

## AGREEMENT

THIS AGREEMENT is entered into on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, (“Effective Date”) by and between Engineer Technologies, Inc. (hereinafter referred to as “the Engineer”) and the County of Lancaster, Nebraska (hereinafter referred to as “the County”). Collectively the County and the Engineer 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 professional engineering services at the Lancaster County Extension Office at 444 Cherrycreek Rd, Ste. A, Lincoln NE 68528-1507 (“Office”) for roof top unit (“RTU”) replacement; and

WHEREAS, the Engineer is willing to provide the County with said services and has the necessary skills, expertise, experience, facilities, personnel, systems, and capabilities to provide professional engineering services to the Office for RTU replacement;

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 from the date of execution through December 31, 2019, unless terminated pursuant to Paragraph 11 of this Agreement.
2. The Parties shall perform in good faith their respective duties under this Agreement.
  - A. The Engineer shall provide the following services, duties, and functions:
    - I. RTU Replacement plans and specifications consisting of replacing the two existing Trane RTUs with variable airflow RTUs and updating the control system to provide full control of the RTUs. Engineer shall:
      - a. Perform an HVAC load calculation of the current space to determine the heating and cooling capacity that is required.
      - b. Size and select replacement RTUs.
      - c. Coordinate HVAC control changes and upgrades with Intelligent Buildings.
      - d. Prepare and provide sealed working drawings, specifications, and other contract documents describing the material and workmanship requirement for the construction of the project. Only one set of sealed construction documents shall be provided. The Engineer shall not be responsible for errors or omissions by others in

incorporating the proposed recommendations into the construction documents.

- e. Prepare preliminary and final opinion of construction costs based on square footage or other means as required.
    - i. If a more thorough cost estimate from the Selected Contractor is required, this cost estimate will be billed separately, and the invoice received will be passed on directly as a Reimbursable Expense Charge at 105% of the actual cost of the cost estimate.
  - f. Coordinate bidding with County's Purchasing Department, assist in the solicitation for bids from qualified contractors, and attend a pre-bid conference and the bid opening.
  - g. After the bidding process is complete, evaluate the bid received and make a recommendation as to the lower responsible bidder for selection of a Selected Contractor.
- II. HVAC Changes services consisting of investigating the ductwork layout and zoning of the systems to optimize the temperate control of the Office. Engineer shall:
- a. Field verify existing ductwork, diffuser, VAV, and hot water layouts.
  - b. Evaluate the HVAC layout and note any potential areas where HVAC modifications could improve system operation or comfort.
  - c. Meet with County to discuss areas of concern and discuss options to resolve any desired changes.
  - d. Prepare and provide sealed working drawings, specification, and other contract documents describing the materials and workmanship required for the construction of the project.
- III. Construction Administration services consisting of providing coordination and supervision of the Selected Contractor after bidding has been completed, including scheduling management, shop drawings, installation verification, and system start-up. Engineer shall:

- a. Be the County's construction manager and be the point of contact for the County.
  - b. Handle all correspondence of construction documents including, but not limited to, shop drawings, requests for information, proposal requests, change orders, and pay applications review.
  - c. Issue additional instruction to the Selected Contractor as may be necessary to interpret the approved plans and specification or to illustrate changes required in the Selected Contractor's work.
  - d. When the Selected Contractor completes all the work in accordance with the terms of the Selected Contractor's contract, verify that the work done and materials supplied are in general conformance with the place and specification and recommend that final payment be issued to the Selected Contractor.
- B. Energy studies, cost comparisons of different systems, or other similar studies are not included within the scope of Section 2.A above. The Parties agree that Engineer, and the Engineer's subconsultants and subcontractors, if any, do not owe a fiduciary duty to County in the performance of this Agreement.
- C. The County shall:
- I. Be responsible for all services or items necessary for the project that are not specifically stated as part of Engineer's services.
  - II. Furnish full information related to the County's requirements for the project, including any special or extraordinary considerations or special services needed for the project.
  - III. Provide full and free access to the Office as reasonably necessary for Engineer to provide the services contemplated herein.
3. In consideration of the performance of Engineer's services, duties, and functions set forth in this Agreement, County shall pay to Engineer at the Standard Billing Rates rates set forth in Attachment A to this Agreement, which Attachment is attached hereto and incorporated herein by this reference.

