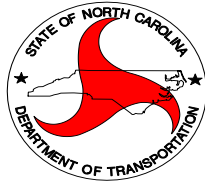


STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION



Division 14

District 3

SBE Contract

CONTRACT: DN12107181
TIP Number: N/A
FEDERAL: STATE FUNDED
WBS Element: 14B.1020, ETC...
LOCATION: VARIOUS ROUTES THROUGHOUT CHEROKEE, CLAY,
GRAHAM, AND MACON COUNTIES
COUNTY: CHEROKEE, CLAY, GRAHAM, MACON
DESCRIPTION: ID-IQ ON-CALL BRIDGE PRESERVATION SERVICES
DISTRICT 3 AT VARIOUS ROUTES THROUGHOUT
CHEROKEE, CLAY, GRAHAM, AND MACON COUNTIES

Contractor: Cam Contracting, LLC
Address: PO Box 607
Robbinsville, NC 28771

Division Engineer: Wanda Payne, P.E.
Bridge Maintenance engineer: Mark Hill, P.E.

Letting Date: 1/11/2024

Contract Execution: 02/08/2024

STATE OF NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION
HIGHWAY DIVISION 14

SMALL BUSINESS ENTERPRISE PROPOSAL

DATE AND TIME OF BID OPENING: JANUARY 11, 2024 AT 2:00 PM

CONTRACT ID: DN12107181

WBS ELEMENT NO.: 14B.1020, ETC...

FEDERAL AID NO.: STATE FUNDED

COUNTY: MACON, CLAY, CHEROKEE, AND GRAHAM

TIP NO.: N/A

MILES: VARIES

ROUTE NO.: VARIES

LOCATION: AT VARIOUS ROUTES THROUGHOUT CHEROKEE, CLAY,
GRAHAM, MACON COUNTIES

TYPE OF WORK: ID-IQ ON-CALL BRIDGE PRESERVATION SERVICES
DISTRICT 3

NOTICE:

UNDER THE PROVISIONS OF THIS PROGRAM, A N.C. GENERAL CONTRACTOR'S LICENSE IS NOT REQUIRED NOR ARE CONTRACT PAYMENT AND CONTRACT PERFORMANCE BONDS REQUIRED. BIDDERS SHALL ALSO COMPLY WITH ALL OTHER APPLICABLE LAWS, INCLUDING BUT NOT LIMITED TO, THOSE REGULATING THE PRACTICES OF ELECTRICAL, PLUMBING, HEATING AND AIR CONDITIONING AND REFRIGERATION CONTRACTING AS CONTAINED IN CHAPTER 87 OF THE GENERAL STATUTES OF NORTH CAROLINA.

THIS IS A ROADWAY PROJECT.

BID BOND IS NOT REQUIRED.

Cam Contracting, LLC

NAME OF BIDDER

PO Box 607, Robbinsville, NC 28771

ADDRESS OF BIDDER

**PROPOSAL FOR THE CONSTRUCTION OF
CONTRACT No. DN12107181 IN CHEROKEE, CLAY, GRAHAM, AND MACON COUNTIES,
NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION,
RALEIGH, NORTH CAROLINA**

The Bidder has carefully examined the location of the proposed work to be known as Contract No. **DN12107181**; has carefully examined the plans and specifications, which are acknowledged to be part of the proposal, the special provisions, the proposal, the form of contract; and thoroughly understands the stipulations, requirements and provisions. The undersigned bidder agrees to be bound upon his execution of the bid and subsequent award to him by the Department of Transportation in accordance with this proposal. Payment and performance bonds are not required on this project. The undersigned Bidder further agrees to provide all necessary machinery, tools, labor, and other means of construction; and to do all the work and to furnish all materials, except as otherwise noted, necessary to perform and complete the said contract in accordance with the *2024 Standard Specifications for Roads and Structures* by the dates(s) specified in the Project Special Provisions and in accordance with the requirements of the Engineer, and at the unit or lump sum prices, as the case may be, for the various items given on the sheets contained herein.

The Bidder shall provide and furnish all the materials, machinery, implements, appliances and tools, and perform the work and required labor to construct and complete Contract No. **DN12107181** in **Cherokee, Clay, Graham, and Macon Counties**, for the unit or lump sum prices, as the case may be, bid by the Bidder in his bid and according to the proposal, plans, and specifications prepared by said Department, which proposal, plans, and specifications show the details covering this project, and hereby become a part of this contract.

The published volume entitled *North Carolina Department of Transportation, Raleigh, Standard Specifications for Roads and Structures, January 2024* with all amendments and supplements thereto, is by reference incorporated into and made a part of this contract; that, except as herein modified, all the construction and work included in this contract is to be done in accordance with the specifications contained in said volume, and amendments and supplements thereto, under the direction of the Engineer.

