

AGREEMENT

THIS AGREEMENT is entered into by and between Zelle, LLC, a Nebraska limited liability company (hereinafter referred to as "the Contractor") and the County of Lancaster, Nebraska (hereinafter referred to as "the County"). 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 wishes to obtain the services of qualified professional to provide on-site training for the County's Leadership Academy; and

WHEREAS, the Contractor is willing to provide the County with said services and has the necessary skills, expertise, experience, facilities, personnel, systems, and capabilities to provide on-site training for the County's Leadership Academy;

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

1. The length of this Agreement shall be for one year from the date of execution of this Agreement, unless terminated pursuant to Paragraph 11.
2. The Contractor shall provide the following services, duties, and functions:

Contractor shall provide County six (6) on-site training sessions (the "Services") for six (6) different topics over the course of six (6) months. The topics shall include Leaving vs. Managing, Transformational Leadership, Leading through Change, Servant Leadership, Crucial Conversations, and the Kegan Spiral. The Parties shall arrange mutually agreeable dates and times for the provision of such on-site training sessions.

3. In consideration of the performance of Contractor's duties set forth herein, County shall pay to Zelle Six Hundred (\$600) Dollars per training session, for a total amount not to exceed Three Thousand Six Hundred Dollars (\$3,600) unless additional services are agreed upon in a written amendment to this Agreement. Contractor shall invoice County for services provided within 90 days of the provision of such services. Invoices will be stated in United States dollars and shall be due and payable within thirty (30) days following date of receipt of the invoice.

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.

4. 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.

5. Contractor shall not assign its 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.
6. Each Party agrees to indemnify and hold harmless, to the fullest extent allowed by law, the other Party and its principals, officers, and employees from and against all claims, demands, suits, actions, payments, liabilities, judgments and expenses (including court-ordered attorneys' fees), arising out of or resulting from the acts or omissions of their principals, officers, or employees in the performance of this Agreement. Liability includes any claims, damages, losses, and expenses arising out of or resulting from performance of this Agreement that results in any claim for damage whatsoever including any bodily injury, civil rights liability, sickness, disease, or damage to or destruction of tangible property, including the loss of use resulting therefrom. Further, each Party shall maintain a policy or policies of insurance (or a self-insurance program), sufficient in coverage and amount to pay any judgments or related expenses from or in conjunction with any such claims. Nothing in this Agreement shall require either Party to indemnify or hold harmless the other Party from liability for the negligent or wrongful acts or omissions of said other Party or its principals, officers, or employees.
7. If any portion 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.
8. Contractor agrees that in providing services pursuant to this Agreement, it shall not discriminate against any employee, applicant for employment, youth, or any other person on the basis of race, color, religion, sex, disability, national origin, age, marital status, receipt of public assistance, or any other basis prohibited by applicable state or federal law.
9. This Agreement may be terminated at any time without penalty by either Party giving thirty (30) days written notice. Should either Party materially breach this Agreement, the other Party notify the breaching Party of the material breach in writing and the breaching Party will have fifteen days to cure the material breach. If the material breach is not cured within fifteen days, the other Party may, at its

discretion, terminate the Agreement immediately upon written notice to the breaching Party. This Agreement also may be terminated by County in whole or in part when funding is not lawfully available for expenditure or when sources of funding are terminated, suspended, reduced, or otherwise not forthcoming through no fault of the party. In the event of unavailability of funds to pay any amounts due under the Agreement, the County shall immediately notify the Contractor, and the Agreement shall terminate without penalty or expense to the County. Upon termination of this Agreement, the County shall pay the Contractor for any approved and documented services or products completed up to the date of termination, but not to exceed the maximum amount allowed by this Agreement.

10. 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 Agreement. No work 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; Employers' Liability.** The Contractor shall have, maintain, and provide proof of workers' compensation insurance of not less than minimum statutory requirements under the laws of the State of Nebraska and any other applicable State. Employers' Liability coverage with limits of not less than \$500,000.00 each accident or injury shall be included. The Contractor shall also be responsible for ensuring that all subcontractors, if any, have workers' compensation insurance for their employees before and during the time any work is done pursuant to this Agreement.
 - 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. The Contractor shall provide an additional insured endorsement acceptable to the County.
 - C. **Automobile Liability.** The Contractor shall provide proof of Automobile

Liability coverage, which shall include: Owned, Hired and Non-Owned, Bodily Injury and Property Damage Combined Single Limit shall be at least \$1,000,000 Per Accident.

- D. **Additional Insured.** An Additional Insured endorsement shall be provided to County naming County as additional insured under the commercial general liability policy.
 - 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. **Reservation of Rights.** The County reserves the right to require a higher limit of insurance or additional coverages when the County determines that a higher limit or additional coverage is required to protect the County or the interests of the public. Such changes in limits or coverages shall be eligible for a change order or amendment to the Contract.
 - G. **Sovereign Immunity.** Nothing contained in this clause or other clauses of this Agreement shall be construed to waive the Sovereign Immunity of the County.
11. 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.
12. The Parties do hereby agree to all the terms and conditions of this Agreement. This Agreement shall be binding upon the Parties, their heirs, administrators,

executors, legal and personal representatives, successors and assigns. 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.

