



BMI IMAGING SYSTEMS, INC.

MASTER SERVICES AGREEMENT

This Master Services Agreement ("Agreement") is made as of _____ (the "Effective Date") by and between BMI Imaging Systems, Inc. ("BMI") and the customer identified on the signature page hereof ("Customer") (each a "Party" and together, the "Parties").

In consideration of the mutual covenants and conditions contained in this Agreement, the Parties hereby agree as follows:

1. **Definitions.** The following underlined terms shall have the meaning as set forth herein, as follows:

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with the Customer. "Control" for purposes of this definition means, direct or indirect ownership of a majority ownership interest of the subject entity.

"Agreement" shall mean the general and specific terms and conditions of this Agreement and any attachment(s) pertinent to the ordered BMI Services, including but not limited to any Schedule of Work and any amendments and supplements thereto.

"BMI Services" shall mean the BMI imaging services, BMI product installation services, and BMI Hosting Services, as described and provided by BMI and ordered by Customer under this Agreement and relevant Schedule of Work.

"BMI Hosting Services" shall mean BMI hosted online access to Imaged Product for use by Customer-authorized End Users.

"BMI Documentation" means BMI end-user documentation, help and training materials, as made available to Customer from time to time.

"Customer" shall mean the entity identified on the signature page of this Agreement excluding any Affiliate unless expressly stated in this Agreement.

"Customer Documents" shall mean the tangible records, books, manuscripts, photographs, newspapers, periodicals, files, disks, tapes, slides, film, and other physical materials, provided by Customer to BMI in accordance with this Agreement.

"End User" shall mean any person who is authorized by Customer to access and use Imaged Product in connection with Customer's business.

"End User License Agreement" or "EULA" shall mean BMI's end user license agreement for access and use of Imaged Product, whether installed "on premise" at a Customer location or accessible online via BMI Hosting Services.

"Imaged Product" shall mean the end results of digital or photographic reproduction processes of BMI Services that can be viewed by Customer on a display device.

"Schedule of Work" shall mean any ordering document and attachments approved by the Parties setting forth BMI Services to be performed for Customer in accordance with this Agreement.

2. **Term.** This Agreement shall commence on the Effective Date and unless terminated earlier as set forth herein, shall continue for one (1) year after the expiration or termination of all BMI Services under all applicable Schedules of Work.
3. **BMI Services.**
- a. **BMI Services.** Subject to Customer's compliance with this Agreement, BMI shall provide BMI Services to Customer in a professional, timely, and workmanlike manner, in accordance with the terms and conditions of this Agreement and mutually agreeable Schedule of Work.
- i. **Online Hosting Services.** All BMI Hosting Services requested in a Schedule of Work shall be subject to the terms and conditions of this Agreement and the additional terms and conditions set forth in Addendum 1 attached hereto, which terms and conditions are hereby incorporated by this reference as though fully set forth herein.
- ii. **End User License Agreement.** All access and use of Imaged Product by a Customer End User shall be subject to End User's acceptance of BMI's then current End User License Agreement, a copy of which shall be annexed hereto as Exhibit A, and the terms and conditions of which are hereby incorporated by reference as though fully set forth herein.
- b. **Imaging of Customer Documents.** Imaging of Customer Documents shall be subject to a mutually acceptable Schedule of Work and Customer's full compliance with the terms and conditions of this Agreement. BMI does not represent, warrant or guarantee that all Customer Documents will be capable of reproduction or that each reproduced image will be legible. Subject to timely Customer notice as set forth herein, BMI agrees to reprocess any missed or illegible Customer Documents (provided the original is legible) and when determined by BMI to be technically possible, to insert the missing or corrected images into the Imaged Product.
- c. **Confidentiality.** BMI acknowledges and agrees that all Customer Documents or any other information and materials furnished by Customer to BMI that Customer identifies as confidential information of Customer shall be and remain the confidential information of Customer (the "Confidential Information"), including all Imaged Product containing Confidential Information, unless one or more exclusions set forth below applies. BMI agrees that it shall not use or disclose the Confidential Information for any reason other than as set forth in this Agreement or any related Schedule of Work. Customer acknowledges and agrees that BMI may disclose Confidential Information to BMI subcontractors for the purposes of this Agreement who are obligated in writing to maintain the confidentiality of the Confidential Information. **Exclusions.** For purposes of this Agreement, Confidential Information shall not include information or materials that: (a) has previously become or is generally known to the public or trade through no breach of this Agreement or a similar confidentiality or non-disclosure agreement; (b) was already rightfully known to BMI or a third party prior to it being disclosed by or obtained from the Customer under this Agreement; (c) has been or is hereafter rightfully received by BMI from a third party under no restriction on use or disclosure; or (d) has been independently developed by BMI without access to the Confidential Information of Customer. Customer agrees that BMI may disclose Customer Confidential Information in response to a lawful order of a court of competent jurisdiction or legal authority, provided Customer is given reasonable notice for Customer to take steps to protect the Confidential Information prior to disclosure, at Customer's sole expense.
- d. **Suspension or Early Termination for Good Cause/Customer Release/Waiver.** BMI reserves the right to suspend, refuse to perform, and/or terminate BMI Services, in whole or in part, for good cause in the event of: (i) Customer's failure to make payment of any amounts due for BMI Services when due, (ii) a third party claim of violation or infringement of any right arising from or related to the Customer Documents and/or Imaged Product, (iii) the receipt of an order of a court or legal authority of competent jurisdiction to cease and desist from the performance of BMI Services related to Customer Documents and/or Imaged Product, and (iv) Customer becomes insolvent or declares bankruptcy. **Waiver.** *No such suspension, refusal to perform or termination of services for good cause shall be deemed a violation or breach of this Agreement and Customer hereby releases BMI and waives any and all claims for damages*

