

## **PROFESSIONAL SERVICES AGREEMENT**

This Agreement is entered into by and between Morrow & Associates, Inc., 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 a human resource consulting firm to coordinate all testing procedures, including the development and administration of the exams and acquiring panels for each assessment exercise for the promotional exam procedures for the rank of Sergeant;

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 September 30, 2018, the date of Contractor’s completion of the services described in the Proposal which documents the scope for exam development, which Proposal is attached hereto as Attachment A and is hereby incorporated by this reference.

2) Purpose: The purpose of this Agreement is for the Contractor to provide the services described in Attachment A. All duties, processes and material of the Contractor stemming from this Agreement shall be consistent with the Sheriff’s Office Merit Commission’s Rules and Regulations, Neb. Rev. Stat. §23-1721 et seq.

3) The Contractor shall provide the following services:

- A. Coordinate all testing procedures, including the development and administration of the exams and acquiring panels for each assessment exercise, i.e. scenario and presentation.
- B. Inform candidates of the details associated with the testing process for the applicable position within the timeframe established by the Merit Commission and/or Sheriff.
- C. Development of the Sergeant exam will include the following four elements: (1) written exam, (2) in-basket exam, (3) panel interview exam, and (4) scenario exam.

4) Compensation:

A. In exchange for Contractor's performing the Standard Services described in Section 3 of this Agreement, the Contractor shall invoice the County at the hourly rates described in Attachment A, in an estimated amount not to exceed \$13,500.00. Although Attachment A is as accurate as possible, the County recognized that the proposal will be based upon unknown factors that may affect the final cost. If the Contractor anticipates the actual cost will exceed the predetermined amount, the Contractor shall notify the County immediately and shall provide the County with a cost estimate to complete the project.

In the event that County requests additional services outside the scope of the services described in Section 3 of this Agreement, Contractor shall invoice County at the hourly rates described in Attachment A.

B. Within 15 days of the end of each calendar quarter during the term of this Agreement, Contractor shall provide County a detailed invoice for services actually performed during that calendar quarter. Subject to County's verification that the invoiced services have been performed, County shall pay Contractor within 30 days of receipt of the invoice.

C. 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.

5) 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.

6) Assignment: Contractor 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.

7) 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 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.

8) 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.

9) 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.

10) 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.

If this Agreement is terminated, all finished or unfinished documents or materials which were specially-prepared or obtained for the County pursuant to this Agreement, all exam results, rankings, and other promotion related results, shall be turned over to the County immediately; provided, however, that upon the mutual agreement of the Parties that any documents or materials, except those listed above, produced from the Contractor's inventory of testing documents or materials which, if turned over to the County, potentially could compromise the integrity and use of such documents and materials for future hiring and/or promotional processes by the Contractor or its heirs and assigns for the benefit of the County and/or other consulting clients of the Contractor, such documents or materials may be retained by the Contractor. No documents or results shall be given directly to individual County employees going through the exam process, all documents and information provided upon termination shall be sent pursuant to Section 14.

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

12) 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. 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) **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.

d) **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. Said insurance shall be written on an **OCCURRENCE** basis.

e) **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.

f) **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.

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

13) 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.

14) 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:

Morrow & Associates, Inc.  
c/o Britteny Ferrin  
16707 Q Street, Suite 2A  
Omaha, Nebraska 68135

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.

15) 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.

16) 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.

17) 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.

18) 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<sup>th</sup> day of July, 2018, by Contractor.

BY: Brittney Ferrin  
NAME: Brittney Ferrin  
TITLE: President / owner

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by Lancaster County, Nebraska.

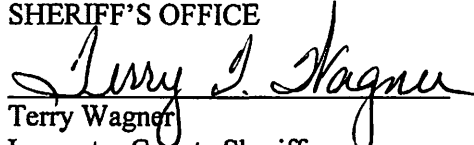
BY: LANCASTER COUNTY BOARD OF  
COUNTY COMMISSIONERS

APPROVED AS TO FORM  
this \_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
Deputy County Attorney for  
PAT CONDON, County Attorney

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPROVED BY LANCASTER COUNTY  
SHERIFF'S OFFICE

  
\_\_\_\_\_  
Terry Wagner  
Lancaster County Sheriff

Morrow  
& Associates<sup>Inc.</sup>  
— HUMAN RESOURCE CONSULTING —

16707 Q Street, Suite 2A | Omaha, Nebraska 68135 | Phone: 402-330-1019 | Fax: 402-939-0177 | www.morrowhr.com

March 12, 2018

Captain John Vik  
Lancaster County Sheriff's Office  
575 S. 10<sup>th</sup> Street  
Lincoln, NE 68508

RE: Scope of Project- Promotional Exam for Sergeant

Captain Vik,

The purpose of this correspondence is to provide you with a Project Summary regarding the promotional exam process for the rank of Sergeant.