In addition, County shall reimburse the Engineer for the Reimbursable Expense Charges set forth in Attachment A at the rates therefor set forth in Attachment A.

Total compensation for services, duties, and function plus Reimbursable Expense Charges shall not exceed \$20,000.00 unless additional expenditures are agreed upon in a written amendment to this Agreement executed subsequent to the Effective Date of this Agreement. The Engineer agrees that it shall not be paid for such services, duties, and functions until Engineer has provided to County such services, duties, and functions.

Engineer and County may, through a written amendment to this Agreement executed subsequent to the Effective Date of this Agreement, amend the Agreement to include additional services to be performed by Engineer at the rates set forth in Attachment A.

Engineer shall invoice County for the services, duties, and functions actually provided within 90 days of the actual provision of such services. Invoices shall contain at a minimum the following information: a) date services were provided, b) the name of the Engineer's employee who performed the services, c) the duration of services, d) the nature of services, e) the location of services, f) the hourly rate charged for the services, g) the extended charge for services at the indicated hourly rate, h) a grand total of hours and charges for services, and and i) a detail of Reimbursable Expenses. 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.

It is understood and agreed that the amount stated above shall represent total reimbursement for the services, duties, and functions provided pursuant to, and all other requirements of, this Agreement. 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 Parties agree that compensation is not, nor shall it be deemed, a retainer.

4. 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. Engineer 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. Engineer 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. Engineer agrees to indemnify and hold harmless, to the fullest extent allowed by law, the County and its principals, officials, 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, officials, 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, Engineer 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 Engineer to indemnify or hold harmless the County from liability for the negligent or wrongful acts or omissions of County or its principals, officials, 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. Engineer 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 to the other Party. Should either Party materially breach this Agreement, the other Party shall notify the breaching Party of the material breach in writing and the materially breaching Party will have fifteen (15) days to cure the material breach. If the material breach is not cured within fifteen (15) 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 Engineer, and the Agreement shall terminate without penalty or expense to the County. Upon termination of this Agreement, the County shall pay the Engineer 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 Engineer shall, prior to beginning work and at all times during its performance pursuant to this Agreement, comply with the requirements of the Insurance Clause for All City of Lincoln, Lancaster County and Public Building Commission Contracts, which is incorporated herein by this reference.
11. 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 Paragraph 11 pursuant to the requirements of state law and 8 U.S.C. § 1324b. Engineer shall require any subcontractor to comply with the provisions of this Paragraph 11.
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. 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.
14. 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 Engineer.
15. All notices, request for services, or other communications provided under this Agreement shall be in writing and shall be given to County or the Engineer at the address set forth below or such other address as either may specify hereafter in writing:

County:  
Karen Wobig  
444 Cherrycreek Rd. Ste. A

Engineer:  
Dan Thompson  
825 M Street

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


16. Engineer agrees to keep confidential all deliverables and all technical, product, business, financial, personal, and other information regarding the business and the software programs of County and/or or County's contractors (the "Confidential Information"), including but not limited to programming techniques and methods, research and development, computer programs documentation, marketing plans, customer identity, business methods, criminal justice records, and any other personally identifying information.
  - A. Engineer shall at all times protect and safeguard the Confidential Information and agrees not to disclose, give, transmit or otherwise convey any Confidential Information, in whole or in part, to any other party. Engineer's protections and safeguards shall not be less stringent than those that are employed, or should reasonably be employed, by Service Provider in protecting its own information of the same type as the Confidential Information.
  - B. Engineer agrees that it will not use any Confidential Information for its own purpose or for the benefit of any third party and shall honor the copyrights of County and will not copy, duplicate, or in any manner reproduce any such copyrighted materials.
  - C. The provisions of this Paragraph 17 shall survive termination or expiration of this Agreement. County shall have the right to take such action it deems necessary to protect its rights hereunder, including, without limitation, injunctive relief and any other remedies as may be available at law or equity.
17. Engineer agrees that all deliverables developed during hours billed to County are works made for hire and shall belong exclusively to County and no rights thereto shall accrue in any manner to Engineer. In addition, County shall be the sole owner of all patents, copyrights, trade secrets and other intellectual property rights related to the deliverables. Engineer does not have the right to use any deliverables if Engineer is not performing such services on behalf of County.
18. Engineer warrants that all deliverables shall be the original work product of Engineer and will not be based on, or derived from, the proprietary information or

