

ENGINEERING AGREEMENT
FOR
WETLAND DELINEATION AND SECTION 404 PERMITTING
IN LANCASTER COUNTY, NEBRASKA

THIS AGREEMENT, entered into this ____ day of _____, 2018, by and between **Lancaster County**, hereinafter referred to as the "**COUNTY**", and the firm of **JEO**, hereinafter referred to as the "**ENGINEER**";

WHEREAS the **COUNTY** desires to employ the **ENGINEER** to render professional engineering services and such other services as may be required and as hereinafter set forth in the scope of work for the wetland delineation and permitting for Project 19-02, S 82nd from Roca Road to 800' north of Bennet Road (See Exhibit "B");

WHEREAS, the **ENGINEER** is willing to perform such work in accordance with the terms hereinafter provided and does represent it is in compliance with the Nebraska Statutes relating to the registration of professional engineers, and hereby agrees to comply with all federal, state, and local laws and ordinances applicable to the work; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

I. SCOPE OF WORK

- A. The **ENGINEER** agrees to provide the services set out in the Scope of Services ("Exhibit A") for Project 19-02, 82nd Road, Wetland Delineation and Section 404 Permitting, in Lancaster County, Nebraska.
- B. Upon receiving written notice to proceed from the **COUNTY**, the **ENGINEER** shall perform the work required under this agreement as detailed in Exhibit A.

II. TIME OF BEGINNING AND COMPLETION OF THE WORK

- A. The **ENGINEER** will complete the work as follows:
 - 1. The **ENGINEER** shall do all the work according to the schedule in attached Exhibit A and shall complete all work required under this agreement in a satisfactory manner by December 31, 2020. Any work or services performed on the project prior to the Notice-to-Proceed date

is not eligible for reimbursement. Any costs incurred after the completion date are not eligible for reimbursement unless the **COUNTY** has provided a written extension of time.

- B. This completion time or period will not be extended because of any unwarranted or avoidable delay attributed to the **ENGINEER**.
- C. Amendments or changes in the scope of work which entail a significant increase in the number of man hours expended by the forces of the **ENGINEER** or any unavoidable delays caused by the **COUNTY** or other governmental agencies which are beyond the control of the **ENGINEER** may form the basis of the **COUNTY** granting an extension of time. In the event that the scope of work is altered as described above, the County Engineer and the **ENGINEER** will determine through negotiation the additional time period to be added to the Agreement. This Agreement may be amended only by a written instrument executed by both parties.
- D. **COUNTY** authorized changes in the scope of work, which increase or decrease work hours or services required of the Consultant, will provide the basis for a change of time and/or changes to the Consultant's fee.

III. **OWNERSHIP OF ENGINEERING DOCUMENTS**

All CAD drawings, plans, specifications, maps, design computations, sketches, charts and other data prepared or obtained under the terms of this Agreement shall become the property of the **COUNTY** and may be used by the **COUNTY** without restrictions or limitations on projects funded using federal and state aid or locally funded projects.

IV. **ABANDONMENT CHANGE OF SCOPE, SUSPENSION OR TERMINATION**

- A. It is mutually agreed the services to be performed by the **ENGINEER** may not be assigned, sublet, or transferred without the written consent by the **COUNTY**. Any assignment without the **COUNTY'S** written consent shall be absolutely void.
- B. It is mutually agreed the **COUNTY** has the right to terminate this Agreement at any time upon written notice:
 - i) In the event the improvement is to be abandoned or indefinitely postponed; or
 - ii) Because of the **ENGINEER'S** disability or death;
Provided in any such case the **ENGINEER** shall be paid the reasonable value of his services rendered up to the time of termination as determined by the **COUNTY**; or
 - iii) In the judgement of the **COUNTY**, such services are unsatisfactory or the **ENGINEER** has failed to abide by the conditions of this Agreement in all respects. In such cases, the **ENGINEER** shall be paid the reasonable value of his services up to the time of termination as determined

by the **COUNTY**.

- C. It is mutually agreed no material change in the scope of the work as set forth herein will be made unless provided for by a separate written supplemental agreement executed by the parties herein. Said supplemental agreement shall specify whatever adjustment of the **ENGINEER'S** fee is to be made.
- D. If any part of this 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.

V. **GENERAL PROVISIONS**

- A. To the fullest extent permitted by law the **ENGINEER** shall indemnify, defend, and hold harmless the **COUNTY**, its elected officials, officers, employees, agents, consultants, and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney fees, arising out of or resulting from performance of this Agreement, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible or intangible property, including the work itself, but only to the extent caused by the negligent, wrongful, or intentional acts or omissions of the **ENGINEER**, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by the negligence of a party indemnified hereunder. In the event the claim, damage, loss or expense is caused in part by the negligence of a party indemnified hereunder, the indemnification by the **ENGINEER** shall be prorated based on the extent of the liability of the party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce obligations of indemnity which would otherwise exist as to a party or person described in this Section. Nothing herein shall be construed to be a waiver of sovereign immunity by the **COUNTY**.
- B. The **ENGINEER** warrants they have not employed or retained by any company or person, other than a bona-fide employee working for the **ENGINEER**, to solicit or secure this Agreement, and they have not paid or agreed to pay any company or person, other than a bona-fide employee any fee, commission, percentage, brokerage fee, gift or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the **COUNTY** shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price of consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.
- C. It is the express intent of the parties that this Agreement shall not create an employer-employee

relationship. Employees of the **ENGINEER** shall not be deemed to be employees of the **COUNTY**, and employees of the **COUNTY** shall not be deemed to be employees of the **ENGINEER**. The **ENGINEER** and the **COUNTY** shall be responsible to their respective employees for all salary and benefits. Neither the **ENGINEER'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. Each party shall also be responsible for maintaining workers' compensation insurance, unemployment insurance and any applicable railroad insurance coverage for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to its employees' compensation.

- D. The parties agree that the **ENGINEER**, its officers, employees and agents shall be available for any in-court testimony as requested by the Lancaster County Attorney's Office. The **ENGINEER** also agrees to make themselves, its officers, employees and agents available to attend any necessary meetings or conferences in preparation of testimony as requested by the Lancaster County Attorney's Office. Should the County Attorney's Office require conferences, meetings or in court testimony of the **ENGINEER**, its officers, employees or agents, the **ENGINEER** shall bill the **COUNTY** at its current standard billing rates.
- E. The **ENGINEER** further agrees themselves and their subcontractors, if any, will maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred, and to make such materials available at their respective office at all reasonable times during the Agreement period and for three (3) years thereafter from the date of final payment under the Agreement for inspection by the **COUNTY**. Copies of these records will be furnished by the **ENGINEER** to the **COUNTY**, if required.
- F. The **ENGINEER** hereby agrees to affix the seal of a registered professional engineer employed by the **ENGINEER** and licensed to practice in the state of Nebraska on all documents prepared hereunder.
- G. The **ENGINEER** further agrees not to employ personnel presently employed by the **COUNTY** or the State of Nebraska in an engineering capacity for work under this Agreement on either a full or part-time basis.
- H. The **ENGINEER** agrees to abide by the provisions of the Nebraska Fair Employment Practices Act of 1965, R.R.S. 1943, Sections 48-1101 through 48-1125 which is made a part of this Agreement and is included in this Agreement by this reference.
- I. **COUNTY'S** failure or neglect to enforce any of its rights under this Contract will not be deemed to be a waiver of **COUNTY'S** rights.