To provide a brief overview of Morrow & Associates, we have worked with many local Sheriff and Police Departments in the development and administration of promotional exams for all ranks in law enforcement. With over 20+ years of experience in the law enforcement promotional exam field, Morrow's office develops customized exams that are specific to departmental policies, using internal forms and other related materials. Morrow works directly with the departmental command staff to ensure that all exam materials are based on current issues facing the department today.

In addition to our vast experience in working directly with Merit Commissions and Civil Service, there are several benefits to outsourcing the exam functions. As experts in promotional exam procedures, our office believes in extending our experience, knowledge and professionalism in order to provide an exam process that is fair, consistent and based on objective grading measures. Morrow serves as a neutral third party to provide a detailed exam process, and works diligently to ensure that all testing procedures, documents and concepts are directly related to the essential functions of the job. We also provide expert analysis regarding industry standards, competitive testing methods, current and applicable interview banks and assessment exam development.

**SCOPE FOR EXAM DEVELOPMENT:**

In working directly with the Merit Commission and the Sheriff for the coordination of all exam procedures, dates and materials as required, Morrow & Associates is available to assist in the promotional exam procedures for the rank of Sergeant, as listed on page (2). It will be the responsibility of Morrow to coordinate all testing procedures, including the development and administration of the exams and acquiring panels for each assessment exercise, i.e. scenario and presentation.



Captain John Vik  
March 12, 2018  
Page 2

Each candidate will be informed of the details associated with the testing process for their applicable position within a time frame established by the Merit Commission and/or Sheriff, including materials needed to study, the criteria involved, and a clearly defined format of the testing process. We further understand that LCSO command staff will be available to assist Morrow's office with concept development.


The Sergeant exam will include four (4) specific elements for promotion. The Sergeant exam will include the following:

- (1) Written Exam: The purpose of the written exam is to evaluate the candidate's general knowledge of departmental policies and procedures, covering information derived from various study materials.
- (2) In-Basket Exam: The purpose of the in-basket exam is to evaluate a candidate's ability to perform administrative functions pertaining to a Sergeant's position. The in-basket will include a review of internal forms, schedules, public relations, business requests and other information specific to LCSO.
- (3) Panel Interview Exam: The purpose of the panel interview is to place the candidate in a situation where they are required to respond to various questions in a manner that is appropriate of a Sergeant. This includes a panel of assessors using objective grading measures.
- (4) Scenario Exam: The purpose of the scenario exam is to place the candidate in a situation where they are required to respond in a manner that is appropriate of a Sergeant. This includes a panel of assessors using objective grading measures.

Based on the exam details listed above, the development and administration of four (4) Sergeant exam elements shall be based on our hourly rate of \$65/hour. For planning purposes, the estimated cost of the Sergeant exam will not exceed \$13,500. Other factors considered in this cost estimate include the number of hours required for development and administration, the number of candidates participating in the exam, and the level of assistance provided by the LCSO command staff.

On behalf of Morrow & Associates, thank you for the opportunity to submit this project summary. We appreciate your consideration. We value our success in building trust and look forward to the opportunity to partner with your agency. Should you have any further questions, please do not hesitate to contact me at (402) 330-1019 or [brittney@morrowhr.com](mailto:brittney@morrowhr.com).