13. The undersigned person representing the Contractor does hereby agree and represent that he or she is legally capable to sign this Agreement and to lawfully bind the Contractor to this Agreement.
14. Either Party's failure or neglect to enforce any of its rights under this Agreement will not be deemed to be a waiver of that Party's rights.
15. 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.
16. All notices, request for services, or other communications provided under this Agreement shall be in writing and shall be given to County or the Contractor at the address set forth below or such other address as either may specify hereafter in writing:

County:

Lancaster County
c/o Ann Ames
555 South 10th Street
Suite 110
Lincoln, NE 68508

Contractor:

Zelle, LLC
Attn: Chad Thies
3606 South 48th Street
Suite 200
Lincoln, NE 68506

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.

17. 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.

EXECUTED this 18 day of April, 2019, by Contractor.

By: Chad Thies

Name: Chad Thies

Title: President

EXECUTED this _____ day of _____, 2019, by Lancaster County, Nebraska.

By:

Jennifer Brinkman, Chair
Lancaster County Board of Commissioners

APPROVED AS TO FORM
this _____ day of _____, 2019.

Deputy County Attorney
for PAT CONDON
County Attorney



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

04/22/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER UNICO Group, Inc. 1128 Lincoln Mall Suite 200 Lincoln NE 68508	CONTACT NAME: Marcia Spieker PHONE (A/C, No, Ext): (402)434-7200 E-MAIL ADDRESS: mspieker@unicogroup.com	FAX (A/C, No): (402)434-7272
	INSURER(S) AFFORDING COVERAGE	
INSURED Zelle LLC PO Box 82535 Lincoln NE 68501	INSURER A: Ohio Security Ins Co	24082
	INSURER B: Ohio Casualty	24074
	INSURER C: Travelers Indemnity of America	25666
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 19-20 GL, BA, EL, UM

REVISION NUMBER:

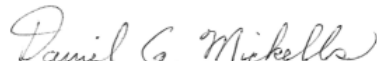
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			BZS59290322	01/25/2019	01/25/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ Employee Dishonesty \$ 50,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			BZS59290322	01/25/2019	01/25/2020	COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			USO59290322	01/25/2019	01/25/2020	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	UB-6K722938-19-42	01/25/2019	01/25/2020	PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

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

Lancaster County is an additional insured per the blanket additional insured endorsement as required in a written contract.

CERTIFICATE HOLDER**CANCELLATION**

Lancaster County 555 South 10th Street Lincoln NE 68508	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESSOWNERS LIABILITY EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

Below is a summarization of the coverages provided by this endorsement. No coverages are given by this summary. Actual coverage descriptions are within this endorsement.

<u>SECTION</u>	<u>SUBJECT</u>
A.	Supplementary Payments Bail Bonds Loss Of Earnings
B.	Broadened Coverage For Damage To Premises Rented To You
C.	Incidental Medical Malpractice Injury
D.	Mobile Equipment
E.	Blanket Additional Insured (Owners, Contractors Or Lessors)
F.	Newly Formed Or Acquired Organizations
G.	Aggregate Limits
H.	Duties In The Event Of Occurrence, Offense, Claim Or Suit
I.	Liability And Medical Expenses Definitions Bodily Injury Insured Contract Personal And Advertising Injury

Section II - Liability is amended as follows:

A. Supplementary Payments

Section **A.1. Business Liability** is modified as follows:

1. The \$250 limit shown in Paragraph **A.1.f.(1)(b) Coverage Extension - Supplementary Payments** for the cost of bail bonds is replaced by a \$3,000 limit.
2. The \$250 limit shown in Paragraph **A.1.f.(1)(d) Coverage Extension - Supplementary Payments** for reasonable expenses and loss of earnings is replaced by a \$500 limit.

B. Broadened Coverage For Damage To Premises Rented To You

1. The last paragraph of Section **B.1. Exclusions - Applicable To Business Liability Coverage** is replaced by the following:

With respect to the premises which are rented to you or temporarily occupied by you with the permission of the owner, Exclusions **c., d., e., g., h., k., l., m., n.** and **o.** do not apply to "property damage".

2. Paragraph **D.2. Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

The most we will pay under this endorsement for the sum of all damages because of all "property damage" to premises while rented to you or temporarily occupied by you with the permission of the owner is the Limit of Insurance shown in the Declarations.

3. Paragraph **D.3. Liability And Medical Expenses Limits Of Insurance** does not apply.

C. Incidental Medical Malpractice Injury

1. Paragraph **(4)** under Paragraph **B.1.j. Exclusions - Applicable To Business Liability Coverage - Professional Services** does not apply to "Incidental Medical Malpractice Injury" coverage.
2. With respect to this endorsement, the following is added to Section **F. Liability And Medical Expenses Definitions**:

- a. "Incidental Medical Malpractice Injury" means bodily injury arising out of the rendering of or failure to render, during the policy period, the following services:
 - (1) Medical, surgical, dental, x-ray or nursing service or treatment or the furnishing of food or beverages in connection therewith; or
 - (2) The furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances.
- b. This coverage does not apply to:
 - (1) Expenses incurred by the insured for first-aid to others at the time of an accident and the Duties in the Event of Occurrence, Offense, Claim or Suit Condition is amended accordingly.
 - (2) Any insured engaged in the business or occupation of providing any of the services described under **a.** above.
 - (3) Injury caused by any indemnitee if such indemnitee is engaged in the business or occupation of providing any of the services described under **a.** above.