- J. In accordance with Neb. Rev. Stat. § 4-108 through § 4-114, **ENGINEER** 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. **ENGINEER** 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.A § 1324b. **ENGINEER** shall require any subcontractor to comply with the provisions of this section.
- K. This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein and merges all prior discussions between them. It shall not be modified except by written agreement dated subsequent to the date of this Agreement and signed by all parties.

VI. **FEES AND PAYMENTS**

- A. In consideration of the performance of the services under this Agreement, the **ENGINEER** will be compensated by the payment of the lump sum fee(s) specified herein. The **ENGINEER** agrees said fee(s) shall be full and complete compensation for the work performed, equipment and materials used, and services rendered in connection with the work specified herein.

1. **Fees (Lump Sum Costs):**

a. Task Series 100: Wetland Delineation & Report	\$5,795
b. Task Series 200: Section 404 Permitting	\$1,522
c. Task Series 300: Project Management, Meetings, & QA/QC	\$798
Total:	
TOTAL	\$8,115

This fee will be considered due and payable in monthly invoices submitted by the **ENGINEER**

VII. **INSURANCE**

- A. **ENGINEER** 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 contract 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 Contract 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. Deductible levels shall be provided in writing from the **ENGINEER's** insurer and will be no more than \$10,000.00 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.**

- B. **Workers' Compensation:** The **ENGINEER** 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. The **ENGINEER** shall provide the County with an endorsement for waiver of subrogation. The **ENGINEER** 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.
- C. **Commercial General Liability:** The **ENGINEER** 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 the **ENGINEER** shall provide an additional insured endorsement acceptable to the County. The description of operations must state "Blanket coverage for all projects and operations of **ENGINEER**" or similar language that meets the approval of the County, which approval shall not be unreasonably withheld.
- D. **Automobile Liability:** The **ENGINEER** shall provide proof of Automobile coverage, which shall include: Comprehensive Form, Owned, Hired and Non-Owned. Bodily Injury and Property Damage Combined Single Limit shall be at least \$1,000,000 Per Accident.
- E. **Professional Liability:** Professional Liability Insurance covering damages arising out of negligent acts, errors, or omissions committed by **ENGINEER** in the performance of this Agreement, with a liability limit of not less than \$1,000,000 each claim. **ENGINEER** 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. The intent of this policy is to provide coverage for claims arising out of the performance of professional Services under this contract and caused by any error, omission, breach or negligent act for which the **ENGINEER** is or could be liable.

- F. **Additional Insured**: An Additional Insured endorsement shall be provided to County naming County 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


- G. **Certificates**: The Contractor shall provide certificates of insurance and endorsements evidencing compliance with these requirements. Upon request, the Contractor shall furnish a full and complete copy of any policy of insurance (other than workers' compensation), required by this Contract, to the County 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, 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.

- H. **Minimum Scope of Insurance**: All Liability Insurance policies shall be written on an "Occurrence" basis only. All insurance coverage is 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.

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate on the day and year first mentioned above.

EXECUTED by the ENGINEER this 14TH day of SEPTEMBER, 2018.



Signature

JASON MORAVITZ, SENIOR ENVIRONMENTAL SCIENTIST
Name & Title

JED CONSULTING GROUP
Firm Name

2700 FLETCHER AVE.
Address

LINCOLN
City

NE
State

68504
Zip

EXECUTED by the COUNTY this _____ day of _____, 20__.


LANCASTER COUNTY BOARD OF COMMISSIONERS

Approved as to form

This _____ day of _____, 20__.

Deputy County Attorney

3. 2014
T374512 4012400121 80411 21100111001
9000 2012000 000
200 2012000 000



JEO Proposal and Estimated Fees
for
Lancaster County South 82nd Street
Project #: TBD
Wetland Delineation/Report and Section 404 Permitting
Prepared 9/4/18, Revised 9/13/18

Project Description

JEO Consulting Group, Inc. (JEO) is providing this proposal and fee estimate to conduct a wetland delineation, prepare a wetland delineation report, conduct agency consultation, and submit a Section 404 nationwide permit (NWP) 14 pre-construction notification (PCN) to the U.S. Army Corps of Engineers (USACE) for the proposed improvements to South 82nd Street from approximately 800 feet north of Bennet Road south to Roca Road, a distance of approximately 11,360 feet (2.15 miles). The wetland delineation would identify all wetlands and other waters that may be considered waters of the U.S. (WOUS) subject to regulation by the USACE under Section 404 of the Clean Water Act.

Project Scope and Fee

Task Series 100 – Wetland Delineation & Report

- **110 – Desktop Review/Mobilization:**

Prior to conducting field work, JEO will identify potential WOUS, including wetlands, in the study area by researching publicly-available data and resources including, but not limited to: current and historic aerial imagery, National Wetlands Inventory, National Hydrography Dataset, hydric soils, topography, and/or floodplains. Reviewing these resources prior to conducting the field investigation allows work to be focused on areas most likely to contain wetlands, either currently or historically, and to be impacted by the proposed project.

Because portions of the study area appear to be farmed, JEO will conduct, as part of the desktop review, a “farmed wetland analysis” in accordance with guidance contained in the USACE Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Midwest Region (Version 2.0) and Natural Resources Conservation Service (NRCS) National Engineering Handbook, Part 650, Chapter 19. This process will identify areas most likely to contain wetland hydrology that will then be field-verified with soil samples.

In addition, JEO will prepare and submit preliminary coordination letters to the U.S. Fish and Wildlife Service (USFWS), Nebraska Game and Parks Commission (NGPC), and Nebraska State Historic Preservation Office (SHPO) that summarize the results of the desktop review and request effect determinations and project guidance, as appropriate.

- **120 – Site Visit/Field Work:**

JEO will conduct a site visit to delineate all potential WOUS, including wetlands, in the study area. The on-site wetland delineation will be conducted in accordance with the 1987 USACE Wetlands Delineation Manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Midwest Region (Version 2.0). Information pertaining to vegetation, soils, and hydrology will be collected at paired data points (e.g., one wetland and one upland), with at least one set of paired data points for each aquatic resource observed on-site. Boundaries of all aquatic resources identified on-site will be recorded in the field using a hand-held GPS with sub-meter accuracy (e.g., Trimble GeoXH).

