

AGREEMENT FOR ARCHITECTURAL AND ENGINEERING SERVICES

This Agreement is entered into this _____ day of _____, 2017, by and between Innerspace Studios, Ltd., hereinafter referred to as "the Contractor," and the County of Lancaster, Nebraska, hereinafter referred to as "the County," on behalf and at the request of the Lancaster County Sheriff's Office ("Sheriff"). Collectively the County and the Contractor may be referred to as "Parties," and individually each may be referred to as a "Party."

WHEREAS, the County desires to hire an architectural firm to provide professional services related to the renovation of space on the ground floor of the property located at 575 S. 10th St., Lincoln, Nebraska ("the Property"), commonly referred to as the Hall of Justice;

WHEREAS, the Contractor is qualified with the necessary skills, expertise, and experience to meet those needs; and

WHEREAS, the County and the Contractor desire to set forth their understanding in writing;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is agreed between the Parties as follows:

1) Term: The Term of this Agreement shall be from the date of execution of this Agreement by both Parties through the date of Contractor's completion of the services described in the Proposal for preparing construction documents, project management, and engineering services, which Proposal is attached hereto as Attachment A and is hereby incorporated by this reference, and the Proposal for providing space planning and furniture coordination services, which Proposal is attached hereto as Attachment B and is hereby incorporated by this reference, but in no event shall the Agreement remain in effect later than June 30, 2017.

2) Purpose: The purpose of this Agreement is for the Contractor to provide the services described in Attachments A and B.

3) The Contractor shall provide the following services:

A. Construction documents, project management, and engineering services

I. Contractor shall provide the following Standard Services described in Attachment A:

- a. Item A of Attachment A, Preliminary Plan;
- b. Item B of Attachment A, Construction Documents; and
- c. Item C of Attachment A, Contract Administration.

II. Contractor through its subcontractor Engineer Technologies, Inc., ("ETI") shall provide the Engineering Services described in Attachment A, Proposal for Professional Engineering Services, Section 2. Basic Scope of Services. Telecom pathways will be included in the engineering scope of services, but telecom wiring services shall not be included in the engineering scope of services.

III. Contractor may provide Above Standard Design Services, not included in Section 3)A.I of this Agreement.

IV. Contractor may provide Additional Engineering Services not included in the Basic Services described in Section 3)A.II of this Agreement.

B. Space planning and furniture coordination services

I. Contractor shall provide the Standard Services described in Attachment B:

- a. Item A of Attachment B, Preliminary;
- b. Item B of Attachment B, Detailed Furniture Drawings and Specifications; and
- c. Item C of Attachment B, Contract Administration.

II. Contractor may provide Above Standard Design Services not included in Section 3)B.I of this Agreement.

4) The County shall:

- A. Provide Contractor with reasonable access to the Property;
- B. Provide Contractor with CAD plans for relevant portions of the Property through the Lincoln-Lancaster County Public Building Commission;
- C. Provide technical information through the Lancaster County Sheriff's Office for the preparation of the Standard Construction Documents described in Attachment A;
- D. Facilitate bidding, provide Contractor with questions from bidders related to bid documents, and coordinate with Contractor the dissemination of responsive addenda;
- E. Provide to Contractor all documents and communications that are necessary for Contractor to fulfill its duties under this Agreement; and

F. Attend and participate in meetings contemplated in Attachments A and B.

5) Compensation:

A. In exchange for Contractor's performing the Standard Services described in Section 3)A.I of this Agreement, the Contractor shall invoice the County at the hourly rates described in Attachment A, Item D, in an amount not to exceed \$3,750.00. In exchange for Contractor's subcontractor performing the Engineer Services described in Section 3)A.II of this Agreement, the County shall pay the Contractor in an amount not to exceed \$1,600.00. In addition, Contractor may be reimbursed for expenses in an amount not to exceed \$250.00.

In the event that County requests Above Standard Design Services related to the services described in Attachment A, Contractor shall invoice County at the hourly rates described in Attachment A, Item D. In the event that County requests additional Engineering Services outside the scope of the Basic Services described in Section 3)A.II of this Agreement, Contractor shall invoice County at the rates described in Attachment A, Engineering Technologies, Inc., Standard Billing Rates and Reimbursable Expense Charges.

B. In exchange for Contractor's performing the Standard Services described in Section 3)B.I of this Agreement, Contractor shall invoice the County at the hourly rates described in Attachment B, Item D, in an amount not to exceed \$2,250.00. In addition, Contractor may be reimbursed for expenses in an amount not to exceed \$250.00.

In the event that County requests Above Standard Design Services related to the services described in Attachment B, Contractor shall invoice County at the hourly rates described in Attachment B, Item D.

