MASTER ENABLING AGREEMENT
SEISMIC PEER REVIEW 06/2023

This AGREEMENT is made and entered into this twenty-second day of June 2023 pursuant to the Public Contract Code Section 10700, et seq., by and between the Trustees of the California State University on behalf of

<table>
<thead>
<tr>
<th>Campus, hereafter referred to as Trustees, and</th>
<th>Amendment No.:</th>
<th>Agreement No.:</th>
<th>Is agreement for Design Professional services:</th>
<th>Project No.:</th>
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<tbody>
<tr>
<td>California State University</td>
<td>2</td>
<td>21-484</td>
<td>Yes (GP-8b)</td>
<td>N/A</td>
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<tr>
<th>Service Provider, hereafter referred to as Service Provider:</th>
<th>CSU Vendor ID No.:</th>
<th>License Number:</th>
<th>DIR No.:</th>
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<tr>
<td>Estructure, Inc.</td>
<td>9023</td>
<td>S 2995, C 37364</td>
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WITNESSETH: That the Service Provider in consideration of the statements and conditions herein contained, agrees to furnish labor, materials, and equipment and to perform work necessary to complete, in a skillful manner the following:

The Service Provider shall provide seismic peer review services for public works projects submitted by the California State University. This agreement is a master enabling agreement under which each campus and the administrative office of the California State University may engage the services of Service Provider as provided herein. Campuses and the administrative office shall execute a Service Order and Authorization to Proceed (Exhibit C) to secure Service Provider's peer review services under this Agreement.

Agreement No. 21-484, dated July 1, 2021, is hereby amended as follows:

1. This amendment exercises the option to extend the term for an additional one (1) year. The term of this agreement shall now end June 30, 2024, with no options remaining.

Except as amended herein, all terms and conditions of the original Agreement remain unchanged.

The Service Provider shall not perform services in excess of the Agreement without prior written authorization to proceed from the Trustees' Representative. The total amount to be expended under this Agreement shall be determined by the overall usage by each participating University and administrative office of the California State University. Service Provider shall report to Trustees' Representative, Universities, and the administrative offices.

The basic services amount to be expended under this Agreement shall be determined by the overall usage of each participating University and the administrative office of the California State University. Payment shall be made in accordance with Exhibit B.

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<th>Trustees of the California State University</th>
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<td>By (Trustees' Authorized Signature)</td>
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<td>Printed Name and Title of Person Signing</td>
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<tr>
<td>Address of Campus Project Administrator</td>
<td>Address of Service Provider</td>
</tr>
<tr>
<td>Capital Planning, Design and Construction</td>
<td>1144 65th Street, Suite A</td>
</tr>
<tr>
<td>401 Golden Shore, Long Beach, CA 90802</td>
<td>Oakland, CA 94608</td>
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This Agreement may be executed in counterparts all of which taken together shall constitute one and the same Agreement. The exchange of copies of this Agreement by electronic mail in "portable document format" ("PDF") form or by other similar electronic means shall constitute effective execution and delivery of this Agreement and shall have the same effect as copies executed and delivered with original signatures.
**CERTIFICATE OF LIABILITY INSURANCE**

**PRODUCER**
AssuredPartners Design Professionals Insurance Services, LLC
3697 Mt. Diablo Blvd, Suite 230
Lafayette CA 94549

**INSURED**
Estructure Inc.
1144 65th Street, Suite A
Emeryville CA 94608

**CONTACT**
Kaitlin Murray
CertsDesignPro@AssuredPartners.com

**INsurER(S) AFFORDING COVERAGE**
- Sentinel Insurance Company
  - License#: 6003745
  - 11000
- XL Specialty Insurance Company
  - License#: 6003745
  - 37885
- HARTFORD INSURANCE COMPANY
  - License#: 6003745
  - 38288

**COVERAGES**

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<td>57WEGGE6932</td>
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<td>6/12/2023</td>
<td>6/12/2024</td>
<td>Per Claim Aggregate Limit</td>
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**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES**

ACORD 101, Additional Remarks Schedule, may be attached if more space is required.