or losses of any kind under any legal theory against BMI arising from or related to any such suspension, refusal to perform or termination of services.

- e. Return or Destruction of Customer Documents for Good Cause/Customer Release/Waiver. Should any claim, invoice or charge of BMI remain unpaid by Customer for ninety (90) days or more, Customer shall be deemed to have abandoned the Customer Documents and Imaged Products. BMI's liability (if any) for any loss of or damage to Documents or Imaged Product incurred during such period shall be that of a gratuitous Bailee only and BMI shall have good cause and the right in its sole discretion to return and/or destroy (in whole or in part) the Customer Documents and Imaged Product after written notice to and express written authorization from Customer, except that, if Customer has not responded to such written notice, Customer's authorization shall be presumed 30 days after written notice to Customer, and to charge Customer for the return and/or destruction. **Waiver.** *Except as provided herein, Customer hereby releases BMI and waives any and all claims for damages or losses of any kind under any legal theory against BMI arising from or related to the return or destruction of Customer Documents and Imaged Products in accordance with this Agreement.*

4. **Customer Responsibilities.**

- a. Customer Cooperation. Customer acknowledges and agrees that in order for BMI to perform BMI Services, Customer must make available to BMI, in a timely manner, certain Customer Documents and as applicable, Customer personnel, equipment, and facilities. Customer agrees that it will use best efforts to cooperate with BMI in all respects of this Agreement and Customer acknowledges that its failure to do so may prevent BMI from performing BMI Services in a timely manner, including but not limited to meeting milestones as may be designated in a Schedule of Work.
- b. Payment: Customer shall be responsible for full and timely payment of all amounts due and owing for BMI Services provided under this Agreement, subject to and in accordance with its terms and conditions. Except as otherwise set forth in a Schedule of Work: (1) all charges for BMI Services, together with any sales or other applicable tax, are due and payable no later than thirty (30) days after the invoice date; (2) Invoices will typically be provided monthly by U.S. Mail for completed services; and (3) unpaid amounts are subject to late payment charges or the lesser of one and one-half percent (1.5%) of the overdue amount or the maximum rate permitted by law.
- c. Legal Compliance: Customer represents and warrants that it is the owner of Customer Documents and/or has or shall acquire all rights, title, interest, licenses and permissions necessary for BMI, its employees, agents and/or contractors to perform BMI Services contemplated under this Agreement without violation or infringement of any third party right or agreement. Customer shall be solely responsible for legal compliance with regard to the reproduction of Customer Documents and the access and use of Imaged Product in accordance with applicable law, regulations, treaties, and conventions, including but not limited to those pertaining to patents, copyrights, rights of privacy, publicity, and moral rights. Customer shall use commercially reasonable efforts to prevent unauthorized or unlawful access and/or use of Imaged Product in Customer's possession and/or control.
- d. Transportation of Customer Documents and Imaged Product. Customer shall be solely responsible for the shipping and handling of Customer Documents and Imaged Product to and from BMI Services facilities for all purposes, including but not limited to declaring the true and accurate value of the Customer Documents and media thereof. Customer acknowledges and agrees that in the event BMI facilitates the shipping, handling and/or transportation of Customer Documents and Imaged Product in any way, BMI shall not be deemed a contract or commercial carrier and BMI shall not be liable for the loss or damage of Customer Documents or Imaged Product arising from or related to the shipping, handling or transportation thereof.
- e. Quality of Customer Documents for Imaging: Customer shall be responsible for the accuracy and quality of all Customer Documents provided to BMI in connection with this Agreement.
- f. Quality Review of Imaged Product. Within sixty (60) days of the Imaged Product being made available to Customer, Customer agrees to thoroughly review the Imaged Product and notify BMI of any actual or

suspected missing Customer Documents or illegible images. After such 60-day period, Customer agrees to pay for any retakes or corrections requested by Customer at BMI's then effective rates.