C. Within 30 days of the end of each calendar month during the term of this Agreement, Contractor shall provide County a detailed invoice for services actually performed during that calendar month. Subject to County's verification that the invoiced services have been performed, County shall pay Contractor within 30 days of receipt of the invoice.

D. The County shall not be responsible for the direct payment of any wages, insurance or fringe benefits, including, but not limited to, vacation, overtime, retirement benefits, workers' compensation insurance, and unemployment insurance. The County shall not be responsible for compensating Contractor for any instruction not actually provided, or for any additional Contractor expenses whatsoever.

6) Independent Contractor: It is the express intent of the Parties that this Agreement shall not create an employer-employee relationship. Employees of the Contractor shall not be deemed

to be employees of the County and employees of the County shall not be deemed to be employees of the Contractor. The Contractor and the County shall be responsible to their respective employees for all salary and benefits. Neither the Contractor's employees nor the County's employees shall be entitled to any salary or wages from the other Party or to any benefits made to their employees, including, but not limited to, overtime, vacation, retirement benefits, workers' compensation, sick leave, or injury leave. Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance for its employees, and for payment of all federal, state, local, and any other payroll taxes with respect to its employees' compensation.

7) Assignment: Contractor and Contractor's subcontractors identified in Attachment A hereto shall not assign their duties and responsibilities under this Agreement without the express written permission of the County. Any assignment without the express written permission of the County shall be absolutely void.

8) Hold Harmless: Contractor shall indemnify and hold harmless the County, its agents, employees and representatives from all claims, demands, suits, actions, payments, liability, judgments and expenses (including court-ordered attorney's fees), arising out of or resulting from the performance of this Agreement that results in bodily injury, sickness, disease, death, civil rights liability, or damage to or destruction of tangible property, including the loss of use resulting therefrom, and is caused in whole or in part by the Contractor, its employees, agents, or representatives, either directly or indirectly employed by them. This Section 8 will not require Contractor to indemnify or hold harmless the County for any losses, claims, damages and expenses arising out of or resulting from the negligence of the County.

9) Severability: If any portion of the Agreement is held invalid, the remainder hereof shall not be affected thereby, if such remainder would then continue to conform to the terms and requirements of applicable law.

10) Equal Employment Opportunity: In connection with the carrying out of the activities provided herein, the Contractor shall not discriminate against an employee or applicant for employment because of race, color, religion, sex, disability, national origin, age, marital status, or receipt of public assistance, or any other basis prohibited by applicable state or federal law.

11) Termination: This Agreement may be terminated at any time by either Party giving thirty (30) days written notice. Should the Contractor breach this Agreement, the County will notify the Contractor of the breach in writing and the Contractor will have ten (10) days to cure. If the breach is not cured within ten (10) days, the County may, at its discretion, terminate the Agreement immediately upon written notice to the Contractor. Contractor will be entitled to reimbursement for services actually performed and reimbursable expenses actually incurred under this Agreement prior to the date of termination.

12) Governing Law: This Agreement shall be construed in accordance with and governed by the laws of the State of Nebraska.

13) Insurance: The Contractor shall, prior to beginning work, provide proof of insurance coverage in a form satisfactory to the County, which shall not withhold approval unreasonably. The coverages and minimum levels required by this Agreement are set forth below and shall be in effect for all times that work is being done pursuant to this Contract. No work on the Project or pursuant to this Agreement shall begin until all insurance obligations herein are met to the satisfaction of the County, which shall not unreasonably withhold approval. Self-insurance shall not be permitted unless consent is given by the County prior to execution of the Agreement and may require submission of financial information for analysis. Deductible levels shall be provided in writing from the Contractor's insurer and will be no more than \$25,000.00 per occurrence. 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.

a) **Workers' Compensation.** The Contractor shall provide proof of workers' compensation insurance of not less than minimum statutory requirements under the laws of the State of Nebraska and any other applicable State. Employers' Liability coverage with limits of not less than \$1,000,000.00 each accident or injury shall be included. The Contractor shall provide the County with an endorsement for waiver of subrogation. The Contractor shall also be responsible for ensuring that all subcontractors have workers' compensation insurance for their employees before and during the time any work is done pursuant to this Contract.

b) **Commercial General Liability.** The Contractor shall provide proof of Commercial General Liability Insurance with a minimum limit of not less than \$1,000,000.00 each occurrence and \$2,000,000.00 aggregate. 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. Such coverage shall be endorsed for the general aggregate to be on a **PER PROJECT** basis, and the Contractor shall provide an additional insured endorsement acceptable to the County. The required insurance must include 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.

c) **Automobile Liability.** The Contractor shall provide proof of Automobile Liability coverage, which shall include: Owned, Hired and Non-Owned. Bodily Injury and Property Damage Combined Single Limit shall be at least \$1,000,000 Per Accident.