- **130 – Wetland Delineation Report:**

Upon completion of the site visit, JEO will analyze and compile the field data into a wetland delineation report that will detail findings and identify potential WOUS, including wetlands, located in the study area. The wetland delineation report will include the following:

- Project site location
- Summary of desktop review
- Identification and mapping of boundaries for all recorded WOUS, including wetlands
- Calculation of acreage of, and impacts to, WOUS, including wetlands (to the nearest 0.01 acre)
- Identification of the types of WOUS, including wetlands, present on-site (i.e., Cowardin classification and Nebraska Wetland Subclass)
- Photographs of each sample point and all WOUS, including wetlands
- USACE Wetland Determination Data Forms

Task Series 200 – Section 404 Permitting

- 210 – Prepare and Submit Section 404 Permit Application:
JEO will prepare and submit a PCN (i.e., permit application) package to the USACE to obtain Section 404 authorization via NWP 14 – Linear Transportation Projects. Although it is anticipated that permanent, unavoidable impacts to WOUS would be less than 0.1 acre, thus avoiding the requirement for compensatory mitigation, this may change based on the results of the wetland delineation and proposed project design.
 - If it is determined that permanent, unavoidable impacts to WOUS exceed 0.1 acre, thereby requiring compensatory mitigation, this task may require additional services. In that event, JEO will notify Lancaster County prior to completing any additional work not included in this proposal.
- 220 – Coordination with USACE:
As necessary, JEO will coordinate early and often with the USACE to facilitate permitting and successful project completion. This may entail phone calls, emails, status updates, and/or meetings. This direct contact ensures that the USACE understands the project as it is proposed and typically results in faster turnaround times for permit issuance.
 - If lengthy coordination and follow-up with the USACE is necessary, due to unknowns or the USACE requesting additional information, this task may require additional services. In that event, JEO will notify Lancaster County prior to completing any additional work not included in this proposal.

Task Series 300 – Project Management, Meetings, & QA/QC

- 310 – Project Management, Meetings, & QA/QC:
JEO's project manager will oversee all aspects of the project and will attend meetings, as necessary, with Lancaster County. JEO's project manager will also conduct all QA/QC activities to ensure accuracy and completeness in all documents prepared for this project.

Deliverables

- Wetland Delineation & Report
 - An electronic copy of the wetland delineation report.
 - A .dwg file of delineated wetlands in Lancaster County Horizontal Control Datum per the Lancaster County Engineering Department Map Projection suitable for a 2-W Plan Sheet.
 - Copies of notifications received resulting from agency coordination with the U.S. Fish and Wildlife Service (USFWS), Nebraska Game and Parks Commission (NGPC), and Nebraska State Historic Preservation Office (SHPO).
- Section 404 Permitting
 - A copy of the "Acknowledgement of Receipt of Department of Army Permit Application" when received.
 - The 404 Nationwide Permit (NWP) "Department of the Army Nationwide Permit Verification" from the U.S. Army Corps of Engineers.

Proposed Project Schedule

The project schedule is dependent upon timely reviews by regulatory agencies, project direction from Lancaster County, and availability of project design plans. Any field/delineation work completed outside of the growing season (May 1 – October 31) may not be accepted by USACE Nebraska Regulatory Office staff. While this time frame is based on a calendar year, it closely follows the general growing season in the State of Nebraska. This time frame may be flexible depending on weather patterns and coordination with USACE Nebraska Regulatory Office staff. It is anticipated that Notice to Proceed would be given, and that field activities would be completed, prior to October 31.

Project Fee

The estimate for completing the tasks identified above is a **time and materials, not to exceed fee of \$8,115.**

Task Series 100: Wetland Delineation & Report	\$5,795
Task Series 200: Section 404 Permitting	\$1,522
<u>Task Series 300: Project Management, Meetings, & QA/QC</u>	<u>\$798</u>
Total:	\$8,115

The services stated above are billed based on JEO's standard hourly rates for 2018. Lancaster County will be billed monthly for services to date. Invoices are due upon receipt. JEO will provide additional services via contract amendment at Lancaster County's request. JEO reserves the right to redistribute fee amongst individual tasks as needed, so long as the total NTE contract amount does not change.

Services not Included

- Delineation of WOUS, including wetlands, outside of the identified study area.
- USACE Individual Permit activities or approval – this scope assumes all project activities can be permitted under one or more General Permits (Nationwide or Regional) and without multiple revisions or submittals.
- Compensatory mitigation (mitigation plan, design, construction, seeding, or monitoring).
- Other biological surveys or compliance with other agency requests.
- Development of Habitat Conservation Plan documents.
- Endangered and/or threatened species-specific surveys.
- Floodplain permitting.
- NPDES permitting/compliance.
- Obtaining right-of-entry to study area properties.
- Additional revisions and resubmittals beyond those mentioned above.

While unexpected, this scope and fee does not guarantee that a permit will be obtained from the USACE with the first submittal. If multiple requests for information or an appreciable amount of coordination is required with the USACE or other agencies to secure a Section 404 permit, additional services may be required. In that event, notification to Lancaster County would be made prior to completing any additional work.