Sincerely,



Brittney Ferrin



# CERTIFICATE OF LIABILITY INSURANCE

MORRO-1

OP ID: MW

DATE (MM/DD/YYYY)

07/06/2018

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 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 <b>Consortio Group</b> 9375 Burt Street, Suite 101 Omaha, NE 68114 Richard Coffey	CONTACT NAME: <b>Jody Sharp</b> PHONE (A/C, No, Ext): <b>402-399-8244</b>	FAX (A/C, No): <b>402-399-8496</b>
	E-MAIL ADDRESS: <b>jsharp@consortiogroup.com</b>	
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A : <b>CNA</b>		<b>20427</b>
INSURED <b>Morrow &amp; Associates, Inc.</b> <b>Brittney Ferrin</b> 16707 Q Street, Suite 2A Omaha, NE 68135	INSURER B : <b>Beazley Insurance Company, Inc</b>	
	INSURER C : <b>SFM Mutual Insurance Company</b>	
	INSURER D :	
	INSURER E :	
	INSURER F :	

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

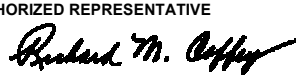
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	Y		B5094446747	08/20/2017	08/20/2018	EACH OCCURRENCE \$ <b>1,000,000</b> DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>300,000</b> MED EXP (Any one person) \$ <b>10,000</b> PERSONAL & ADV INJURY \$ <b>1,000,000</b> GENERAL AGGREGATE \$ <b>2,000,000</b> PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b>
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
A	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			5094446747	08/20/2017	08/20/2018	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b> BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (PER ACCIDENT) \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	100605201	07/03/2018	07/03/2019	<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ <b>500,000</b> E.L. DISEASE - EA EMPLOYEE \$ <b>500,000</b> E.L. DISEASE - POLICY LIMIT \$ <b>500,000</b>
B	<b>Professional Liab</b>			V10FCA170801	09/21/2017	09/21/2018	Limit <b>1,000,000</b> Retentio <b>2,500</b>

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

Lancaster County is listed as Additional Insured on General Liability when required by written contract. Waiver of Subrogation applies on Workers Compensation in favor of the Certificate Holder. 30-Day Notice of Cancellation shall be provided.

**CERTIFICATE HOLDER****CANCELLATION**

<b>LANCASC</b>  <b>Lancaster County</b> <b>555 S 10th St</b> <b>Lincoln, NE 68508</b>	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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**BLANKET ADDITIONAL INSURED  
AND  
LIABILITY EXTENSION ENDORSEMENT**

This endorsement modifies insurance provided under the following: **B5094446747**

BUSINESSOWNERS LIABILITY COVERAGE FORM  
BUSINESSOWNERS COMMON POLICY CONDITIONS

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**I. BLANKET ADDITIONAL INSURED PROVISIONS**

**A. ADDITIONAL INSURED – BLANKET VENDORS**

Who Is An Insured is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed under a "written contract" to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:
  - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
  - b. Any express warranty unauthorized by you;
  - c. Any physical or chemical change in the product made intentionally by the vendor;
  - d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
  - f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
  - g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
  - h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
    - (1) The exceptions contained in Subparagraphs d. or f.; or
    - (2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
3. This provision 2. does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Policy.
4. This provision 2. does not apply if "bodily injury" or "property damage" included within the "products-completed operations hazard" is excluded either by the provisions of the Policy or by endorsement.

**B. MISCELLANEOUS ADDITIONAL INSUREDS**

1. **Who Is An Insured** is amended to include as an insured any person or organization (called additional insured) described in paragraphs 3.a. through 3.j. below whom you are required to add as an additional insured on this policy under a "written contract".:
2. However, subject always to the terms and conditions of this policy, including the limits of insurance, we will not provide the additional insured with:
- a. A higher limit of insurance than required by such "written contract";
  - b. Coverage broader than required by such "written contract" and in no event greater than that described by the applicable paragraph a. through k. below; or
  - c. Coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard." But this paragraph c. does not apply to the extent coverage for such liability is provided by paragraph 3.j. below.

Any coverage granted by this endorsement shall apply only to the extent permitted by law.

3. Only the following persons or organizations can qualify as additional insureds under this endorsement:

**a. Controlling Interest**

Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:

- (1) such person or organization's financial control of you; or
- (2) Premises such person or organization owns, maintains or controls while you lease or occupy these premises;

provided that the coverage granted to such additional insureds does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

40020004750944467473786



**b. Co-owner of Insured Premises**

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability for "bodily injury", "property damage" or "personal and advertising injury" as co-owner of such premises.

**c. Grantor of Franchise**

Any person or organization that has granted a franchise to you, but only with respect to such person or organization's liability for "bodily injury", "property damage", or "personal and advertising injury" as grantor of a franchise to you.