items of a third party and that none of the deliverables will infringe any copyrights, patents, trade secrets, or other proprietary rights of a third party. Engineer warrants that the services, duties, and functions provided for under this Agreement shall be performed in a workmanlike and professional manner. Engineer warrants that all employees assigned to perform work under this Agreement shall have a level of skill and experience commensurate with the requirements of the task to which such employee is required to perform.

19. The laws and jurisdiction of the State of Nebraska shall govern any disputes or issues regarding the terms and conditions of this Agreement. The Parties further agree that they shall be subject to the jurisdiction of the State of Nebraska. If either Party brings against the other Party any proceeding arising out of this Agreement, that Party may bring that proceeding against the other Party only and exclusively in the Lancaster County District Court in Lincoln, Nebraska, and each Party hereby submits to the exclusive jurisdiction of that court for purposes of any such proceeding.
20. Neither Party shall be liable for any failure of or delay in the performance of this Agreement for the period that such failure or delay is due to causes beyond its reasonable control, including but not limited to acts of God, war, strikes or labor disputes, embargoes, government orders, or any other force majeure event.
21. Engineer agrees to comply with all related applicable local, state, and federal laws in its performance of this Agreement.
22. 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 or amended except by written agreement dated subsequent to the Effective Date of this Agreement and signed by all Parties.
23. The Undersigned hereby agrees and represents that he or she is legally capable to sign this Agreement and to lawfully bind the Engineer to the terms and conditions of this Agreement.



EXECUTED this 13 day of June, 2019, by Engineer.

By:   
("The Undersigned")

Name: Dan Thompson

Title: Principal

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Lancaster County, Nebraska.

By:

\_\_\_\_\_  
Roma Amundson, Chair  
Lancaster County Board of County  
Commissioners

APPROVED AS TO FORM

this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/18/2019

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).

<b>PRODUCER</b> The Harry A. Koch Co. P.O. Box 45279 Omaha NE 68145-0279	<b>CONTACT NAME:</b> <b>PHONE (A/C. No. Ext):</b> 402-861-7000		<b>FAX (A/C. No):</b>
	<b>E-MAIL ADDRESS:</b>		
<b>INSURER(S) AFFORDING COVERAGE</b>			<b>NAIC #</b>
<b>INSURER A:</b> Travelers Indemnity Company of America			25666
<b>INSURER B:</b> XL Specialty Insurance Co			37885
<b>INSURER C:</b> Charter Oak Fire Insurance Co.			25615
<b>INSURER D:</b> Travelers Property Casualty of America			25674
<b>INSURER E:</b>			
<b>INSURER F:</b>			

**COVERAGES**

CERTIFICATE NUMBER: 957568539

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	Y	6801J3590501947	6/1/2019	6/1/2020	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 1,000,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	6801J3590501947	6/1/2019	6/1/2020	COMBINED SINGLE LIMIT (Ea accident)	\$ 1,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CUP3478T7701947	6/1/2019	6/1/2020	EACH OCCURRENCE	\$ 4,000,000
							AGGREGATE	\$ 4,000,000
								\$
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	UB5K3266061947G	6/1/2019	6/1/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
							E.L. EACH ACCIDENT	\$ 500,000
							E.L. DISEASE - EA EMPLOYEE	\$ 500,000
							E.L. DISEASE - POLICY LIMIT	\$ 500,000
B	Architects/Engineers Professional Liability Claims Made Basis		Y	DPR9933864	11/4/2018	11/4/2019	\$1,000,000 \$2,000,000	Ea.Claim Aggregate

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

City of Lincoln/Lancaster County Purchasing Agent are additional insured for general liability if required by written contract executed prior to loss. 30 days notice of cancellation will be supplied by the named insured.