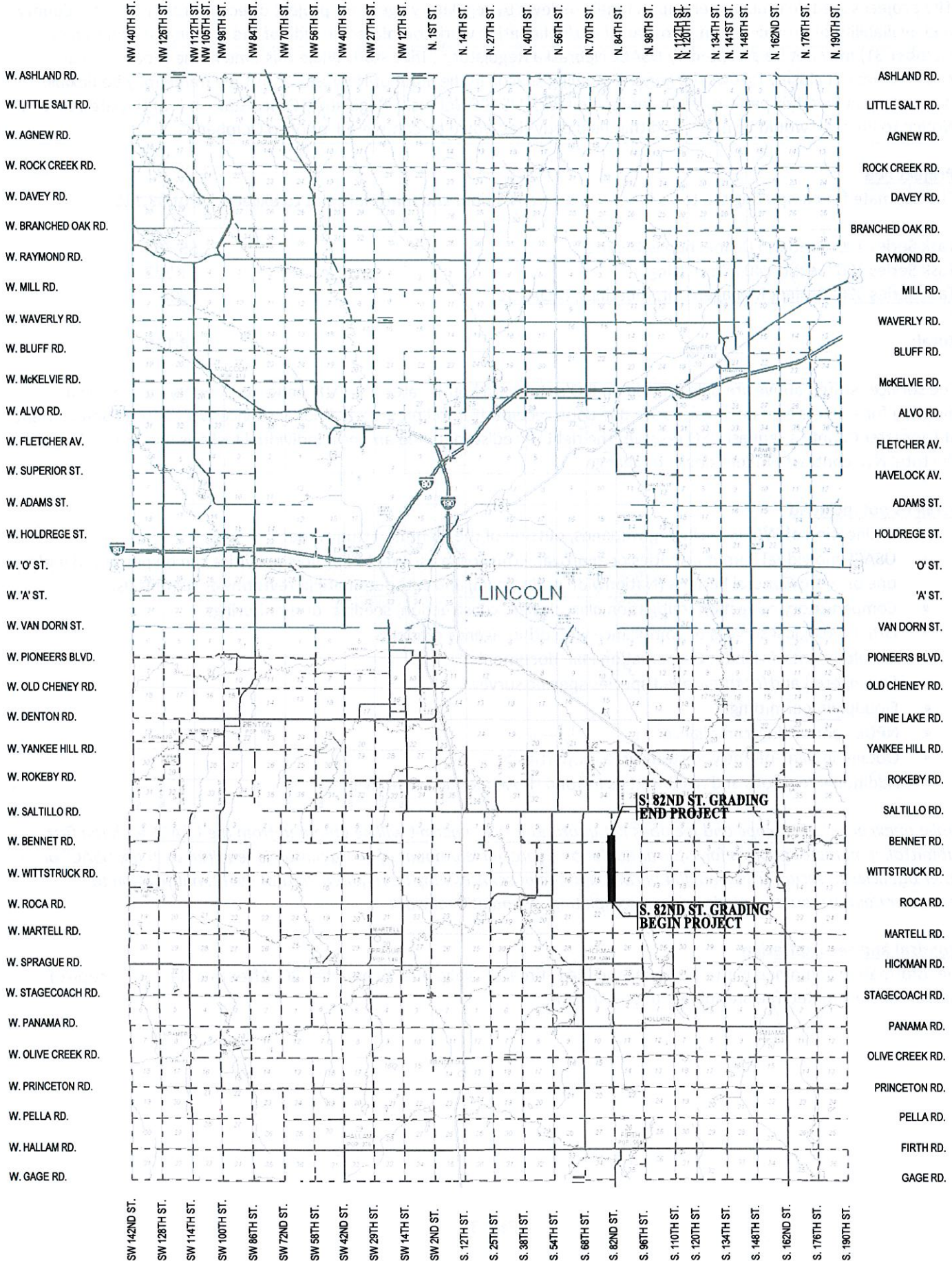
Proposal and Fee Expiration

The information contained in this proposal and fee estimate is valid until September 30. After that date, the scope of services and estimated fee are subject to adjustment.

EXHIBIT B

S. 82ND ST. GRADING

LANCASTER COUNTY, NEBRASKA



POLICY NUMBER: P-630-382R7536-TIL-18

EFFECTIVE DATE: 09-01-18

ISSUE DATE: 08-16-18

LISTING OF FORMS, ENDORSEMENTS AND SCHEDULE NUMBERS

THIS LISTING SHOWS THE NUMBER OF FORMS, SCHEDULES AND ENDORSEMENTS BY LINE OF BUSINESS.

IL T0 02 11 89	COMMON POLICY DECLARATIONS
IL T8 01 10 93	FORMS, ENDORSEMENTS AND SCHEDULE NUMBERS
IL T3 18 05 11	COMMON POLICY CONDITIONS-DELUXE
IL T0 03 04 96	LOCATION SCHEDULE
IL T8 00	GENERAL PURPOSE ENDORSEMENT

DELUXE PROPERTY

DX T0 00 11 12	DELUXE PROP COV PART DECLARATIONS
DX 00 01 07 94	MORTGAGEE HOLDER SCHEDULE
DX 00 04 11 12	TABLE OF CONTENTS - DELUXE PROP COV PART
DX T1 00 11 12	DELUXE PROPERTY COVERAGE FORM
DX T1 02 11 12	DELUXE BI (WITHOUT EE) COVERAGE FORM
DX T4 92 11 12	TENANT MOVEBACK EXPENSES
DX T3 19 11 12	CAUSES OF LOSS-EQUIPMENT BREAKDOWN
DX T3 79 11 12	LOSS PAYABLE PROVISIONS
DX T4 02 01 15	FEDERAL TERRORISM RISK INSURANCE ACT DIS
DX 01 24 07 00	NE CHANGES
DX T3 98 04 02	ELECTRONIC VANDALISM LIMITATION ENDT

COMMERCIAL GENERAL LIABILITY

CG T0 01 11 03	COML GENERAL LIABILITY COV PART DEC
CG T0 07 09 87	DECLARATIONS PREMIUM SCHEDULE
CG T0 08 11 03	KEY TO DECLARATIONS PREMIUM SCHEDULE
CG T0 34 11 03	TABLE OF CONTENTS
CG 00 01 10 01	COMMERCIAL GENERAL LIABILITY COV FORM
CG D3 21 01 04	TOTAL GENERAL AGGREGATE LIMITED PROJECTS
CG D3 61 03 05	ADD'L INSURED-OWNERS, LESSEES, CONTRACTORS
CG D4 14 04 08	BLANKET ADDL INSD - WRITTEN CONTRACTS
CG D4 71 01 15	AMEND COVERAGE B - PERS & ADV INJURY
CG D6 47 10 12	CONTRACTUAL LIABILITY - RAILROADS
CG 24 12 11 85	BOATS
CG D0 37 04 05	OTHER INSURANCE-ADDITIONAL INSUREDS
CG D2 03 12 97	AMEND-NON CUMULATION OF EACH OCC
CG D4 15 05 08	ARCHITECTS-ENGINEERS-SURVEYORS IND EDGE
CG D2 43 01 02	FUNGI OR BACTERIA EXCLUSION
CG D2 64 11 03	EXCL-TEST/CONSULTING ERRORS AND OMISSION
CG D2 72 11 03	EXCL-INSPECTION/APPRaisal/SURVEY COMPANI
CG D2 88 11 03	EMPLOYMENT-RELATED PRACTICES EXCLUSION
CG D2 93 11 03	EXCL-CONSTRUCT MANAGE ERRORS & OMISSIONS
CG D3 26 10 11	EXCLUSION - UNSOLICITED COMMUNICATION
CG D3 56 05 14	MOBILE EQUIP REDEFINED-EXCL OF VEHICLES
CG D3 91 08 13	EXCL-PROJ SUBJ TO WRAP-UP-LTD EXCEPTIONS

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED – WRITTEN CONTRACTS (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. The following is added to **SECTION II – WHO IS AN INSURED:**

Any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:

- a. Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and
- b. If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies. The person or organization does not qualify as an additional insured with respect to the independent acts or omissions of such person or organization.

The insurance provided to such additional insured is limited as follows:

- c. In the event that the Limits of Insurance of this Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement shall not increase the limits of insurance described in Section III – Limits Of Insurance.
- d. This insurance does not apply to the rendering of or failure to render any "professional services" or construction management errors or omissions.
- e. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured ap-

plies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

2. The following is added to Paragraph 4.a. of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

The insurance provided to the additional insured is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and non-contributory basis, this insurance is primary to "other insurance" available to the additional insured which covers that person or organization as a named insured for such loss, and we will not share with that "other insurance". But this insurance provided to the additional insured still is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under any "other insurance".

3. The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

Duties Of An Additional Insured

As a condition of coverage provided to the additional insured:

- a. The additional insured must give us written notice as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, such notice should include:

COMMERCIAL GENERAL LIABILITY

- i. How, when and where the "occurrence" or offense took place;
 - ii. The names and addresses of any injured persons and witnesses; and
 - iii. The nature and location of any injury or damage arising out of the "occurrence" or offense.
- b. If a claim is made or "suit" is brought against the additional insured, the additional insured must:
- i. Immediately record the specifics of the claim or "suit" and the date received; and
 - ii. Notify us as soon as practicable.
- The additional insured must see to it that we receive written notice of the claim or "suit" as soon as practicable.
- c. The additional insured must immediately send us copies of all legal papers received in connection with the claim or "suit", cooperate with us in the investigation or settlement of the claim or defense against the "suit", and otherwise comply with all policy conditions.
- d. The additional insured must tender the defense and indemnity of any claim or "suit" to

any provider of other insurance which would cover the additional insured for a loss we cover. However, this condition does not affect whether this insurance provided to the additional insured is primary to that other insurance available to the additional insured which covers that person or organization as a named insured.