**d. Lessor of Equipment**

Any person or organization from whom you lease equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by your maintenance, operation or use of such equipment, provided that the "occurrence" giving rise to such "bodily injury" or "property damage" or the offense giving rise to such "personal and advertising injury" takes place prior to the termination of such lease.

**e. Lessor of Land**

Any person or organization from whom you lease land, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance or use of that specific part of the land leased to you, provided that the "occurrence" giving rise to such "bodily injury" or "property damage" or the offense giving rise to such "personal and advertising injury", takes place prior to the termination of such lease. The insurance hereby afforded to the additional insured does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

**f. Lessor of Premises**

An owner or lessor of premises leased to you, or such owner or lessor's real estate manager, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance or use of such part of the premises leased to you, and provided that the "occurrence" giving rise to such "bodily injury" or "property damage" or the offense giving rise to such "personal and advertising injury", takes place prior to the termination of such lease. The insurance hereby afforded to the additional insured does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

**g. Mortgagee, Assignee or Receiver**

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee, or receiver's liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the ownership, maintenance, or use of a premises by you.

This insurance does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.

**h. State or Political Subdivisions**

A state or government agency or subdivision or political subdivision that has issued a permit or authorization, but only with respect to such government agency or subdivision or political subdivision's liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of:

- (1) The following hazards in connection with premises you own, rent, or control and to which this insurance applies:
  - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
  - (b) The construction, erection, or removal of elevators; or
  - (c) The ownership, maintenance or use of any elevators covered by this insurance; or

(2) The permitted or authorized operations performed by you or on your behalf. But the coverage granted by this paragraph does not apply to:

- (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or government agency or subdivision or political subdivision; or
- (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard."

With respect to this provision's requirement that additional insured status must be requested under a "written contract", we will treat as a "written contract" any governmental permit that requires you to add the governmental entity as an additional insured.

**i. Trade Show Event Lessor**

With respect to your participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom you are required to include as an additional insured, but only with respect to such person or organization's liability for "bodily injury", "property damage", or "personal and advertising injury" cause by:

- a. Your acts or omissions; or
- b. Acts or omissions of those acting on your behalf;

in the performance of your ongoing operations at the trade show premises during the trade show event.

**j. Other Person or Organization**

Any person or organization who is not an additional insured under paragraphs a. through i. above. Such additional insured is an insured solely for "bodily injury", "property damage" or "personal and advertising injury" for which such additional insured is liable because of your acts or omissions.

The coverage granted by this paragraph does not apply to any person or organization:

- (1) For "bodily injury," "property damage," or "personal and advertising injury" arising out of the rendering or failure to render any professional services;
- (2) For "bodily injury" or "property damage" included in the "products-completed operations hazard." But this provision (2) does not apply to such "bodily injury" or "property damage" if:
  - (a) It is entirely due to your negligence and specifically results from your work for the additional insured which is the subject to the "written contract"; and
  - (b) The "written contract" requires you to make the person or organization an additional insured for such "bodily injury" or "property damage"; or
- (3) Who is afforded additional insured coverage under another endorsement attached to this policy.

**C. ADDITIONAL PROVISIONS PERTINENT TO ADDITIONAL INSURED COVERAGE**

With respect only to additional insured coverage provided under paragraphs A. and B. above:

1. The **BUSINESSOWNERS COMMON POLICY CONDITIONS** are amended to add the following to the Condition entitled **Other Insurance**:

This insurance is excess of all other insurance available to an additional insured whether primary, excess, contingent or on any other basis. However, if a "written contract" requires that this insurance be either primary or primary and noncontributing, then this insurance will be primary and non-contributory relative solely to insurance on which the additional insured is a named insured.

2. Under **Liability and Medical Expense Definitions**, the following definition is added:

"Written contract" means a written contract or agreement that requires you to make a person or organization an additional insured on this policy, provided the contract or agreement:

- a. Is currently in effect or becomes effective during the term of this policy; and
- b. Was executed prior to:

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- (1) The "bodily injury" or "property damage"; or
  - (2) The offense that caused the "personal and advertising injury";
- for which the additional insured seeks coverage.

**II. LIABILITY EXTENSION COVERAGES**

It is understood and agreed that this endorsement amends the **Businessowners Liability Coverage Form**. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement to such provision do not apply.