Insured owns no company vehicles; therefore, hired/non-owned auto is the maximum coverage that applies.

RE: Agreement No. 210016, Seismic Review Board Service Agreement Amendment 2

The State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents are named as additional insureds as respects general and auto liability as required per written contract or agreement. General and Auto Liability are Primary/Non-Contributory per policy form wording.

**CERTIFICATE HOLDER**
California State University
401 Golden Shore, 4th Floor
Long Beach CA 90802-4210

**AUTHORIZED REPRESENTATIVE**

© 1988-2015 ACORD CORPORATION. All rights reserved.
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF OUR RIGHT TO RECOVER FROM 
OTHERS ENDORSEMENT - CALIFORNIA

Policy Number: 57WEGGE6932  
Effective Date: 07/06/2023  
Named Insured and Address: Estructure Inc.  
1144 65th Street, Suite A  
Emeryville, CA 94608

Endorsement Number:  
Effective hour is the same as stated on the Information Page of the policy.

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

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be 2% of the California workers' compensation premium otherwise due on such remuneration.

SCHEDULE

Person or Organization  
Job Description

Any person or organization from whom you are required by written contract or agreement to obtain this waiver of rights from us

Countersigned by

Authorized Representative

Policy Expiration Date: 07/06/2024
ADDITIONAL INSURED PROVISIONS - CALIFORNIA

This endorsement modifies insurance provided under the following:

BUSINESS LIABILITY COVERAGE FORM

A. It is agreed that paragraph (2) of subsections 6.d. and 6.f. of Section C - WHO IS AN INSURED is replaced by the following:

(2) The insurance afforded by paragraph (1) above does not apply if your acts or omissions, or the acts or omissions of those acting on your behalf, that are alleged to have caused the "bodily injury", "property damage" or "personal and advertising injury", involve professional architectural, engineering or surveying services, including but not limited to:

(a) The preparing, approving, editing of or failure to prepare or approve, shop drawings, maps, opinions, reports, surveys, change orders, field orders, designs, drawings, specifications, warnings, recommendations, permit applications, payment requests, manuals or instructions;

(b) Supervisory, inspection, quality control, architectural, engineering or surveying activities or services;

(c) Maintenance of job site safety, construction administration, construction contracting, construction management, computer consulting or design software development or programming service, or selection of a contractor or programming service;

(d) Monitoring, sampling, or testing service necessary to perform any of the services included in a. b. or c. above;

(e) Supervision, hiring, employment, training or monitoring of others who are performing any of the services included in a., b. or c. above.

The insurance afforded to such additional insured:

(a) Only applies to the extent permitted by law; and

(b) Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. It is agreed that the following paragraphs are added to the end of subsections 1. and 8. of Section F - OPTIONAL ADDITIONAL INSURED COVERAGES; and it is agreed the following paragraphs replace section b. of subsection 9. of Section F - OPTIONAL ADDITIONAL INSURED COVERAGES. These paragraphs do not attach or amend the language of any of the other subsections of Section F - OPTIONAL ADDITIONAL INSURED COVERAGES:

The insurance afforded by this subsection does not apply if your acts or omissions, or the acts or omissions of those acting on your behalf, that are alleged to have caused the "bodily injury", "property damage" or "personal and advertising injury", involve professional architectural, engineering or surveying services, including but not limited to:

(a) The preparing, approving, editing of or failure to prepare or approve, shop drawings, maps, opinions, reports, surveys, change orders, field orders, designs, drawings, specifications, warnings, recommendations, permit applications, payment requests, manuals or instructions;

(b) Supervisory, inspection, quality control, architectural, engineering or surveying activities or services;

(c) Maintenance of job site safety, construction administration, construction contracting, construction management, computer consulting or design software development or programming service, or selection of a contractor or programming service;

(d) Monitoring, sampling, or testing service necessary to perform any of the services included in a. b. or c. above;

(e) Supervision, hiring, employment, training or monitoring of others who are performing any of the services included in a., b. or c. above.