d) **Professional Liability.** Errors and Omissions or Professional Liability insurance, as may be required, covering damages arising out of negligent acts, errors, or omissions committed by Contractor in the performance of this Agreement, with a liability limit of not less than \$1,000,000 each claim. Contractor shall maintain this policy for a minimum of two (2) years after completion of the work or shall arrange for a two year extended discovery (tail) provision if the policy is not renewed.

e) **Additional Insured.** An Additional Insured endorsement shall be provided to

County naming County as additional insureds using ISO additional insured endorsement, under the commercial general liability policy and automobile liability policy. Said insurance shall be written on an **OCCURRENCE** basis.

f) **Certificates.** The Contractor shall provide certificates of insurance and endorsements evidencing compliance with these requirements. The Contractor's insurance shall include an endorsement to 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, the Contractor shall provide, prior to expiration of the policies, certificates and endorsements evidencing renewal insurance coverages. The parties agree that the failure of County to object to the form of a certificate and/or additional insured endorsement provided shall not constitute a waiver of this requirement.

g) **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.

h) **Sovereign Immunity.** Nothing contained in this Section or other Sections of this Agreement shall be construed to waive the Sovereign Immunity of the County.

14) During the term of this Agreement, the Contractor shall perform all services in accordance with the established and applicable standards and in accordance with applicable state and local laws.

15) All notices, request for services, or other communications provided under this Agreement shall be in writing and shall be given to the Lancaster County Sheriff's Office or the Contractor at the address set forth below or such other address as either may specify hereafter in writing:

County:

Lancaster County Sheriff's Office
c/o Captain John Vik
575 South 10th Street
Lincoln, Nebraska 68508

Contractor:

Innerspace Studios, Ltd.
c/o Daniel Mulligan
335 North 8th Street, Suite C
Lincoln, Nebraska 68508

Such notice or other communication may be mailed by United States Certified mail, return receipt requested postage prepaid and may be deposited in a United States Post Office Box or a depository for the receipt of mail regularly maintained by the Post Office. Such notices or communication may also be delivered by hand. For the purpose of the Agreement, all notices will be deemed to have been given upon the date of the personal delivery or three days after having been deposited in the United States Post office as proved above.

16) Entire Agreement: The Parties hereby agree that this Agreement constitutes the entire understanding of the Parties and supersedes all prior Contracts, agreements and negotiations between the Parties whether verbal or written. To the extent any provisions of this Agreement conflict with the provisions of any of the attachments to this Agreement, the provisions of this Agreement shall prevail.

17) Forbearance Not Waiver: County's failure or neglect to enforce any of its rights under this Agreement will not be deemed to be a waiver of County's rights.

18) Third Party Rights: This Agreement is not intended to, and does not, create any rights or benefits on behalf of any person, whether an individual or an entity, other than the Parties to this Agreement. County shall not be obligated or liable hereunder to any person, , whether an individual or an entity, other than Contractor.

19) E-Verify: In accordance with Neb. Rev. Stat. § 4-108 through § 4-114, Contractor agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 1324a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. Contractor shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C. § 1324b. Contractor shall require any subcontractor to comply with the provisions of this section.

EXECUTED this 10 day of APRIL, 2017, by Contractor.

BY: *Daniel Mulligan*

NAME: DANIEL J. MULLIGAN

TITLE: PRESIDENT - INNERSPACE

EXECUTED this _____ day of _____, 2017, by Lancaster County, Nebraska.

BY: LANCASTER COUNTY BOARD OF
COUNTY COMMISSIONERS

APPROVED AS TO FORM
this ____ day of _____, 2017

Deputy County Attorney for
JOE KELLY, County Attorney

APPROVED BY LANCASTER COUNTY
SHERIFF'S OFFICE

Terry Wagner
Lancaster County Sheriff



INNESTU-01

EZACHARY

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/10/2017

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 Marcotte 9394 W Dodge Rd Ste 250 Omaha, NE 68114	CONTACT NAME: Emily Zachary, CIC, CISR	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
E-MAIL ADDRESS: ezachary@marcottelns.com		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: CNA Insurance Companies		20443
INSURER B: Wesco Insurance Company		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

INSURED
 Innerspace Studios, LTD
 Attn: Dan Mulligan
 335 North 8th St, Ste C
 Lincoln, NE 68508

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 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER:	X		5085353994	08/31/2016	08/31/2017	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 OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X		5085354069	08/31/2016	08/31/2017	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTIONS 10,000	X		5085354224	08/31/2016	08/31/2017	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	5085354191	08/31/2016	08/31/2017	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
B	Professional Liability			ARA1255995-00	03/18/2017	03/18/2018	Occurrence \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Lancaster County Sheriff's Office is listed as additional insured with respects to General, Automobile and Umbrella liability on primary basis per written agreement. Waiver of Subrogation in favor of certificate holder with respects to Workers' Compensation coverage, per written agreement.