If the proposal is accepted and the award is made, the contract is valid only when signed either by the Contract Officer or such other person as may be designated by the Secretary to sign for the Department of Transportation. The conditions and provisions herein cannot be changed except over the signature of the said Contract Officer or Division Engineer.

The quantities shown in the itemized proposal for the project are considered to be approximate only and are given as the basis for comparison of bids. The Department of Transportation may increase or decrease the quantity of any item or portion of the work as may be deemed necessary or expedient.

An increase or decrease in the quantity of an item will not be regarded as sufficient ground for an increase or decrease in the unit prices, nor in the time allowed for the completion of the work, except as provided for the contract.




DocuSigned by:

29BD93927CF24F6...
02/08/2024

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INSTRUCTIONS TO BIDDERS

PLEASE READ ALL INSTRUCTIONS CAREFULLY BEFORE PREPARING AND SUBMITTING YOUR BID.

All bids shall be prepared and submitted in accordance with the following requirements. Failure to comply with any requirement may cause the bid to be considered irregular and may be grounds for rejection of the bid.

TRADITIONAL PAPER BIDS:

1. Small Business Enterprise bidders shall submit a SBE Application for Certification Form within the NC Online Certification System on the Department's website and have been approved by the Office of Civil Rights prior to bidding. The SBE shall submit this form for approval at a minimum of one week prior to bidding.
2. Download the entire proposal from the Connect NCDOT website and return the entire proposal with your bid.
3. Prior to submitting a bid on a project, the bidder shall sign up on the *Interested Parties List* in conformance with Article 102-3 unless the SP1 G02 Interested Parties List provision is in the contract.
4. All entries on the itemized proposal sheet (bid form) shall be written in ink or typed.
5. The Bidder shall submit a unit price for every item on the itemized proposal sheet. The unit prices for the various contract items shall be written in figures. Unit prices shall be rounded off by the Bidder to contain no more than FOUR decimal places.
6. An amount bid shall be entered on the itemized proposal sheet for every item. The amount bid for each item shall be determined by multiplying each unit bid by the quantity for that item, and shall be written in figures in the "Amount" column of the form.
7. The total amount bid shall be written in figures in the proper place on the bid form. The total amount bid shall be determined by adding the amounts bid for each item.
8. Changes to any entry shall be made by marking through the entry in ink and making the correct entry adjacent thereto in ink. A representative of the Bidder shall initial the change in ink. Do not use correction fluid, correction tape or similar product to make corrections.
9. The bid shall be properly executed on the included **Execution of Bid – Non-collusion, Debarment and Gift Ban Certification** form. All bids shall show the following information:
 - a. Name of corporation, partnership, Limited Liability Company, joint venture, individual or firm, submitting bid.
Corporations that have a corporate seal should include it on the bid.
 - b. Name of individual or representative submitting bid and position or title held on behalf of the bidder.
 - c. Name, signature, and position or title of witness.
10. The bid shall not contain any unauthorized additions, deletions, or conditional bids.
11. The Bidder shall not add any provision reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.
12. **THE PROPOSAL WITH THE ITEMIZED PROPOSAL SHEET ATTACHED SHALL BE PLACED IN A SEALED ENVELOPE AND SHALL BE DELIVERED TO AND RECEIVED IN THE NCDOT DIVISION OFFICE, LOCATED AT 253 Webster Road, BY 2:00 PM ON, January 11, 2024.**
13. The sealed bid must display the following statement on the front of the sealed envelope:
QUOTATION FOR – ID-IQ ON-CALL BRIDGE PRESERVATION SERVICES DISTRICT 3 AT VARIOUS ROUTES THROUGHOUT CHEROKEE, CLAY, GRAHAM, MACON COUNTIES TO BE OPENED AT 2:00 PM ON, January 11, 2024.

As well as the following information:

- a. Name of corporation, partnership, Limited Liability Company, joint venture, individual or firm, submitting bid.
- b. Name of individual or representative submitting bid and position or title held on behalf of the bidder.
- c. Address of corporation, partnership, Limited Liability Company, joint venture, individual or firm, submitting bid.

d. SAP Vendor Number of corporation, partnership, Limited Liability Company, joint venture, individual or firm, submitting bid.

e. Contractor Number, if applicable, of corporation, partnership, Limited Liability Company, joint venture, individual or firm, submitting bid.

14. If delivered by mail, the sealed envelope shall be placed in another sealed envelope and the outer envelope shall be addressed as follows:

**N. C. DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS, DIVISION 14**

**ATTN: Jeffrey E. Alspaugh, EI
253 Webster Road
Sylva, NC 28779**

15. Questions should be emailed 7 calendar days prior to the bid opening to **Jeffrey E. Alspaugh, EI** at **d14contracts@ncdot.gov**. Contact with any other NCDOT personnel concerning this project is strictly prohibited, unless otherwise noted, and may result in bids being considered non-responsive.