- g. **Backup of Customer Documents and Data/Assumption of Risk.** Customer shall be responsible to make prior and ongoing backup copies of all Customer Documents, data and programs connected to any networked device onto which BMI will be loading software, data or Imaged Products in connection with the performance of requested BMI Services. Customer acknowledges and agrees that BMI makes no claim as to the compatibility or serviceability of any software or Imaged Product in connection with Customer's software or equipment and Customer accepts all risk for any damage or loss of property or data that might arise from or relate to the use or installation of such software by BMI or its agents.
- h. **Indemnification.** Each Party agrees to indemnify and hold harmless, to the fullest extent allowed by law, the other Party and its principals, officers, and employees from and against all claims, demands, suits, actions, payments, liabilities, judgments and expenses (including court-ordered attorneys' fees), arising out of or resulting from the acts or omissions of their principals, officers, or employees in the performance of this Agreement. Liability includes any claims, damages, losses, and expenses arising out of or resulting from performance of this Agreement that results in any claim for damage whatsoever including any bodily injury, civil rights liability, sickness, disease, or damage to or destruction of property, including the loss of use resulting therefrom, or related to any actual or threatened violation or infringement of third party rights or breach of warranty. However, in the case of the content provided by Lancaster County to BMI, Lancaster accepts all liability and shall so indemnify and defend BMI for Lancaster content and Lancaster controlled access to such content, which access will be controlled exclusively by Lancaster Administrators. Further, each Party shall maintain a policy or policies of insurance (or a self-insurance program), sufficient in coverage and amount to pay any judgments or related expenses from or in conjunction with any such claims. Nothing in this Agreement shall require either Party to indemnify or hold harmless the other Party from liability for the negligent or wrongful acts or omissions of said other Party or its principals, officers, or employees.
- i. **Insurance.**

- i. **Insurance; Coverage**

Each Party shall, prior to beginning work, provide proof of insurance coverage in a form satisfactory to the other Party, which shall not withhold approval unreasonably. The coverages and minimum levels required by this contract are set forth below and shall be in effect for all times that work is being done pursuant to this Contract. No work pursuant to this Contract shall begin until all insurance obligations herein are met to the satisfaction of each Party, which shall not unreasonably withhold approval. Self-insurance shall not be permitted unless consent is given by the other Party prior to execution of the Agreement. Deductible levels shall be provided in writing from the Party's insurer and will be no more than \$10,000.00 per occurrence.

- ii. **Commercial General Liability**

Each Party shall provide proof of Commercial General Liability Insurance with the coverages and at the minimum limits set forth herein. These minimum limits can be met by primary and umbrella liability policies. Coverage shall include: Premises-Operations, Products/ Completed Operations, Contractual, Broad Form Property Damage, and Personal Injury and shall be no less than \$1,000,000 Each Occurrence and \$2,000,000 Aggregate. Such coverage shall be endorsed for the general aggregate to be on a **PER PROJECT** basis, and each Party shall provide an additional insured endorsement acceptable to the other Party. The description of operations must state "Blanket coverage for all projects and operations of Contractor" or similar language that meets the approval of the County, which approval shall not be unreasonably withheld.

- iii. **Additional Insured**

An Additional Insured endorsement shall be provided by each Party to the other Party naming the other Party as additional insureds using ISO additional insured endorsement (CG20 10), edition date 11/85, or an equivalent (e.g. CG 2010, edition date 10/93, plus CG 20 37, edition date 10101), under the commercial general liability policy and automobile liability policy. Said insurance shall be written on an **OCCURRENCE** basis, and shall be **PRIMARY, with any insurance coverage maintained by the County being secondary or excess.**

iv. Certificates

The Parties shall provide certificates of insurance and endorsements evidencing compliance with these requirements. Upon request, each Party shall furnish a full and complete copy of any policy of insurance, required by this Contract, to the other Party within a reasonable time, not to exceed thirty days. The certificates of insurance shall provide for at least thirty (30) days' firm written notice in the event of cancellation. Intent to notify is not acceptable. During the term of the Agreement and during the period of any required continuing coverages, each Party shall provide, prior to expiration of the policies, certificates and endorsements evidencing renewal insurance coverages. The Parties agree that the failure of either Party to object to the form of a certificate and/or additional insured endorsement provided shall not constitute a waiver of this requirement.

v. Minimum Scope of Insurance

All Liability Insurance policies shall be written on an "Occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted otherwise.

vi. Sovereign Immunity

Nothing contained in this clause or other clauses of this Agreement/Contract shall be construed to waive the Sovereign Immunity of the County.

- j. Non-Solicitation. Customer shall not recruit, solicit, induce or otherwise contract for the employment of BMI employees or BMI Services contractors during the effective term of this Agreement.
5. **Disclaimer of Warranties.** Except as expressly stated in this Agreement, BMI makes no warranties with regard to BMI Services or Imaged Product, express or implied, including without limitation the warranty of merchantability, title, fitness for a particular purpose, and non-infringement, which are hereby expressly disclaimed.
6. **Limitation of Liability.**
- a. To the maximum extent permitted by law, BMI shall have no liability to Customer for damages or losses sustained by reason of missing, illegible or damaged Customer Documents or Imaged Products arising from or related to BMI's Services. BMI does not represent or warrant that its buildings are fireproof or the contents of the buildings (including the Documents and the Imaged Products) cannot be destroyed by fire, flood, or other causes.
 - b. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL BMI BE LIABLE FOR CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR OTHER EXEMPLARY DAMAGES OF ANY KIND (INCLUDING BUT NOT LIMITED TO DAMAGE OR LOSS OF PROPERTY, DOCUMENTS, IMAGED PRODUCT, PROFIT OR REVENUE) ARISING FROM OR RELATED TO THIS AGREEMENT, THE SUSPENSION OR TERMINATION OF SERVICES UNDER THIS

AGREEMENT, OR THE SERVICES OR PRODUCTS PROVIDED UNDER THIS AGREEMENT, EVEN IF BMI OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES.