4. The following is added to the **DEFINITIONS** Section:
- "Written contract requiring insurance" means that part of any written contract or agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:
- a. After the signing and execution of the contract or agreement by you;
 - b. While that part of the contract or agreement is in effect; and
 - c. Before the end of the policy period.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ARCHITECTS, ENGINEERS AND SURVEYORS
INDUSTRYEDGESM ENDORSEMENT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to this Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- A. Broadened Named Insured
- B. Incidental Medical Malpractice
- C. Reasonable Force – Bodily Injury Or Property Damage
- D. Non-Owned Watercraft – Increased To Up To 75 feet
- E. Aircraft Chartered With Pilot
- F. Extension Of Coverage – Damage To Premises Rented To You
- G. Personal Injury – Assumed by Contract
- H. Increased Supplementary Payments
- I. Additional Insured – Owner, Manager Or Lessor Of Premises
- J. Additional Insured – Lessor Of Leased Equipment
- K. Additional Insured – State Or Political Subdivisions – Permits Relating To Premises
- L. Additional Insured – State Or Political Subdivisions – Permits Relating To Operations
- M. Who Is An Insured – Newly Acquired Or Formed Organizations
- N. Injury To Co-Employees And Co-Volunteer Workers
- O. Medical Payments Limit
- P. Knowledge And Notice Of Occurrence Or Offense
- Q. Other Insurance Condition
- R. Unintentional Omission
- S. Waiver Of Transfer Of Rights Of Recovery Against Others To Us When Required By Contract
- T. Amended Bodily Injury Definition
- U. Amended Insured Contract Definition – Railroad Easement
- V. Additional Definition – Written Contract Requiring Insurance

PROVISIONS

A. BROADENED NAMED INSURED – UNNAMED SUBSIDIARIES

The Named Insured in Item 1. of the Declarations is amended as follows:

The person or organization named in Item 1. of the Declarations and any organization, other than a partnership, joint venture, limited liability company or trust, of which you are the sole owner or in which you maintain the majority ownership interest on the effective date of the policy. How-

ever, coverage for any such additional organization will cease as of the date, if any, during the policy period, that you no longer are the sole owner of, or maintain the majority ownership interest in, such organization.

B. INCIDENTAL MEDICAL MALPRACTICE

1. The following is added to the definition of "occurrence" in the **DEFINITIONS** Section:

Unless you are in the business or occupation of providing professional health care services, "occurrence" also means an act or omission



COMMERCIAL GENERAL LIABILITY

committed by any of your "employees" who is employed by you as a registered nurse, licensed practical nurse, emergency medical technician or paramedic, in providing or failing to provide "incidental medical services" or "Good Samaritan services" to a person.

2. The following is added to the **DEFINITIONS** Section:

a. "Incidental medical services" means medical, surgical, dental, laboratory, x-ray or nursing service, treatment, advice or instruction; the related furnishing of food or beverages; the furnishing or dispensing of drugs or medical supplies or appliances; or first aid.

b. "Good Samaritan services" means those medical services rendered or provided in an emergency and for which no remuneration is demanded or received.

3. The following is added to **Paragraph 2.a.(1)** of **SECTION II – WHO IS AN INSURED**

Paragraphs (1) (a), (b), (c) and (d) above do not apply to any of your "employees" who are employed by you as a registered nurse, licensed practical nurse, emergency medical technician or paramedic but only while performing the services described in Paragraph 1. above and while acting within the scope of their employment by you. Any such "employees" rendering "incidental medical services" or "Good Samaritan services" will be deemed to be acting within the scope of their employment by you.

4. The following exclusion is added to Paragraph 2. Exclusions of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

Sale of Pharmaceuticals

"Bodily injury" or "property damage" arising out of the willful violation of a penal statute or ordinance relating to the sale of pharmaceuticals committed by or with the knowledge or consent of the insured.

5. The following is added to Paragraph 4.b., **Excess Insurance**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

This insurance is excess over any valid and collectible "other insurance", whether primary, excess, contingent or on any other basis, that is available to you or any of your "employees"

for "bodily injury" that arises out of providing or failing to provide "incidental medical services" or "Good Samaritan services", except for insurance purchased specifically by you to apply in excess of the Limits of Insurance shown in the Declarations for this Coverage Part.

6. The following is added to Paragraph 5. of **SECTION III – LIMITS OF INSURANCE:**

For the purposes of determining the applicable Each Occurrence Limit, all related acts or omissions committed by any of your "employees" in providing or failing to provide "incidental medical services" or "Good Samaritan services" to any one person will be deemed to be one "occurrence".

C. REASONABLE FORCE PROPERTY DAMAGE – EXCEPTION TO EXPECTED OR INTENDED INJURY EXCLUSION

The following replaces Exclusion a., **Expected Or Intended Injury**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

a. **Expected Or Intended Injury Or Damage**

"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 any person or property.

D. NON-OWNED WATERCRAFT – INCREASED TO UP TO 75 FEET

1. The following replaces Paragraph (2) of Exclusion g., **Aircraft, Auto Or Watercraft**, in Paragraph 2. of **SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

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

(a) Less than 75 feet long; and

(b) Not being used to carry any person or property for a charge.

2. The following is added to **SECTION II – WHO IS AN INSURED:**

Any person who, with your expressed or implied consent, either uses or is responsible for the use of a nonowned watercraft that is less than 75 feet and not being used to carry person or property for a charge is included as an insured under this Coverage Part.

E. AIRCRAFT CHARTERED WITH PILOT

The following is added to Exclusion g., Aircraft, Auto Or Watercraft, in Paragraph 2. of SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:

This exclusion does not apply to an aircraft that is:

- (a) Chartered with a pilot to any insured; and
- (b) Not owned by any insured.

F. EXTENSION OF COVERAGE – DAMAGE TO PREMISES RENTED TO YOU

1. The following replaces the last paragraph of SECTION I – COVERAGES – COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY:

Exclusions c. through n. do not apply to damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by:

- a. Fire;
- b. Explosion;
- c. Lightning;
- d. Smoke resulting from such fire, explosion, or lightning; or
- e. Water.

A separate limit of insurance applies to this coverage as described in SECTION III – LIMITS OF INSURANCE

2. The insurance under this Provision F. does not apply to damage to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by:

- a. Rupture, bursting, or operation of pressure relief devices;
- b. Rupture or bursting due to expansion or swelling of the contents of any building or structure, caused by or resulting from water; or
- c. Explosion of steam boilers, steam pipes, steam engines, or steam turbines.

3. The following replaces Paragraph 6. of SECTION III – LIMITS OF INSURANCE

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

of the owner, caused by: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water. The Damage To Premises Rented To You Limit will apply to all "property damage" proximately caused by the same "occurrence", whether such damage results from: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water; or any combination of any of these causes.

