraft or "auto".

**15. "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 or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- 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 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;
- f. Vehicles not described in a., b., c. or d. 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":

- (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.

However, "mobile equipment" does not include any 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. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

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

**17. "Personal and advertising injury"** means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person or organization occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral, written or electronic publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral, written or electronic publication, in any manner, of material that violates a person's right of privacy;
- f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement"; or
- g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement".

**18. "Pollutants"** mean 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.

**19. "Products-completed operations hazard":**

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent 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. However, "your work" will be deemed completed at the earliest of the following times:

- (a) When all of the work called for in your contract has been completed.
- (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
- (c) 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.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

**20. "Property damage"** means:

- a. Physical injury to tangible property, including all 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
- b. 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.

As used in this definition, computerized or electronically stored data, programs or software are not tangible property. Electronic data means information, facts or programs:

- a. Stored as or on;
  - b. Created or used on; or
  - c. Transmitted to or from;
- computer software, including systems and applications software, hard or floppy disks, CD-

ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

21. **"Suit"** means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a. An arbitration proceeding in which such damages 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 are claimed and to which the insured submits with our consent.

22. **"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.

23. **"Volunteer worker"** means a person who

- a. Is not your "employee";
- b. Donates his or her work;
- c. Acts at the direction of and within the scope of duties determined by you; and
- d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. **"Your product"**:

a. Means:

- (1) Any 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 business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. **"Your work"**:

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work", and
- (2) The providing of or failure to provide warnings or instructions.