The insurance afforded to such additional insured:

(a) Only applies to the extent permitted by law; and

(b) Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
(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 "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. **Real Estate Manager**
   Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. **Temporary Custodians Of Your Property**
   Any person or organization having proper temporary custody of your property if you die, but only:
   (1) With respect to liability arising out of the maintenance or use of that property; and
   (2) Until your legal representative has been appointed.

d. **Legal Representative If You Die**
   Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

e. **Unnamed Subsidiary**
   Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.
   The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

3. **Newly Acquired Or Formed Organization**
   Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, 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 until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

4. **Operator Of Mobile Equipment**
   With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability.
   However, no person or organization is an insured with respect to:
   a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
   b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. **Operator of Nonowned Watercraft**
   With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.
   However, no person or organization is an insured with respect to:
   a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
   b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

6. **Additional Insureds When Required By Written Contract, Written Agreement Or Permit**
   The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written
contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section F. – Optional Additional Insured Coverages.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), 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 and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance 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:

(i) The exceptions contained in Subparagraphs (d) or (f); or

(ii) 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.

b. Lessors Of Equipment

(1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.
(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

c. Lessors Of Land Or Premises

(1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or

(b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

(1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In connection with your premises; or

(b) In the performance of your ongoing operations performed by you or on your behalf.

(2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

e. Permits Issued By State Or Political Subdivisions

(1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

(1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations;

(b) In connection with your premises owned by or rented to you; or

(c) In connection with "your work" and included within the "products-completed operations hazard", but only if

(i) The written contract or written agreement requires you to provide such coverage to such additional insured; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
(b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. – Liability And Medical Expenses General Conditions.

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.

D. LIABILITY AND MEDICAL EXPENSES

LIMITS OF INSURANCE

1. The Most We Will Pay
   The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
   a. Insureds;
   b. Claims made or "suits" brought; or
   c. Persons or organizations making claims or bringing "suits".

2. Aggregate Limits
   The most we will pay for:
   a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.
   b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

   This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

   "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or right-of-way of a railroad.

3. Each Occurrence Limit
   Subject to 2.a. or 2.b above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

   The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

4. Personal And Advertising Injury Limit
   Subject to 2.b. above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

5. Damage To Premises Rented To You Limit
   The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

   In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

6. How Limits Apply To Additional Insureds
   The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:
   a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or
   b. The Limits of Insurance shown in the Declarations.

   Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.
BUSINESS LIABILITY COVERAGE FORM

(1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit";

(4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insured's Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. Additional Insured's Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity. However, this provision does not apply to the extent that you have agreed in a written contract, agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs a. and b. 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 f. applies separately to you and any additional insured.

3. Financial Responsibility Laws
   a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
   b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. Legal Action Against Us
   No person or organization has a right under this Coverage Form:
   a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
   b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

   A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. Separation Of Insureds
   Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:
   a. As if each Named Insured were the only Named Insured; and
   b. Separately to each insured against whom a claim is made or "suit" is brought.

6. Representations
   a. When You Accept This Policy
      By accepting this policy, you agree:
      (1) The statements in the Declarations are accurate and complete;
      (2) Those statements are based upon representations you made to us; and
      (3) We have issued this policy in reliance upon your representations.
   b. Unintentional Failure To Disclose Hazards
      If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

7. Other Insurance
   If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:
   a. Primary Insurance
      This insurance is primary except when b. below applies. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.
   b. Excess Insurance
      This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:
      (1) Your Work
         That is Fire, Extended Coverage, Builder’s Risk, Installation Risk or similar coverage for "your work";
      (2) Premises Rented To You
         That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;
      (3) Tenant Liability
         That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;
      (4) Aircraft, Auto Or Watercraft
         If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section A. – Coverages.
      (5) Property Damage To Borrowed Equipment Or Use Of Elevators
         If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section A. – Coverages.
(6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured’s own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

Bussiness Liability Coverage Form

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

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

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.
THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

HIRED AUTO AND NON-OWNED AUTO

This endorsement modifies insurance provided under the following:

BUSINESS LIABILITY COVERAGE FORM

This coverage is subject to all provisions in the BUSINESS LIABILITY COVERAGE FORM not expressly modified herein:

A. Amended Coverage:

Coverage is extended to "bodily injury" and "property damage" arising out of the use of a "hired auto" and "non-owned auto".