**CERTIFICATE HOLDER****CANCELLATION**

City of Lincoln/Lancaster County Purchasing Agent  
 440 So. 8th Street, Suite 200  
 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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GENERAL PURPOSE ENDORSEMENT  
OFFICE PAC

POLICY NUMBER: 680-1J359050-19-47  
ISSUE DATE: 04/08/2019

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

CG2037 (07-04) - ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS -  
COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:  
COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

**NAMES OF ADDITIONAL INSURED PERSON(S) OR ORGANIZATION(S):**

Any person or organization that you agree in a written contract to include as an additional insured on this Coverage Part for "bodily injury" or "property damage" included in the products-completed operations hazard, provided that such contract was signed and executed by you before, and is in effect when, the "bodily injury or "property damage" occurs.

**LOCATION AND DESCRIPTION OF COMPLETED OPERATIONS:**

Any project to which a written contract with the Additional Insured Person(s) or Organization(s) in the Schedule applies.

(INFORMATION REQUIRED TO COMPLETE THIS SCHEDULE, IF NOT SHOWN ABOVE, WILL BE SHOWN IN THE DECLARATIONS.)

A. SECTION II - WHO IS AN INSURED IS AMENDED TO INCLUDE AS AN ADDITIONAL INSURED THE PERSON(S) OR ORGANIZATION(S) SHOWN IN THE SCHEDULE, BUT ONLY WITH RESPECT TO LIABILITY FOR "BODILY INJURY", "PROPERTY DAMAGE" CAUSED, IN WHOLE OR IN PART, BY "YOUR WORK" AT THE LOCATION DESIGNATED AND DESCRIBED IN THE SCHEDULE OF THIS ENDORSEMENT PERFORMED FOR THAT ADDITIONAL INSURED AND INCLUDED IN THE "PRODUCTS-COMPLETED OPERATIONS HAZARD".

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GENERAL PURPOSE ENDORSEMENT  
OFFICE PAC

POLICY NUMBER: 680-1J359050-19-47  
ISSUE DATE: 04/08/2019

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

CG2037 (07-04) - ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS -  
COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

Page 1 of 1

GENERAL PURPOSE ENDORSEMENT  
OFFICE PAC

POLICY NUMBER: 680-1J359050-19-47  
ISSUE DATE: 04/08/2019

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

CGD361 (03-05) - ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS -  
SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS -  
SCHEDULED PERSON OR ORGANIZATION

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

**SCHEDULE**

**NAMES OF ADDITIONAL INSURED PERSON(S) OR ORGANIZATION(S):**

Any person or organization that you agree in a written contract to include as an additional insured on this Coverage Part, provided that such written contract was signed by you before, and is in effect when, the "bodily injury" or "property damage" occurs or the "personal injury" or "advertising injury" offense is committed.

**LOCATION OF COVERED OPERATIONS:**

Any project to which a written contract with the Additional Insured Person(s) or Organization(s) in the Schedule applies.

(INFORMATION REQUIRED TO COMPLETE THIS SCHEDULE, IF NOT SHOWN ABOVE, WILL BE SHOWN IN THE DECLARATIONS.)

A. SECTION II - WHO IS AN INSURED IS AMENDED TO INCLUDE AS AN ADDITIONAL INSURED THE PERSON(S) OR ORGANIZATION(S) SHOWN IN THE SCHEDULE, BUT ONLY WITH RESPECT TO LIABILITY FOR "BODILY INJURY", "PROPERTY DAMAGE", PERSONAL INJURY OR "ADVERTISING INJURY" CAUSED, IN WHOLE OR IN PART, BY:

1. YOUR ACTS OR OMISSIONS; OR
2. THE ACTS OR OMISSIONS OF THOSE ACTING ON YOUR BEHALF; IN THE PERFORMANCE OF YOUR ONGOING OPERATIONS FOR THE ADDITIONAL INSURED(S) AT THE LOCATION(S) DESIGNATED ABOVE.