- c. BMI'S MAXIMUM LIABILITY AND CUSTOMER'S SOLE REMEDY FOR ALL DAMAGES OR LOSSES TO CUSTOMER DOCUMENTS AND IMAGED PRODUCT SHALL BE LIMITED TO THE REPLACEMENT COST OF THE MEDIUM ON WHICH THE CUSTOMER DOCUMENTS OR IMAGED PRODUCT WAS ORIGINALLY PRODUCED. IN NO EVENT SHALL BMI'S TOTAL AGGREGATE LIABILITY TO CUSTOMER ARISING FROM OR RELATED TO THIS AGREEMENT AND/OR BMI SERVICES SHALL EXCEED THE AMOUNTS PAID BY CUSTOMER TO BMI UNDER THIS AGREEMENT IN THE ONE (1) YEAR PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM GIVING RISE TO THE LIABILITY. NOTHING IN THIS AGREEMENT SHALL BE CONSTRUED TO PREVENT CUSTOMER FROM PROCURING AND MAINTAINING ITS OWN INSURANCE FOR CUSTOMER DOCUMENTS AND IMAGED PRODUCT.
 - d. In any action to enforce a claim for damage or loss to Customer Documents or Imaged Product based on the alleged negligence of BMI or its officers, directors, employees, agents or contractors, the burden of proving any such negligence shall be with Customer.
 - e. The Parties acknowledge that BMI has set its prices and entered into this Agreement in reliance upon the limitations, exclusions, and disclaimers of liability and the disclaimers of warranties and damages set forth in this Agreement, and that such limitations, exclusions, and disclaimers are fundamental elements and form an essential basis of the bargain between Customer and BMI. BMI would not be able to have provided the Services to Customer without such limitations. The limitations and exclusions of liability and disclaimers specified in this Agreement shall survive and apply even if the remedies provided herein are found to have failed of their essential purpose.
7. **Termination for Breach.** Either party may terminate this Agreement or Schedule of Work, in whole or in part, if the other party materially breaches this Agreement and fails to cure the breach within thirty (30) days following written notice from the other party specifying the breach.
8. **Termination for Convenience.** This Agreement or BMI Services under a Schedule of Work may be terminated by either Party without cause upon thirty (30) days' written notice to the other Party; *provided* BMI has not commenced performance of BMI Services under any Schedule of Work.
9. **Rights and Obligations upon Termination.** Upon termination or expiration of this Agreement or BMI Services under a Schedule of Work, Customer shall pay BMI all amounts due and payable for services rendered and upon payment Customer may request the return, transfer and/or disposal of all or some of Customer Documents, Imaged Product and Customer Confidential Information in BMI's possession and/or control. Any and all expenses for the return, transfer or disposal of Customer Documents, Imaged Product and Confidential Information shall be borne by Customer, including but not limited to any sales or transfer taxes.
- a. Retention of Backup/Archival Copies of Imaged Product. In the absence of express instructions from Customer or separate written agreement as set forth in this Section 9, Customer agrees that BMI may, in its sole discretion, retain one or more copies of Imaged Product for backup, warranty, archival or dispute resolution purposes; *provided*, nothing in this Agreement shall obligate BMI to retain any such copy(ies) for any period of time for any purpose. Customer acknowledges and agrees that BMI shall have no obligation or legal duty to Customer arising from this Agreement to retain one or more copies of Imaged Product for any purpose or to provide additional services to Customer, even if BMI has retained any such copy(ies) for backup, warranty and/or archival purposes. Any obligation on BMI to retain one or more copies of Imaged Product for any purpose or to provide additional services to Customer shall require a separate and mutually agreeable retention and services agreement signed by both parties.
 - b. Compliance with Copyright Holder Demands. In the event a copyright holder or legal representative of a copyright holder presents a credible claim of having a copyright interest in an Imaged Product and on that basis demands or requests the destruction, modification, transfer, reproduction, distribution, display,

transmission, and/or preparation of derivative works of, a copy of the Imaged Product in BMI's possession and/or control, BMI may accommodate and comply with any such demand or request, upon notice to Customer, to avoid and/or settle a claim against BMI by the copyright holder, all without cost, benefit, payment, contribution, obligation, consent, or liability of any kind under any legal theory, to Customer.