CERTIFICATE HOLDER

CANCELLATION

Lancaster County Sheriff's Office
 Captain John Vik
 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

IMPORTANT: THIS ENDORSEMENT CONTAINS DUTIES THAT APPLY TO THE ADDITIONAL INSURED IN THE EVENT OF OCCURRENCE, OFFENSE, CLAIM OR SUIT. SEE PARAGRAPH C., OF THIS ENDORSEMENT FOR THESE DUTIES.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BLANKET ADDITIONAL INSURED ENDORSEMENT
WITH PRODUCTS-COMPLETED OPERATIONS COVERAGE
&
BLANKET WAIVER OF SUBROGATION
Architects, Engineers and Surveyors**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS LIABILITY COVERAGE FORM
BUSINESSOWNERS COMMON POLICY CONDITIONS**

A. WHO IS AN INSURED (Section C.) of the Businessowners Liability Coverage Form is amended to include as an insured any person or organization whom you are required to add as an additional insured on this policy under a written contract or written agreement; but the written contract or written agreement must be:

- 1. Currently in effect or becoming effective during the term of this policy; and
- 2. Executed prior to the "bodily injury," "property damage," or "personal and advertising injury."

B. The insurance provided to the additional insured is limited as follows:

- 1. That person or organization is an additional insured solely for liability due to your negligence specifically resulting from "your work" for the additional insured which is the subject of the written contract or written agreement. No coverage applies to liability resulting from the sole negligence of the additional insured.
- 2. The Limits of Insurance applicable to the additional insured are those specified in the written contract or written agreement or in the Declarations of this policy, whichever is less. These Limits of Insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations.
- 3. The coverage provided to the additional insured within this endorsement and section titled **LIABILITY AND MEDICAL EXPENSE DEFINITIONS - "Insured Contract" (Section F.9.)** within the Businessowners Liability Coverage Form, does not apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard" unless required by the written contract or written agreement.

4. The insurance provided to the additional insured does not apply to "bodily injury," "property damage," "personal and advertising injury" arising out of an architect's, engineer's, or surveyor's rendering of or failure to render any professional services including:

- a. The preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications by any architect, engineer or surveyor performing services on a project of which you serve as construction manager; or
- b. Inspection, supervision, quality control, engineering or architectural services done by you on a project of which you serve as construction manager.

5. This insurance does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of:

- a. The construction or demolition work while you are acting as a construction or demolition contractor. This exclusion does not apply to work done for or by you at your premises.

C. BUSINESSOWNERS GENERAL LIABILITY CONDITIONS - Duties In The Event of Occurrence, Offense, Claim or Suit (Section E.2.) of the Businessowners Liability Coverage Form is amended to add the following:

An additional insured under this endorsement will as soon as practicable:

- 1. Give written notice of an occurrence or an offense to us which may result in a claim or "suit" under this insurance;

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2. Tender the defense and indemnity of any claim or "suit" to us for a loss we cover under this Coverage Part;
3. Tender the defense and indemnity of any claim or "suit" to any other insurer which also has insurance for a loss we cover under this Coverage Part; and
4. Agree to make available any other insurance which the additional insured has for a loss we cover under this Coverage Part.

We have no duty to defend or indemnify an additional insured under this endorsement until we receive written notice of a claim or "suit" from the additional insured.

D. OTHER INSURANCE (Section H. 2. & 3.) of the Businessowners Common Policy Conditions are deleted and replaced with the following:

2. This insurance is excess over any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless a written contract or written agreement specifically requires that this insurance be either primary or primary and noncontributing to the additional insured's own coverage. This insurance is excess over any other insurance to which the additional insured has been added as an additional insured by endorsement.
3. When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the additional insured against any "suit" if any other insurer has a duty to defend the additional insured

against that "suit" If no other insurer defends, we will undertake to do so, but we will be entitled to the additional 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:

- (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (b) 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.

E. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (Section K.2.) of the Businessowners Common Policy Conditions is deleted and replaced with the following:

2. We waive any right of recovery we may have against any person or organization against whom you have agreed to waive such right of recovery in a written contract or agreement because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included within the "products-completed operations hazard."

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

ANY PERSON OR ORGANIZATION ON WHOSE BEHALF YOU ARE REQUIRED TO OBTAIN THIS WAIVER OF OUR RIGHT TO RECOVER FROM UNDER A WRITTEN CONTRACT OR AGREEMENT.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective
Insured

Policy No.

Endorsement No.
Premium \$

Insurance Company

Countersigned by _____