B. WITH RESPECT TO THE INSURANCE AFFORDED TO THESE ADDITIONAL INSURED,

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

CGD361 (03-05) - ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS -  
SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

THE FOLLOWING ADDITIONAL EXCLUSIONS APPLY: THIS INSURED DOES NOT APPLY TO "BODILY INJURY" OR "PROPERTY DAMAGE" OCCURRING, OR "PERSONAL INJURY" OR "ADVERTISING INJURY" ARISING OUT OF AN OFFENSE COMMITTED, AFTER:

1. ALL WORK, INCLUDING MATERIALS, PARTS OR EQUIPMENT FURNISHED IN CONNECTION WITH SUCH WORK, ON THE PROJECT (OTHER THAN SERVICE, MAINTENANCE OR REPAIRS) TO BE PERFORMED BY OR ON BEHALF OF THE ADDITIONAL INSURED(S) AT THE LOCATION OF THE COVERED OPERATIONS HAS BEEN COMPLETED; OR
2. THAT PORTION OF "YOUR WORK" OUT OF WHICH THE INJURY OR DAMAGE ARISES HAS BEEN PUT TO ITS INTENDED USE BY ANY PERSON OR ORGANIZATION OTHER THAN ANOTHER CONTRACTOR OR SUBCONTRACTOR ENGAGED IN PERFORMING OPERATIONS FOR A PRINCIPAL AS A PART OF THE SAME PROJECT.

CG D3 61 03 05

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# **XTEND ENDORSEMENT FOR ARCHITECTS, ENGINEERS AND SURVEYORS**

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. 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.** Non-Owned Watercraft – 75 Feet Long Or Less
- B.** Who Is An Insured – Unnamed Subsidiaries
- C.** Who Is An Insured – Retired Partners, Members, Directors And Employees
- D.** Who Is An Insured – Employees And Volunteer Workers – Bodily Injury To Co-Employees, Co-Volunteer Workers And Retired Partners, Members, Directors And Employees
- E.** Who Is An Insured – Newly Acquired Or Formed Limited Liability Companies
- F.** Blanket Additional Insured – Controlling Interest
- G.** Blanket Additional Insured – Mortgagees, Assignees, Successors Or Receivers
- H.** Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Premises
- I.** Blanket Additional Insured – Governmental Entities – Permits Or Authorizations Relating To Operations
- J.** Incidental Medical Malpractice
- K.** Medical Payments – Increased Limit
- L.** Amendment Of Excess Insurance Condition – Professional Liability
- M.** Blanket Waiver Of Subrogation – When Required By Written Contract Or Agreement
- N.** Contractual Liability – Railroads

**PROVISIONS**

**A. NON-OWNED WATERCRAFT – 75 FEET LONG OR LESS**

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) 75 feet long or less; and
    - (b) Not being used to carry any person or property for a charge;
2. The following replaces Paragraph 2.e. of **SECTION II – WHO IS AN INSURED**:
  - e. Any person or organization that, with your express or implied consent, either

uses or is responsible for the use of a watercraft that you do not own that is:

- (1) 75 feet long or less; and
- (2) Not being used to carry any person or property for a charge;

**B. WHO IS AN INSURED – UNNAMED SUBSIDIARIES**

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

Any of your subsidiaries, other than a partnership or joint venture, that is not shown as a Named Insured in the Declarations is a Named Insured if:

- a. You are the sole owner of, or maintain an ownership interest of more than 50% in, such subsidiary on the first day of the policy period; and



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- b. Such subsidiary is not an insured under similar other insurance.

No such subsidiary is an insured for "bodily injury" or "property damage" that occurred, or "personal and advertising injury" caused by an offense committed:

- a. Before you maintained an ownership interest of more than 50% in such subsidiary; or
- b. After the date, if any, during the policy period that you no longer maintain an ownership interest of more than 50% in such subsidiary.

For purposes of Paragraph 1. of Section II – Who Is An Insured, each such subsidiary will be deemed to be designated in the Declarations as:

- a. A limited liability company;
  - b. An organization other than a partnership, joint venture or limited liability company; or
  - c. A trust;
- as indicated in its name or the documents that govern its structure.

### C. WHO IS AN INSURED – RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES

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

Any person who is your retired partner, member, director or "employee" that is performing services for you under your direct supervision, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, no such retired partner, member, director or "employee" is an insured for:

- (1) "Bodily injury":
  - (a) To you, to your current partners or members (if you are a partnership or joint venture), to your current members (if you are a limited liability company) or to your current directors;
  - (b) To the spouse, child, parent, brother or sister of that current partner, member or director as a consequence of Paragraph (1)(a) above;
  - (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
  - (d) Arising out of his or her providing or failing to provide professional health care services.