B. Paragraph B. EXCLUSIONS is amended as follows:

1. Exclusion g. Aircraft, Auto or Watercraft does not apply to a "hired auto" or a "non-owned auto".

2. Exclusion e. Employers Liability does not apply to "bodily injury" to domestic "employees" not entitled to workers’ compensation benefits or to liability assumed by the "insured" under an "insured contract".

3. Exclusion f. Pollution is replaced by the following:

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

a. That are, or that are contained in any property that is:

(1) Being transported or towed by, handled, or handled for movement into, onto or from, the covered "auto";

(2) Otherwise in the course of transit by or on behalf of the "insured"; or

(3) Being stored, disposed of, treated or processed in or upon the covered "auto".

b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if:

(1) The "pollutants" escape, seep, migrate, or are discharged or released directly from an "auto" part designed by its manufacturer to hold, store, receive, or dispose of such "pollutants"; and

(2) The "bodily injury" and "property damage" does not arise out of the operation of any equipment listed in paragraphs 15.b. and 15.c. of the definition of "mobile equipment".

Paragraphs b. and c. above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

(1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
(2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage as a result of the maintenance or use of a covered "auto".

4. With respect to this coverage, the following additional exclusions apply:
   a. Fellow employee
      Coverage does not apply to "bodily injury" to any fellow "employee" of the "insured" arising out of the operation of an "auto" owned by the "insured" in the course of the fellow "employee"'s employment.
   b. Care, custody or control
      Coverage does not apply to "property damage" involving property owned or transported by the "insured" or in the "insured's" care, custody or control.

C. With respect to "hired auto" and "non-owned auto" coverage, Paragraph C. WHO IS AN INSURED is deleted and replaced by the following:
   The following are "insureds":
   a. You.
   b. Your "employee" while using with your permission:
      (1) An "auto" you hire or borrow; or
      (2) An "auto" you don't own, hire or borrow in your business or personal affairs; or
      (3) An "auto" hired or rented by your "employee" on your behalf and at your direction.
   c. Anyone else while using a "hired auto" or "non-owned auto" with your permission except:
      (1) The owner or anyone else from whom you hire or borrow an "auto".
      (2) Someone using an auto while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours.
      (3) Anyone other than your "employees", partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees", while moving property to or from an "auto".
      (4) A partner (if you are a partnership), or a member (if you are a limited liability company) for an "auto" owned by him or her or a member of his or her household.
   d. Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.

D. With respect to the operation of a "hired auto" and "non-owned auto", the following additional conditions apply:

1. OTHER INSURANCE
   a. Except for any liability assumed under an "insured contract" the insurance provided by this Coverage Form is excess over any other collectible insurance. However, if your business is the selling, servicing, repairing, parking or storage of "autos", the insurance provided by this endorsement is primary when covered "bodily injury" or "property damage" arises out of the operation of a customer's "auto" by you or your "employee".
   b. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

2. TWO OR MORE COVERAGE FORMS OR POLICIES ISSUED BY US
   If the Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us apply to the same "accident", the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

E. The following definitions are added:

G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS:
   1. "Hired auto" means any "auto" you lease, hire, rent or borrow. This does not include any auto you lease, hire, rent or borrow from any of your "employees", your partners (if you are a partnership), members (if you are a limited liability company),
or your "executive officers" or members of their households.
This does not include a long-term leased "auto" that you insure as an owned "auto" under any other auto liability insurance policy or a temporary substitute for an "auto" you own that is out of service because of its breakdown, repair, servicing or destruction.

2. "Non-owned auto " means any "auto" you do not own, lease, hire, rent or borrow which is used in connection with your business. This includes:
   a. "Autos" owned by your "employees" your partners (if you are a partnership), members (if you are a limited liability company), or your "executive officers", or members of their households, but only while used in your business or your personal affairs.
   b. Customer's "auto" that is in your care, custody or control for service.