10. Miscellaneous.

- a. Force Majeure. Neither party shall be liable under this Agreement by reason of any failure or delay in the performance of its obligations under this Agreement (except for the payment of money) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, acts of terror, war, governmental action, labor conditions, earthquakes, material shortages, or any other cause beyond the reasonable control of such party.
- b. Entire Agreement. This Agreement and all attachments hereto constitute the entire understanding of the parties and supersede any prior agreements and understandings between the Parties relating to the subject matter of this Agreement. No supplement, amendment or modification of this Agreement shall be binding unless executed in writing by all of the parties. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver of this Agreement shall be binding unless executed by the party making the waiver. Headings are used for convenience only and shall not be used to construe or interpret this Agreement.
- c. Assignment. This Agreement is personal to the Parties and may not be assigned, in whole or in part, without the prior written consent of the Parties; *provided*, however, each Party may transfer this Agreement to a successor in interest of all or substantially all of the assets or voting stock of the Party and in which case such consent shall not be required. This agreement shall be binding on and inure to the benefit of the parties to it and their respective heirs, legal representatives, successors, and permitted assigns.
- d. Relationship. The relationship of the parties is that of independent contractors. Accordingly, nothing contained in this Agreement shall be construed as establishing an employer/employee, partnership, agency, brokerage, or joint venture.
- e. Notices. Any notice required or permitted to be given under this Agreement shall be in writing and shall be delivered via certified mail or express courier to the party's representative and address identified herein, which may be changed in accordance with the provisions of this section. Any such notice shall be deemed to have been given upon receipt.
- f. Governing Law/Severability. This Agreement shall be governed by and constructed in accordance with the laws of the State of Nebraska applicable to contracts made and to be performed in California, and without application of conflict of law provisions. If any provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such provision shall be deemed to be severed from the Agreement and without effect on the remainder which shall be valid and enforceable in accordance with the original intent of the parties.
- g. Resolution of Disputes/Time Limitation of Claims. Customer agrees to notify BMI within sixty (60) days of the date that Customer receives the Imaged Product from BMI of any claim or dispute arising from or related to BMI's Services under this Agreement, or any such claim shall be deemed forever waived.
- h. Counterparts. This Agreement may be executed in duplicate counterparts with facsimile (electronic) signatures, each of which shall constitute an original for all purposes and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Customer and BMI have caused this Agreement to be executed by a duly authorized officer with the intent to be bound as of the Effect Date set forth herein.

Lancaster County, Nebraska, a political subdivision of the State of Nebraska
SYSTEMS, INC.

BMI

IMAGING

Customer (Company Name)

William Whitney

By (Print Name)

By: William D. Whitney, CEO

Signature

1115 E. Arques Avenue
Sunnyvale, CA 94085-3904

Address

Attachments:

- 1) Schedule of Work
- 2) Addendum 1: BMI Hosting Services Terms and Conditions
- 3) Exhibit A: BMI End User License Agreement

Schedule of Work

**Lancaster County Register of Deeds
DR5 to DR6.5 Upgrade**

Digital ReeL 6.5 Hosted Application

1. Send us your dataset copied to an external drive and receive Digital ReeL 6.5
2. Price is \$8.00 per roll (from original dataset). Price Includes:
 - a. Scrolling Grayscale
 - b. 4TB external drive from BMI for copying and sending data
 - c. Hosting of the Dataset during the conversion process
3. Hosting: \$500.00 per Year + \$2.00 per roll. (\$2,200.00 annually beginning 09-01-17)

Estimated Conversion Pricing (Assumes 4TB)

• Hosting Set-up (2 Actives Data Centers, Both Raid Configured)	\$ 750.00
• Conversion of 850 rolls with Scrolling Grayscale	\$ 6,800.00
• Hosting During Conversion (thru 08-31-17)	Included
• First Year of Application Hosting starting 09-01-2017 (5-Users)	<u>\$ 2,200.00</u>
	\$9,750.00

Notes:

- DR6.5 will require approximately 25% more storage space than DR4.
- This conversion requires Lancaster County to ship drives containing roll images back to BMI.
- The estimated conversion timeframe is 60-90 days, following approval of the Milestone 1 (M1).
- BMI will Host the Application during conversion and through 08-31-17 at no charge.
- Additional User access licenses are \$500/5-pack/year/.

Pricing provided on March 9, 2017 by:

Brad Penfold

BMI Imaging Systems

800-488-3456 x402

Quote valid for 90 days

ADDENDUM 1
To
BMI MASTER SERVICES AGREEMENT

(Effective Date:6-17-2014)

BMI HOSTING SERVICES

TERMS AND CONDITIONS

This addendum (“Addendum”) sets forth the additional terms and conditions upon which BMI shall provide BMI Hosting Services to Customer under the Master Services Agreement (“MSA”) having an Effective Date as set forth above.