Unless you are in the business or occupation of providing professional health care services, Paragraphs (1)(a), (b), (c) and (d) above do not apply to "bodily injury" arising out of providing or failing to provide first aid or "Good Samaritan services" by any of your retired partners, members, directors or "employees", other than a doctor. Any such retired partners, members, directors or "employees" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

#### (2) "Personal injury":

- (a) To you, to your current or retired partners or members (if you are a partnership or joint venture), to your current or retired members (if you are a limited liability company), to your other current or retired directors or "employees" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that current or retired partner, member, director, "employee" or "volunteer worker" as a consequence of Paragraph (2)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (2)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

#### (3) "Property damage" to property:

- (a) Owned, occupied or used by; or
  - (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;
- you, any of your retired partners, members or directors, your current or retired "employees" or "volunteer workers", any current partner or member (if you are a partnership or joint venture), or any current member (if you are a limited liability company) or current director.

**D. WHO IS AN INSURED – EMPLOYEES AND VOLUNTEER WORKERS – BODILY INJURY TO CO-EMPLOYEES, CO-VOLUNTEER WORKERS AND RETIRED PARTNERS, MEMBERS, DIRECTORS AND EMPLOYEES**

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

Paragraphs (1)(a), (b) and (c) above do not apply to "bodily injury" to a current or retired co-"employee" while in the course of the co-"employee's" employment by you or performing duties related to the conduct of your business, or to "bodily injury" to your other "volunteer workers" or retired partners, members or directors while performing duties related to the conduct of your business.

**E. WHO IS AN INSURED – NEWLY ACQUIRED OR FORMED LIMITED LIABILITY COMPANIES**

The following replaces Paragraph 3. of SECTION II – WHO IS AN INSURED:

3. Any organization you newly acquire or form, other than a partnership or joint venture, and of which you are the sole owner or in which you maintain an ownership interest of more than 50%, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only:

(1) Until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier, if you do not report such organization in writing to us within 180 days after you acquire or form it; or

(2) Until the end of the policy period, when that date is later than 180 days after you acquire or form such organization, if you report such organization in writing to us within 180 days after you acquire or form it;

b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

For the purposes of Paragraph 1. of Section II – Who Is An Insured, each such

organization will be deemed to be designated in the Declarations as:

- a. A limited liability company;
  - b. An organization other than a partnership, joint venture or limited liability company; or
  - c. A trust;
- as indicated in its name or the documents that govern its structure.

**F. BLANKET ADDITIONAL INSURED – CONTROLLING INTEREST**

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

Any person or organization that has financial control of you is an insured with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" that arises out of:

- a. Such financial control; or
- b. Such person's or organization's ownership, maintenance or use of premises leased to or occupied by you.

The insurance provided to such person or organization does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

2. The following is added to Paragraph 4. of SECTION II – WHO IS AN INSURED:

This paragraph does not apply to any premises owner, manager or lessor that has financial control of you.

**G. BLANKET ADDITIONAL INSURED – MORTGAGEES, ASSIGNEES, SUCCESSORS OR RECEIVERS**

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

Any person or organization that is a mortgagee, assignee, successor or receiver and that you have agreed in a written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to its liability as mortgagee, assignee, successor or receiver for "bodily injury", "property damage" or "personal and advertising injury" that:

- a. Is "bodily injury" or "property damage" that occurs, or is "personal and advertising injury" caused by an offense that is committed,

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subsequent to the signing of that contract or agreement; and

- b. Arises out of the ownership, maintenance or use of the premises for which that mortgagee, assignee, successor or receiver is required under that contract or agreement to be included as an additional insured on this Coverage Part.