The Damage To Premises Rented To You Limit will be the higher of:

- a. \$300,000; or
- b. The amount shown for the Damage To Premises Rented To You Limit in the Declarations for this Coverage Part.

4. The following replaces Paragraph a. of the definition of "insured contract" in the DEFINITIONS Section:

- 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 to premises while rented to you, or temporarily occupied by you with permission of the owner, caused by: fire; explosion; lightning; smoke resulting from such fire, explosion, or lightning; or water is not an "insured contract";

G. PERSONAL INJURY – ASSUMED BY CONTRACT

The following replaces Exclusion e., Contractual Liability in Paragraph 2. of SECTION I – COVERAGES – COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY:

"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.

H. INCREASED SUPPLEMENTARY PAYMENTS

1. The following replaces Paragraph 1.b. of SUPPLEMENTARY PAYMENTS – COVERAGES A AND B of SECTION I – COVERAGES:

- b. Up to \$2,500 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.



COMMERCIAL GENERAL LIABILITY

2. The following replaces Paragraph 1.d. of **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** of **SECTION I – COVERAGES**:

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.

I. ADDITIONAL INSURED – OWNER, MANAGER OR LESSOR OF PREMISES

1. The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that you have agreed in a "written contract requiring insurance" to include as an additional insured on this Coverage Part is an insured, but:

- a. Only with respect to liability for "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you have entered into that "written contract requiring insurance"; and
- b. Only if the "bodily injury", "property damage" or "personal injury" is caused, in whole or in part, by acts or omissions of you or any person or organization performing operations on your behalf, and arises out of the ownership, maintenance or use of that part of any premises leased to you under that "written contract requiring insurance".

2. The insurance provided to such additional insured under this Provision I. is subject to the following provisions:

- a. The limits of insurance afforded to such additional insured shall be the limits which you agreed to provide in the "written contract requiring insurance", or the limits shown in the Declarations for this Coverage Part, whichever are less; and
- b. The insurance afforded to such additional insured does not apply to:
- (1) Any "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you cease to be a tenant in that premises;
- (2) Any structural alterations, new construction or demolition operations

performed by or on behalf of such additional insured; or

- (3) Any premises for which coverage is excluded by another endorsement to this Coverage Part.

3. This Provision I. does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.

J. ADDITIONAL INSURED – LESSOR OF LEASED EQUIPMENT

1. The following is added to **SECTION II – WHO IS AN INSURED**:

Any person or organization that you have agreed in a "written contract requiring insurance" to include as an additional insured on this Coverage Part is an insured, but:

- a. Only with respect to liability for "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after you have entered into that "written contract requiring insurance"; and
- b. Only if the "bodily injury", "property damage" or "personal injury" is caused, in whole or in part, by acts or omissions of you or any person or organization performing operations on your behalf, in the maintenance, operation or use of equipment leased to you by such additional insured.

2. The insurance provided to such additional insured under this Provision J. is subject to the following provisions:

- a. The limits of insurance afforded to such additional insured shall be the limits which you agreed to provide in the "written contract requiring insurance", or the limits shown in the Declarations for this Coverage Part, whichever are less; and
- b. The insurance afforded to such additional insured does not apply:
- (1) To any "bodily injury" or "property damage" that occurs, or "personal injury" caused by an offense committed, after the equipment lease expires; or
- (2) If the equipment is leased with an operator.

3. This Provision J. does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.

K. ADDITIONAL INSURED – STATE OR POLITICAL SUBDIVISIONS – PERMITS RELATING TO PREMISES

The following is added to **SECTION II – WHO IS AN INSURED**:

Any state or political subdivision that has issued a permit in connection with premises owned or occupied by, or rented or loaned to, you, is an insured, but only with respect to "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, elevators, street banners or decorations for which that state or political subdivision has issued such permit.

L. ADDITIONAL INSURED – STATE OR POLITICAL SUBDIVISIONS – PERMITS RELATING TO OPERATIONS

The following is added to **SECTION II – WHO IS AN INSURED**:

Any state or political subdivision that has issued a permit is an insured, but only with respect to "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of operations performed by you or on your behalf for which that state or political subdivision has issued such permit. However, no such state or political subdivision is an insured for:

1. "Bodily injury", "property damage", "personal injury" or "advertising injury" arising out of operations performed for that state or political subdivision; or
2. "Bodily injury" or "property damage" included within the "products – completed operations hazard".

M. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED ORGANIZATIONS

The following replaces Paragraph 4.a. of **SECTION II – WHO IS AN INSURED**:

- 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 pe-

riod, whichever is earlier. Any such newly acquired or formed organization that you report in writing to us within 180 days after you acquire or form the organization will be covered under this provision until the end of the policy period, even if there are more than 180 days remaining until the end of the policy period.

N. INJURY TO CO-EMPLOYEES AND CO-VOLUNTEER WORKERS

The following is added to **SECTION II – WHO IS AN INSURED**:

1. Your "employees" are insureds with respect to "bodily injury" to a co-"employee" in the course of the co-"employee's" employment by you, or to your "volunteer workers" while performing duties related to the conduct of your business, provided that this coverage for your "employees" does not apply to acts outside the scope of their employment by you or while performing duties unrelated to the conduct of your business.
2. Your "volunteer workers" are insureds with respect to "bodily injury" to a co-"volunteer worker" while performing duties related to the conduct of your business, or to your "employees" in the course of the "employee's" employment by you, provided that this coverage for your "volunteer workers" does not apply while performing duties unrelated to the conduct of your business.
3. Subparagraphs 2.a.(1)(a), (b) and (c) and 3.a. of **SECTION II – WHO IS AN INSURED** do not apply to "bodily injury" for which insurance is provided by paragraph 1. or 2. above.

O. MEDICAL PAYMENTS LIMIT

The following replaces paragraph 7. of **SECTION III – LIMITS OF INSURANCE**:

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, and will be the higher of:

- a. \$10,000; or
- b. The amount shown on the Declarations for Medical Expense Limit.

P. KNOWLEDGE AND NOTICE OF OCCURRENCE OR OFFENSE

The following is added to Paragraph 2. **Duties In The Event of Occurrence, Offense, Claim Or**



COMMERCIAL GENERAL LIABILITY

Suit of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

Notice of an "occurrence" or of an offense which may result in a claim must be given as soon as practicable after knowledge of the "occurrence" or offense has been reported to you, one of your "executive officers" (if you are a corporation), one of your partners who is an individual (if you are a partnership), one of your managers (if you are a limited liability company), one of your trustees who is an individual (if you are a trust), or an "employee" (such as an insurance, loss control or risk manager or administrator) designated by you to give such notice.

Knowledge by any other "employee" of an "occurrence" or offense does not imply that you also have such knowledge.

Notice of an "occurrence" or of an offense which may result in a claim will be deemed to be given as soon as practicable to us if it is given in good faith as soon as practicable to your workers' compensation, accident, or health insurer. This applies only if you subsequently give notice of the "occurrence" or offense to us as soon as practicable after you, one of your "executive officers" (if you are a corporation), one of your partners who is an individual (if you are a partnership), one of your managers (if you are a limited liability company), one of your trustees who is an individual (if you are a trust), or an "employee" (such as an insurance, loss control or risk manager or administrator) designated by you to give such notice discovers that the "occurrence" or offense may involve this policy.