1. **Definitions.** All definitions set forth in the MSA shall apply to this Addendum.
2. **Storage and Access to Imaged Product.** BMI shall provide a minimum hardware storage configuration of RAID 5 on which the Imaged Product will be stored. BMI will provide access to this hardware configuration in both of its two (2) hosting locations, with one configuration available at any one time at least 99% of Standard Business Hours. Standard Business Hours are defined as M-F: 5:00 AM to 5:00 PM (Pacific).
3. **Access Services.** BMI shall allow access to the Imaged Product to End Users via Internet connections from one or more of BMI data repositories. End Users will be determined by Customer, who will provide BMI with updated status information regarding those End Users. Adding or removing End Users will be at the discretion of Customer or his/her representative. That representative, when wishing to add or remove End Users from authorized status, will request that BMI support personnel remove or add any End User. Customer may also wish to be provided with software tools to allow for administration level, direct Customer controlled addition or deletion of End Users. Customer acknowledges that he/she assumes responsibility for adding, deleting or maintaining End Users, whether directly administering the End Users through its representative or through BMI technical support.
4. **Security.** The Internet by its very nature is inherently an unsecure medium. The Customer is responsible for validating the integrity of the information and data it receives and transmits over the Internet. The Customer is required to protect the security of its Internet account and usage. The Customer’s passwords will be treated as private and confidential and not disclosed to or shared with any third parties. Customer agrees to protect their data and images from unauthorized use, complying with protocols for sensitive, confidential and personal information.
5. **Communications Lines.** BMI utilizes communication services of telecom third parties. Customer acknowledges that BMI does not have ultimate control of communications lines used to access the Imaged Product; and therefore, BMI cannot ultimately guarantee the security of transmissions to and from BMI to Customer. BMI routinely utilizes SSL (Secure Socket Layer) protocol for transmission of the Imaged Product to clients and can provide other enhanced data communication and security provisions upon request, such as single IP access or VPN. Unless otherwise noted, communication between BMI and Customer will utilize SSL technologies. Unless otherwise contracted, Customer should not expect bandwidth greater than 1.5Mb/s during Standard Business Hours. Customer should not assume access will be available after Standard Business Hours (all times Pacific).
6. **Maintenance.**
 - a. **Standard Maintenance or System Upgrades.** BMI shall perform preventive maintenance of its servers and other facilities in accordance with its normal maintenance schedules and procedures, as modified from time to time during the term of this Agreement. Customer acknowledges that Access Services may not be operable during periods of preventive

maintenance. BMI will make reasonable efforts to inform Customer prior to any scheduled maintenance.

- b. Unscheduled Maintenance. Customer acknowledges that BMI may have to perform maintenance on an emergency basis and that Access Services may not be operable at these times. BMI shall provide Customer with notice as soon as possible in such situations and will make every reasonable effort to make Access Services available to Customer as possible.

7. **Customer Support.** Customer may contact BMI either by telephone, email, and/or other means agreed to by BMI and Customer, for limited operational and technical support pertaining to BMI Services, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. (Pacific), excluding BMI holidays. For purposes of this section, BMI holidays are all federally observed holidays, including but not limited to, New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Friday following Thanksgiving, Christmas Day, and the day before and/or after Christmas Day if occurring on a regular week day. BMI will provide Customer with a toll-free telephone number for support.

IN WITNESS WHEREOF, the Parties have caused this Addendum to be signed by their duly authorized representatives.

Customer (Company Name)

By (Print Name)

Signature

Address

BMI IMAGING SYSTEMS, INC.

William Whitney

By: William D. Whitney, CEO

1115 E. Arques Avenue
Sunnyvale, CA 94085-3904



EXHIBIT A
To
BMI MASTER SERVICES AGREEMENT
(Effective Date: **6-17-2014**)

BMI
END USER LICENSE AGREEMENT

NOTICE

**Materials made accessible by this Software may be protected by U.S Copyright Law.
The person making a copy is liable for any infringement not excused by law.**

TERMS OF USE

These Terms of Use govern the terms and conditions (“Agreement”) by which the Digital Reel™ software (“Software”) and its contents may be accessed and used by you (“you” or “End User”). Please read them carefully.

By accessing and using the Software, you represent that (i) you have been duly authorized to access and use this Software by the provider of the Software (the “Software Provider”) and (ii) you accept and agree to be bound and abide by this Agreement. If you do not agree to the terms of this Agreement, you must not access or use the Software.

1. License

Subject to the terms and conditions of this Agreement, you are granted a limited, personal right to access and use the Software as intended by the Software Provider for lawful internal business, education and/or research purposes only and for no other purpose. No right, title or ownership interest in and to the Software or to any trademark, service mark, trade name or domain name is granted under this Agreement. All rights not herein expressly granted to you are hereby expressly reserved to its owner, BMI Imaging Systems, Inc. (“BMI”), its licensees and other property owners, if any.

2. Restrictions

(a). Except to the extent authorized by the Software Provider, you agree to keep secret and not disclose any personal name and password required by the Software Provider to access and use the Software and to not share access and use of the Software with anyone else. In the event you know or suspect that a personal user name and password has been disclosed to an unauthorized person, you agree to immediately notify the Software Provider.

(b). Except to the extent permitted by law, you may not directly or indirectly (i) transmit, redistribute, Encumber, sell, rent, lease, lend, barter, sub-lease, sublicense or otherwise transfer this Software or the right to access and use this Software to any third party without the express written consent of BMI; (ii) Use the Software in connection with any service bureau without the express written consent of BMI; (iii) remove or obscure any copyright, trademark and other proprietary rights notices, legends, symbols or labels; (iv) alter, modify, decompile, disassemble, create any derivative works of the Software, including customization, translation or localization, or reverse engineer or otherwise attempt to derive the source code for the Software; (v) use the DIGITAL REEL Software or its contents for any unlawful purpose.