The insurance provided to such mortgagee, assignee, successor or receiver is subject to the following provisions:

- a. The limits of insurance provided to such mortgagee, assignee, successor or receiver will be the minimum limits that you agreed to provide in the written contract or agreement, or the limits shown in the Declarations, whichever are less.
- b. The insurance provided to such person or organization does not apply to:
  - (1) Any "bodily injury" or "property damage" that occurs, or any "personal and advertising injury" caused by an offense that is committed, after such contract or agreement is no longer in effect; or
  - (2) Any "bodily injury", "property damage" or "personal and advertising injury" arising out of any structural alterations, new construction or demolition operations performed by or on behalf of such mortgagee, assignee, successor or receiver.

### H. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO PREMISES

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

Any governmental entity that has issued a permit or authorization with respect to premises owned or occupied by, or rented or loaned to, you and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of any of the following for which that governmental entity has issued such permit or authorization: advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away

openings, sidewalk vaults, elevators, street banners or decorations.

### I. BLANKET ADDITIONAL INSURED – GOVERNMENTAL ENTITIES – PERMITS OR AUTHORIZATIONS RELATING TO OPERATIONS

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

Any governmental entity that has issued a permit or authorization with respect to operations performed by you or on your behalf and that you are required by any ordinance, law, building code or written contract or agreement to include as an additional insured on this Coverage Part is an insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" arising out of such operations.

The insurance provided to such governmental entity does not apply to:

- a. Any "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the governmental entity; or
- b. Any "bodily injury" or "property damage" included in the "products-completed operations hazard".

### J. INCIDENTAL MEDICAL MALPRACTICE

1. The following replaces Paragraph **b.** of the definition of "occurrence" in the **DEFINITIONS** Section:

- b. An act or omission committed in providing or failing to provide "incidental medical services", first aid or "Good Samaritan services" to a person, unless you are in the business or occupation of providing professional health care services.

2. The following replaces the last paragraph of Paragraph **2.a.(1)** of **SECTION II – WHO IS AN INSURED**:

Unless you are in the business or occupation of providing professional health care services, Paragraphs **(1)(a)**, **(b)**, **(c)** and **(d)** above do not apply to "bodily injury" arising out of providing or failing to provide:

- (a) "Incidental medical services" by any of your "employees" who is a nurse, nurse assistant, emergency medical technician, paramedic, athletic trainer, audiologist, dietician, nutritionist,

occupational therapist or occupational therapy assistant, physical therapist or speech-language pathologist; or

- (b) First aid or "Good Samaritan services" by any of your "employees" or "volunteer workers", other than an employed or volunteer doctor. Any such "employees" or "volunteer workers" providing or failing to provide first aid or "Good Samaritan services" during their work hours for you will be deemed to be acting within the scope of their employment by you or performing duties related to the conduct of your business.

- 3. The following replaces the last sentence of Paragraph 5. of **SECTION III – LIMITS OF INSURANCE:**

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

- 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 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 the **DEFINITIONS** Section:

"Incidental medical services" means:

- a. Medical, surgical, dental, laboratory, x-ray or nursing service or treatment, advice or instruction, or the related furnishing of food or beverages; or
- b. The furnishing or dispensing of drugs or medical, dental, or surgical supplies or appliances.

- 6. 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 any of your "employees" for "bodily injury" that arises out of providing or failing to provide "incidental medical services" to any person to the extent not subject to Paragraph 2.a.(1) of Section II – Who Is An Insured.

**K. MEDICAL PAYMENTS – INCREASED LIMIT**

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

- 7. Subject to Paragraph 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 in the Declarations of this Coverage Part for Medical Expense Limit.

**L. AMENDMENT OF EXCESS INSURANCE CONDITION – PROFESSIONAL LIABILITY**

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

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis, that is Professional Liability or similar coverage, to the extent the loss is not subject to the professional services exclusion of Coverage A or Coverage B.

**M. BLANKET WAIVER OF SUBROGATION – WHEN REQUIRED BY WRITTEN CONTRACT OR AGREEMENT**

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

If the insured has agreed in a written contract or agreement to waive that insured's right of recovery against any person or organization, we waive our right of recovery against such person or organization, but only for payments we make because of:

- a. "Bodily injury" or "property damage" that occurs; or
- b. "Personal and advertising injury" caused by an offense that is committed;

subsequent to the signing of that contract or agreement.

**N. CONTRACTUAL LIABILITY – RAILROADS**

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