D. Mobile Equipment

Section **C. Who Is An Insured** is amended to include any person driving "mobile equipment" with your permission.

E. Blanket Additional Insured (Owners, Contractors Or Lessors)

1. Section **C. Who Is An Insured** is amended to include as an insured any person or organization whom you are required to name as an additional insured on this policy under a written contract or written agreement. The written contract or agreement must be:
 - a. Currently in effect or becoming effective during the term of this policy; and
 - b. Executed prior to the "bodily injury", "property damage", or "personal and advertising injury".
2. The insurance afforded to the additional insured is limited as follows:
 - a. The person or organization is only an additional insured with respect to liability arising out of:
 - (1) Real property, as described in a written contract or written agreement, you own, rent, lease, maintain or occupy; and
 - (2) Caused in whole or in part by your ongoing operations performed for that insured.
 - b. The Limit of Insurance applicable to the additional insured are those specified in the written contract or written agreement or the limits available under this policy, as stated in the Declarations, whichever are less. These limits are inclusive of and not in addition to the Limit of Insurance available under this policy.
 - c. The insurance afforded to the additional insured does not apply to:
 - (1) Liability arising out of the sole negligence of the additional insured;
 - (2) "Bodily injury", "property damage", "personal and advertising injury", or defense coverage under the Supplementary Payments section of the policy arising out of an architect's, engineer's or surveyor's rendering of or failure to render any professional services including:

- (a) The preparing or approving of maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; and
 - (b) Supervisory, inspection, architectural or engineering activities.
- (3) Any "occurrence" that takes place after you cease to be a tenant in the premises described in the Declarations; or
- (4) Structural alterations, new construction or demolition operations performed by or for the person or organization designated in the Declarations.

3. Any coverage provided hereunder shall be excess over any other valid and collectible insurance available to the additional insured whether primary, excess, contingent or on any other basis unless a contract specifically requires that this insurance be primary or you request that it apply on a primary basis.

F. Newly Formed Or Acquired Organizations

The following is added to Section **C. Who Is An Insured**:

Any business entity acquired by you or incorporated or organized by you under the laws of any individual state of the United States of America over which you maintain majority ownership interest exceeding fifty percent. Such acquired or newly formed organization will qualify as a Named Insured if there is no similar insurance available to that entity. However:

- 1. Coverage under this provision is afforded only until the 180th day after the entity was acquired or incorporated or organized by you or the end of the policy period, whichever is earlier;
- 2. Section **A.1. Business Liability** does not apply to:
 - a. "Bodily injury" or "property damage" that occurred before the entity was acquired or incorporated or organized by you; and
 - b. "Personal and advertising injury" arising out of an offense committed before the entity was acquired or incorporated or organized by you.
- 3. Records and descriptions of operations must be maintained by the first Named Insured.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

G. Aggregate Limits

The following is added to Paragraph **D.4. Aggregate Limits Liability and Medical Expenses Limits Of Insurance**:

- 1. The Aggregate Limits apply separately to each of the "locations" owned by or rented to you or temporarily occupied by you with the permission of the owner.
- 2. The Aggregate Limits also apply separately to each of your projects away from premises owned by or rented to you.

For the purpose of this endorsement only, "location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

H. Duties In The Event Of Occurrence, Offense, Claim Or Suit

- 1. Paragraph **E.2.a. Duties In The Event Of Occurrence, Offense, Claim Or Suit Liability And Medical Expenses General Condition** applies only when the "occurrence" is known to any insured listed in Paragraph **C.1. Who Is An Insured** or any "employee" authorized by you to give or receive notice of an "occurrence" or claim.
- 2. Paragraph **E.2.b. Duties In The Event Of Occurrence, Offense, Claim Or Suit Liability And Medical Expenses General Condition** will not be considered breached unless the breach occurs after such claim or "suit" is known to any insured listed under Paragraph **C.1. Who Is An Insured** or any "employee" authorized by you to give or receive notice of an "occurrence" or claim.



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I. Section **F. Liability And Medical Expenses Definitions** is modified as follows:

1. Paragraph **F.3.** is replaced by the following:

- 3. "Bodily Injury" means bodily injury, sickness, disease, or incidental medical malpractice injury sustained by a person, and includes mental anguish resulting from any of these; and including death resulting from any of these at any time.

2. Paragraph **F.9.** is replaced by the following:

9. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. However, such part of a contract or agreement shall only be considered an "insured contract" to the extent your assumption of the tort liability is permitted by law. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

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

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

3. Paragraph **F.14.b. Personal And Advertising Injury** is replaced by the following:

- b. Malicious prosecution or abuse of process;