3. Copyright

This Software is protected under U.S. copyright laws and international treaties, trade secret, trademark and other applicable laws. All rights in and to the Software are expressly reserved to BMI. Any unauthorized copying, distribution, transmission; public display of this Software or preparation of derivative works of this Software is strictly prohibited.

NOTICE: CONTENT MADE ACCESSIBLE BY THIS SOFTWARE MAY BE PROTECTED BY U.S. COPYRIGHT LAW. THE PERSON MAKING A COPY IS LIABLE FOR ANY INFRINGEMENT NOT EXCUSED BY LAW.

4. Ownership

BMI and its licensors (as applicable) are and shall remain the sole owner of all rights, title and interest in and to the Software, all derivatives thereof and all intellectual property rights related or pertaining to the aforesaid, including without limitation, all copyrights and inventions (whether patentable nor not), even if You should provide data, suggestions, ideas, concepts, inventions, works of authorship, improvements or other intellectual property as a result of the use of the Software by You.

5. Disclaimer of Warranties

EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE DIGITAL REEL SOFTWARE, DATA AND INFORMATION ACCESSIBLE THROUGH THE USE OF THE SOFTWARE AND SYSTEM ARE PROVIDED "AS IS" WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND. BMI EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT AND ACCURACY OF DATA OR INFORMATION.

BMI DOES NOT REPRESENT OR WARRANT THAT THE SOFTWARE IS FREE OF ALL DEFECTS OR THAT THE SOFTWARE OR ITS CONTENTS WILL BE ACCESSIBLE AT ALL TIMES.

USE OF THE SOFTWARE AND ITS CONTENT, DATA, INFORMATION AND DOCUMENTATION IS AT THE END USER'S SOLE RISK.

6. Limitation of Liability

EXCEPT TO THE EXTENT PROHIBITED BY LAW, IN NO EVENT SHALL BMI, ITS LICENSEES AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES AND SUCCESSORS AND ASSIGNS OR ANY OTHER PARTY INVOLVED IN THE CREATION, PRODUCTION OR DELIVERY OF THE SOFTWARE AND/OR ITS CONTENTS, BE LIABLE TO END USER OR ANY OTHER PERSON OR ENTITY FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS OR LOSS OF DATA OR PROPERTY) ARISING FROM OR RELATED TO THIS AGREEMENT AND/OR THE USE, RELIANCE ON OR TRANSFER OF ANY PROPERTY, SOFTWARE, INFORMATION OR DATA PROVIDED OR MADE ACCESSIBLE BY THE SOFTWARE, EVEN IF BMI OR ANY OTHERS HAVE BEEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7. Indemnity

You agree to indemnify and hold harmless BMI, its officers, directors, employees, representatives, successors and assigns from and against any claims, actions, demands, liabilities, settlements and damages including without limitation, reasonable attorneys fees and costs, arising from or related to any violation of this Agreement by You.

8. U.S. Government Restricted Rights

If this Software is being accessed for use by or on behalf of the U.S. Government or by a U.S. Government contactor (at any tier), then the Government's rights in the Software and governing documentation will be only as set forth in this Agreement for commercial software developed exclusively at private expense, in accordance with 48 CFR 227.7201 through 227.7202-4 (for Department of Defense acquisitions) and with 48 CFR 2.101 and 12.212 (for non-DOD acquisitions), as applicable. Unpublished rights are reserved under the Copyright laws of the United States. BMI Imaging Systems, Inc., 1115 E. Arques Avenue, Sunnyvale, CA 94086.

9. End Users Outside the US

If you are located outside the jurisdiction of the U.S., then the provisions of this Section shall apply to you. (i) this Agreement and all related documentation shall be in the English language. (LES PARTIES AUX PRESENTES CONFIRMENT LEUR VOLONTE QUE CETTE CONVENTION DE MEME QUE TOUS LES DOCUMENTS Y COMPRIS TOUT AVIS QUI S'Y RATTACHE, SOIENT REDIGES EN LANGUE ANGLAISE); and (ii) you are responsible for complying with any local laws in your jurisdiction which might impact your right to import, export or use the Software and you represent that you have complied with any regulations or registration procedures required by applicable law to make this Agreement and license valid and enforceable.

10. Export / Import

End User agrees to comply with all export and import laws and restrictions and regulations of the United States and foreign countries, and not to export, re-export or import the Software or any direct product thereof in violation of any such restrictions, laws or regulations, or without all necessary authorizations. Neither the

Software nor the underlying information or technology may be downloaded or otherwise exported or re-exported (i) to Cuba, Iran, Iraq, Libya, North Korea, Serbia, Sudan, Syria or any other country subject to a U.S. trade sanctions or embargo, to individuals or entities controlled by such countries, or to nationals or residents of such countries other than nationals who are lawfully admitted permanent residents of countries not subject to such sanctions; or (ii) to any named party or individual on the U.S. Department of Treasury, Office of Foreign Assets Control list of Specially Designated Nationals and Blocked Persons, and/or the U.S. Department of Commerce, Bureau of Export Administration Denied Persons List or Entity List. By using the Software, Licensee agrees to the foregoing and represents and warrants that it is not located within an embargoed jurisdiction and is otherwise in compliance with these conditions.