Q. OTHER INSURANCE CONDITION

1. The following replaces Paragraph 4., **Other Insurance** of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:

4. Other Insurance

If valid and collectible "other 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 this insurance is primary, our obligations are not affected unless any of the "other insurance" is also primary. Then, we will share with all that "other insur-

ance" 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) That is Fire, Extended Coverage, Builder's Risk, Installation Risk, or similar coverage for "your work";
- (2) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
- (3) 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; or
- (4) 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; or
- (5) That is available to the insured when the insured is an additional insured under any other policy, including any umbrella or excess policy.

When this insurance is excess, we will have no duty under Coverages A or B to defend the insured against any "suit" if any provider of "other insurance" has a duty to defend the insured against that "suit". If no provider of "other insurance" defends, we will undertake to do so, but we will be entitled to the insured's rights against all those providers of "other insurance".

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 that "other insurance".

We will share the remaining loss, if any, with any "other insurance" that is not described in this Excess Insurance provision.

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 provider of insurance 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, the share of each provider of insurance is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all providers of insurance.

2. The following definition is added to SECTION V – DEFINITIONS:

"Other insurance":

- a. Means insurance, or the funding of losses, that is provided by, through or on behalf of:

- (1) Another insurance company;
- (2) Us or any of our affiliated insurance companies, except when the Non cumulation of Each Occurrence Limit section of Paragraph 5. of **LIMITS OF INSURANCE** (Section III) or the Non cumulation of Personal and Advertising Injury limit sections of Paragraph 4. of **LIMITS OF INSURANCE** (Section III) applies;
- (3) Any risk retention group;
- (4) Any self-insurance method or program, other than any funded by you and over which this Coverage Part applies; or
- (5) Any similar risk transfer or risk management method.

- b. Does not include umbrella insurance, or excess insurance, that you bought specifically to apply in excess of the Limits of

Insurance shown on the Declarations of this Coverage Part.

R. UNINTENTIONAL OMISSION

- 1. The following is added to Paragraph 6. **Representations of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

The unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy shall not prejudice your rights under this insurance.

- 2. This Provision R. does not affect our right to collect additional premium or to exercise our right of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

S. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US WHEN REQUIRED BY CONTRACT

The following is added to Paragraph 8. **Transfer of Rights of Recovery Against Others to Us of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

We waive any rights of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage", "personal injury" or "advertising injury" arising out of:

- 1. Premises owned by you, temporarily occupied by you with permission of the owner, or leased or rented to you;
- 2. Ongoing operations performed by you, or on your behalf, under a contract or agreement with that person or organization;
- 3. "Your work"; or
- 4. "Your products".

We waive these rights only where you have agreed to do so as part of a "written contract requiring insurance" entered into by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense or "advertising injury" offense is committed.

T. AMENDED BODILY INJURY DEFINITION

The following replaces the definition of "bodily injury" in the **DEFINITIONS** Section:

"Bodily injury" means bodily injury, mental anguish, mental injury, shock, fright, disability, humiliation, sickness or disease sustained by a per-



COMMERCIAL GENERAL LIABILITY

son, including death resulting from any of these at any time.

U. AMENDED INSURED CONTRACT DEFINITION – RAILROAD EASEMENT

1. Subparagraph c. of the definition of "insured contract" in the **DEFINITIONS** Section is replaced by the following:
 - c. Any easement or license agreement;
2. Subparagraph f.(1) of the definition of "insured contract" in the **DEFINITIONS** Section is deleted.

V. ADDITIONAL DEFINITION – WRITTEN CONTRACT REQUIRING INSURANCE

The following definition is added to the **DEFINITIONS** Section:

"Written contract requiring insurance" means that part of any written contract or written agreement under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed:

- a. After the signing and execution of the contract or agreement by you;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.

POLICY NUMBER: P-810-432K8651-TCT-18

EFFECTIVE DATE: 09-01-18

ISSUE DATE: 08-16-18

LISTING OF FORMS, ENDORSEMENTS AND SCHEDULE NUMBERS

THIS LISTING SHOWS THE NUMBER OF FORMS, SCHEDULES AND ENDORSEMENTS BY LINE OF BUSINESS.

IL T0 02 11 89	COMMON POLICY DECLARATIONS
IL T8 01 10 93	FORMS, ENDORSEMENTS AND SCHEDULE NUMBERS
IL T0 01 01 07	COMMON POLICY CONDITIONS
IL T3 02 07 86	CALCULATION OF PREMIUM-COMPOSITE RATE(S)
IL T8 00	NAMED INSURED
IL T8 25	GENERAL PURPOSE ENDORSEMENT

COMMERCIAL AUTOMOBILE

CA T0 01 02 15	BA- COVERAGE PART DECS (ITEMS 1 & 2)
CA T0 03 02 15	BA COVERAGE PART DECS (ITEMS 4 & 5)
CA T0 30 02 16	BA/AD/MC COV PART SUPPL SCH - ITEM TWO
CA T0 31 02 15	TABLE OF CONTENTS-BUSINESS AUTO COV FORM
CA 00 01 10 13	BUSINESS AUTO COVERAGE FORM
CA T4 52 02 16	SHRT TRM HRD AUTO - ADDT'L INSD LS PAYEE
CA T4 59 02 15	AMENDMENT OF EMPLOYEE DEFINITION
CA 01 56 11 13	NEBRASKA CHANGES
CA 01 60 10 13	IOWA CHANGES
CA 20 01 10 13	LESSOR - ADDL INSURED AND LOSS PAYEE
CA 21 12 10 13	IOWA UM & UIM COVERAGE
CA 21 70 10 13	NE UM AND UIM COVERAGE
CA 99 03 10 13	AUTO MEDICAL PAYMENTS COVERAGE
CA 99 35 11 13	NEBRASKA AUTO MEDICAL PAYMENTS COVERAGE
CA 99 48 10 13	POLL LIAB-BUS AUTO/MOTOR CARRIER COV FRM
CA T3 53 02 15	BUSINESS AUTO EXTENSION ENDORSEMENT
CA T4 45 04 09	LOSS PAYABLE CLAUSE
CA T8 01	POLLUTION LIABILITY
CA 02 21 12 17	NEBRASKA CHANGES - CANCELLATION

INTERLINE ENDORSEMENTS

IL T4 12 03 15	AMNDT COMMON POLICY COND-PROHIBITED COVG
IL 00 21 05 02	NUCLEAR ENERGY LIAB EXCL END-BROAD FORM
IL 00 21 09 08	NUCLEAR ENERGY LIAB EXCL END-BROAD FORM
IL 02 76 09 08	IA CHANGES-CANCELLATION AND NONRENEWAL
IL T3 05 07 15	INSURER AMENDMENT ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|---|
| <p>A. BROAD FORM NAMED INSURED</p> <p>B. BLANKET ADDITIONAL INSURED</p> <p>C. EMPLOYEE HIRED AUTO</p> <p>D. EMPLOYEES AS INSURED</p> <p>E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS</p> <p>F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS</p> <p>G. WAIVER OF DEDUCTIBLE – GLASS</p> | <p>H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT</p> <p>I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT</p> <p>J. PERSONAL PROPERTY</p> <p>K. AIRBAGS</p> <p>L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS</p> <p>M. BLANKET WAIVER OF SUBROGATION</p> <p>N. UNINTENTIONAL ERRORS OR OMISSIONS</p> |
|---|---|

PROVISIONS

A. BROAD FORM NAMED INSURED

The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. 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. BLANKET ADDITIONAL INSURED

The following is added to Paragraph c. in A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which

this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

C. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph A.1., **Who Is An Insured**, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.