**A. Bodily Injury – Expanded Definition**

Under **Liability and Medical Expenses Definitions**, the definition of "Bodily injury" is deleted and replaced by the following:

"Bodily injury" means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury by that person at any time which results as a consequence of the physical injury, sickness or disease.

**B. Broad Knowledge of Occurrence**

Under Businessowners Liability Conditions, the Condition entitled Duties In The Event of Occurrence, Offense, Claim or Suit is amended to add the following:

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

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This paragraph applies separately to you and any additional insured.

**C. Estates, Legal Representatives and Spouses**

The estates, heirs, legal representatives and spouses of any natural person insured shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives and spouses only for claims arising solely out of their capacity as such and, in the case of a spouse, where such claim seeks damages from marital common property, jointly held property, or property transferred from such natural person insured to such spouse. No coverage is provided for any act, error or omission of an estate, heir, legal representative or spouse outside the scope of such person's capacity as such, provided however that the spouse of a natural person Named Insured and the spouses of members or partners of joint venture or partnership Named Insureds are insureds with respect to such spouses' acts, errors or omissions in the conduct of the Named Insured's business.

**D. Legal Liability – Damage To Premises**

1. Under **B. Exclusions, 1. Applicable to Business Liability Coverage**, Exclusion k. **Damage To Property**, is replaced by the following:

**k. Damage To Property**

"Property damage" to:

1. Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of

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

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

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

Paragraphs 1, 3, and 4, of this exclusion do not apply to "property damage" (other than damage by fire or explosion) to premises:

- (1) rented to you;
- (2) temporarily occupied by you with the permission of the owner, or
- (3) to the contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to Damage To Premises Rented To You as described in Section D – Liability and Medical Expenses Limits of Insurance.

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

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

2. Under **B. Exclusions, 1. Applicable to Business Liability Coverage**, the following paragraph is added, and replaces the similar paragraph, if any, beneath paragraph (14) of the exclusion entitled **Personal and Advertising Injury**:

Exclusions **c, d, e, f, g, h, i, k, l, m, n, and o**, do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner or to the contents of premises rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to this coverage as described in **Section D. Liability And Medical Expenses Limits Of Insurance**.

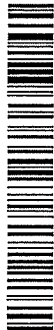
3. The first Paragraph under item 5. **Damage To Premises Rented To You Limit** of the section entitled **Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

The most we will pay under Business Liability for damages because of "property damage" to any one premises, while rented to you or temporarily occupied by you with the permission of the owner, including contents of such premises rented to you for a period of 7 or fewer consecutive days, is the Damage to Premises Rented to You limit shown in the Declaration.

**E. Personal and Advertising Injury – Discrimination or Humiliation**

1. Under **Liability and Medical Expenses Definitions**, the definition of "personal and advertising injury" is amended to add the following:
  - h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:
    - (1) Not done intentionally by or at the direction of:
      - (a) The insured; or

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- (b) Any "executive officer," director, stockholder, partner, member or manager (if you are a limited liability company) of the insured; and
  - (2) Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or person by any insured.
2. Under **B. Exclusions, 1. Applicable to Business Liability Coverage**, the exclusion entitled **Personal and Advertising Injury** is amended to add the following additional exclusions:
- (15) **Discrimination Relating to Room, Dwelling or Premises**  
Caused by discrimination directly or indirectly related to the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured.
  - (16) **Employment Related Discrimination**  
Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any insured.
  - (17) **Fines or Penalties**  
Fines or penalties levied or imposed by a governmental entity because of discrimination.
3. This provision (**Personal and Advertising Injury – Discrimination or Humiliation**) does not apply if **Personal and Advertising Injury Liability** is excluded either by the provisions of the Policy or by endorsement.

**F. Personal and Advertising Injury - Broadened Eviction**

Under **Liability and Medical Expenses Definitions**, the definition of "Personal and advertising injury" is amended to delete Paragraph c. and replace it with the following:

- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room dwelling or premises that a person or organization occupies committed by or on behalf of its owner, landlord or lessor.

**G. Waiver of Subrogation – Blanket**

We waive any right of recovery we may have against:

- a. Any person or organization with whom you have a written contract that requires such a waiver.

All other terms and conditions of the Policy remain unchanged.