11. Termination/Survival

This Agreement and End User's rights and license granted hereunder shall continue in perpetuity unless a termination date is specified in any purchaser order, unless terminated earlier pursuant to the terms of this Agreement. BMI may immediately suspend and/or terminate End User's right and license under this Agreement with or without notice to End User upon discovery of a material breach of this Agreement. The provisions of Sections 5, 6, 7 and 11 shall survive the termination of this Agreement.

12. General

This Agreement will be governed by the laws of the State of California without application of conflict of laws principles. The United Nations Convention for the International Sale of Goods shall not apply to this Agreement and is hereby expressly excluded. Should any provision of this Agreement be deemed invalid or unenforceable, the remaining portions shall remain valid and enforceable in accordance with the original intentions of the parties. All disputes arising from or relating to this Agreement and/or its subject matter shall be brought in a court of competent jurisdiction located in the State of California. The prevailing party in any action or proceeding to enforce the terms of this Agreement shall be entitled to an award of its reasonable attorneys' fees and costs. This Agreement contains the complete agreement between the parties with respect to the subject matter hereof. All previous and collateral agreements, representations, promises, and conditions relating to the subject matter of this Agreement are superseded by this Agreement. In the event of any conflict between this Agreement and any other terms and conditions pertaining to the access and use of the Software, this Agreement shall govern the access and use of this Software. This Agreement may not be modified or amended except in writing signed by a duly authorized officer of BMI. BMI reserves the right to modify the terms and conditions of this Agreement with thirty (30) days advance notice to you. No provision of this Agreement may be waived except in writing signed by the party to be charged. No waiver of any default or violation shall constitute a waiver of any subsequent default or violation of the same or other provision. All notices and approvals given under this Agreement must be in writing and delivered in person, or by first class mail, express mail, facsimile with confirmation of transmission, or email with return acknowledgment. Notice provided in accordance with this subsection will be deemed given when received. This Agreement shall be binding upon and inure to the benefit of the parties and their permitted successors and assigns. This Agreement and the rights granted hereunder may not be assigned without the express written consent of BMI. The section headings of this Agreement are provided for purposes of convenience only and shall be of no effect in the interpretation or meaning of any provision.

[End]



BMIIMAG-01

HBCT05

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/15/2017

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).

PRODUCER License # 0564249 Heffernan Insurance Brokers 101 Second Street, Suite 120 Petaluma, CA 94952	CONTACT NAME:	
	PHONE (A/C, No, Ext): 1 (707) 781-3400	FAX (A/C, No): (707) 781-0800
INSURED BMI Imaging Systems, Inc. 1115 East Arques Sunnyvale, CA 94085	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A : Hartford Accident & Indemnity	NAIC # 22357
	INSURER B : Hartford Casualty Insurance Company	29424
	INSURER C : Hartford Insurance Company of the Midwest	37478
	INSURER D :	
INSURER E :		
INSURER F :		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL 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 <input checked="" type="checkbox"/> Per Loc. Aggregate GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X		57UUQTM2431	01/15/2017	01/15/2018	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	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			57UUQTM2431	01/15/2017	01/15/2018	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 DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			57XHQYC8584	01/15/2017	01/15/2018	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000
C	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input checked="" type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	57WEQZT2722	01/01/2017	01/01/2018	<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)

Re: As Per Contract or Agreement on File with Insured. Lancaster County its agents, officers and employees are included as an additional insured (and primary) on General Liability policy per the attached endorsement, if required.

CERTIFICATE HOLDER

CANCELLATION

Lancaster County c/o Attorney's Office 575 South 10th Street Lincoln, NE 68508	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



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

- (1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:

- (a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and
- (b) You are not engaged in the business or occupation of providing such services.

- (2) For the purpose of determining the limits of insurance for incidental medical malpractice, 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".

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 only if you are in the business of manufacturing, distributing, 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 the operation of any of the 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 7 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. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

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 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.

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".

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 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 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

"Personal and advertising injury" arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of:

- (1) Copyright;

- (2) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

- (3) Title of any literary or artistic work.

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 17.a., b. and c. of "personal and advertising injury" under the Definitions Section.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not 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. Discrimination Or Humiliation

"Personal and advertising injury" arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

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 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.

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".

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 costs taxed against the insured in the "suit".
- 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 (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, Paragraph (d) 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 an insured under this Coverage Part is also an insured under another policy or would be an 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. Mobile Equipment

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway 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 equipment, 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 driving the equipment; 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. 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.

6. 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 or organization 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 or organization.
- (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.

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 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".

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.

The limits of insurance that apply to additional insureds under this provision 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 an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an 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 land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But "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 a person;
- b. Termination of a person's employment; or
- c. Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at a 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:

- a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
- b. 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, of at least 1,000 pounds gross vehicle weight, 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.
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 occupies, committed by or on behalf of its owner, landlord or lessor;
 - d. Oral, written or electronic publication 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 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";
 - g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or
 - h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.
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.