2. The following replaces Paragraph b. in B.5., **Other Insurance**, of SECTION IV – BUSINESS AUTO CONDITIONS:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in an "employee's" name, with your

COMMERCIAL AUTO

permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

D. EMPLOYEES AS INSURED

The following is added to Paragraph A.1., Who Is An Insured, of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph A.2.a.(2), of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph A.2.a.(4), of SECTION II – COVERED AUTOS LIABILITY COVERAGE:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS

The following replaces Subparagraph (5) in Paragraph B.7., Policy Period, Coverage Territory, of SECTION IV – BUSINESS AUTO CONDITIONS:

(5) Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the United States of America applies to and prohibits the transaction of business with or within such country or jurisdiction, for Covered Autos Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

(a) With respect to any claim made or "suit" brought outside the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada:

(i) You must arrange to defend the "insured" against, and investigate or settle any such claim or "suit" and keep us advised of all proceedings and actions.

(ii) Neither you nor any other involved "insured" will make any settlement without our consent.

(iii) We may, at our discretion, participate in defending the "insured" against, or in the settlement of, any claim or "suit".

(iv) We will reimburse the "insured" for sums that the "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, that the "insured" pays with our consent, but only up to the limit described in Paragraph C., Limits Of Insurance, of SECTION II – COVERED AUTOS LIABILITY COVERAGE.

(v) We will reimburse the "insured" for the reasonable expenses incurred with our consent for your investigation of such claims and your defense of the "insured" against any such "suit", but only up to and included within the limit described in Paragraph C., Limits Of Insurance, of SECTION II – COVERED AUTOS LIABILITY COVERAGE, and not in addition to such limit. Our duty to make such payments ends when we have used up the applicable limit of insurance in payments for damages, settlements or defense expenses.

(b) This insurance is excess over any valid and collectible other insurance available to the "insured" whether primary, excess, contingent or on any other basis.

(c) This insurance is not a substitute for required or compulsory insurance in any country outside the United States, its territories and possessions, Puerto Rico and Canada.



You agree to maintain all required or compulsory insurance in any such country up to the minimum limits required by local law. Your failure to comply with compulsory insurance requirements will not invalidate the coverage afforded by this policy, but we will only be liable to the same extent we would have been liable had you complied with the compulsory insurance requirements.

- (d) It is understood that we are not an admitted or authorized insurer outside the United States of America, its territories and possessions, Puerto Rico and Canada. We assume no responsibility for the furnishing of certificates of insurance, or for compliance in any way with the laws of other countries relating to insurance.

G. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph D., **Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT

The following replaces the last sentence of Paragraph A.4.b., **Loss Of Use Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

However, the most we will pay for any expenses for loss of use is \$65 per day, to a maximum of \$750 for any one "accident".

I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph A.4.a., **Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

J. PERSONAL PROPERTY

The following is added to Paragraph A.4., **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Personal Property

We will pay up to \$400 for "loss" to wearing apparel and other personal property which is:

- (1) Owned by an "insured"; and

- (2) In or on your covered "auto".

This coverage applies only in the event of a total theft of your covered "auto".

No deductibles apply to this Personal Property coverage.

K. AIRBAGS

The following is added to Paragraph B.3., **Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion 3.a. does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs A.1.b. and A.1.c., but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS

The following is added to Paragraph A.2.a., of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (a) You (if you are an individual);
- (b) A partner (if you are a partnership);
- (c) A member (if you are a limited liability company);
- (d) An executive officer, director or insurance manager (if you are a corporation or other organization); or
- (e) Any "employee" authorized by you to give notice of the "accident" or "loss".

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph A.5., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by

COMMERCIAL AUTO

such contract. The waiver applies only to the person or organization designated in such contract.

N. UNINTENTIONAL ERRORS OR OMISSIONS

The following is added to Paragraph B.2., Concealment, Misrepresentation, Or Fraud, of SECTION IV – BUSINESS AUTO CONDITIONS:

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.



POLICY NUMBER: UB-4J623381-18-43-V

**LISTING OF ENDORSEMENTS
 EXTENSION OF INFO PAGE**

We agree that the following listed endorsements form a part of this policy on its effective date.

WC 00 00 01 A - 001	INFORMATION PAGE
WC 00 00 01 A - 001	INFORMATION PAGE 2
WC 00 00 01 A - 001	EXTENSION OF INFORMATION PAGE - SCHEDULE
WC 00 00 01 A - 001	ENDORSEMENT LISTING
WC 99 06 07 00 - 001	PARTICIPATING ENDORSEMENT
WC 00 03 11 A - 001	VOLUNTARY COMP AND EMPLOYERS LIAB COV
WC 00 03 13 00 - 001	WAIVER OF OUR RIGHT TO RECOVER
WC 00 04 14 00 - 001	NOTIFICATION OF CHANGE IN OWNERSHIP ENDT
WC 00 04 22 B - 001	TERRORISM RISK INS PROG REAUTH ACT ENDT
WC 00 04 24 00 - 001	AUDIT NONCOMPLIANCE CHARGE ENDORSEMENT
WC 00 04 25 00 - 001	EXPER RATING MOD FACTOR REVISION ENDT
WC 99 03 C3 00 - 001	SPECIAL PROVISIONS ENDT
WC 00 04 21 D - 001	CATASTROPHE (O/T CERT. ACTS OF TERR)ENDT
WC 99 04 08 00 - 001	PREMIUM DISCOUNT ENDORSEMENT
WC 00 04 19 00 - 001	PREMIUM DUE DATE ENDORSEMENT
WC 26 04 02 00 - 001	NE CONTRACTING CLASS PREM ADJUST END
WC 26 04 03 00 - 001	NE EXP RATING MOD FACTOR REV ENDT
WC 26 06 01 C - 001	NE CANCELATION ENDT
WC 40 06 01 A - 001	SOUTH DAKOTA DIRECT ACTION STATUTE ENDT
WC 40 06 03 00 - 001	SOUTH DAKOTA MANAGED CARE ENDORSEMENT
WC 40 06 05 B - 001	SD CANCEL & NON RENEWAL

POLICY NUMBER: **UB-4J623381-18-43-V**

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 any one not named in the Schedule.

SCHEDULE

DESIGNATED PERSON:

DESIGNATED ORGANIZATION:

**ANY PERSON OR ORGANIZATION FOR WHICH THE INSURED HAS AGREED
BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO FURNISH THIS
WAIVER.**