PROJECT SPECIAL PROVISIONS**GENERAL****MANDATORY PRE-BID CONFERENCE (Prequalifying To Bid):**

(7-18-06) (Rev. 01-09-24)

SPD 1-310

In order for all prospective bidders to have an extensive knowledge of the project, all prospective bidders shall attend a mandatory pre-bid conference on:

**January 3, 2024
10:00 AM**

Location:

**Downstairs Conference Room
N. C. Department of Transportation
Division Of Highways, Division 14
253 Webster Road
Sylva, NC 28779**

Point of Contact:

**Mark Hill
(828) 488 – 0902
mehill3@ncdot.gov**

The pre-bid conference will include a thorough discussion of the contract pay items, special provisions, etc.

Only bidders who have attended and properly registered at the above scheduled pre-bid conference and who have met all other prequalification requirements will be considered prequalified to bid on this project. A bid received from a bidder who has not attended and properly registered at the above scheduled pre-bid conference will not be accepted and considered for award.

Attendance at the pre-bid conference will not meet the requirements of proper registration unless the individual attending has registered at the pre-bid conference in accordance with the following:

- (A) The individual has signed his name on the official roster prior to the above noted time for the beginning of the conference.
- (B) The individual has written in the name and address of the company he or she represents.
- (C) Only one company has been shown as being represented by the individual attending.
- (D) The individual attending is an officer or permanent employee of the company they are representing.

Any individual arriving after the official roster has been received by the Engineer will not be eligible to bid. Attendance at any prior pre-bid conference will not meet the requirement of this provision.

INTERESTED PARTIES LIST:

(6-21-22)(Rev. 1-16-24)

102

SP1 G02

Revise the *Standard Specifications* as follows:

The *Interested Parties List* sign up process is not applicable to this contract.

Page 1-13, Article 102-3 PROPOSALS AND INTERESTED PARTIES LIST, lines 12-15, delete the first paragraph.

Page 1-14, Article 102-8 PREPARATION AND SUBMISSION OF BIDS, lines 43-44, delete the first sentence of the first paragraph.

CONTRACT TIME FOR ID/IQ:

(2-15-22)

108

SP1 G11

The date of availability for this contract is **February 5, 2024**.

The completion date for this contract is **February 4, 2025**.

Except where otherwise provided by the contract, observation periods required by the contract will not be a part of the work to be completed by the completion date and/or intermediate contract times stated in the contract. The acceptable completion of the observation periods that extend beyond the final completion date shall be a part of the work covered by the performance and payment bonds.

Work shall be accomplished in a continuous manner once the contractor begins.

Any liquidated damages for this contract will be assessed per the Mobilization and Liquidated Damages provision located elsewhere in this Contract.

INTERMEDIATE CONTRACT TIME NUMBER 1 AND LIQUIDATED DAMAGES:

(2-20-07)

108

SP1 G14 A

The Contractor shall complete the required work of installing, maintaining, and removing the traffic control devices for lane closures and restoring traffic to the existing traffic pattern. The Contractor shall not close or narrow a lane of traffic on **ANY ROAD** during the following time restrictions:

DAY AND TIME RESTRICTIONS**MONDAY THRU FRIDAY****7:00 AM – 8:00 AM****AND****5:00 PM – 6:00 PM****AND****SCHOOL DAYS:**

2:30 PM - 3:30 PM FOR WORK ORDERS REQUIRING LANE CLOSURES WITHIN 1 MILE OF A SCHOOL ON ANY ROUTE THAT RUNS IN FRONT THAT SCHOOL

In addition, the Contractor shall not close or narrow a lane of traffic on **ANY ROAD**, detain and/or alter the traffic flow on or during holidays, holiday weekends, special events, or any other time when traffic is unusually heavy, including the following schedules:

HOLIDAY AND HOLIDAY WEEKEND LANE CLOSURE RESTRICTIONS

1. For **unexpected occurrence** that creates unusually high traffic volumes, as directed by the Engineer.
2. For **New Year's Day**, between the hours of **4:00 PM** December 31st and **7:00 AM** January 2nd. If New Year's Day is on a Friday, Saturday, Sunday or Monday, then until **7:00 AM** the following Tuesday.
3. For **Easter**, between the hours of **4:00 PM** Thursday and **7:00 AM** Monday.
4. For **Memorial Day**, between the hours of **4:00 PM** Friday and **7:00 AM** Tuesday.
5. For **Independence Day**, between the hours of **4:00 PM** the day before Independence Day and **7:00 AM** the day after Independence Day.

If **Independence Day** is on a Friday, Saturday, Sunday or Monday, then between the hours of **4:00 PM** the Thursday before Independence Day and **7:00 AM** the Tuesday after Independence Day.

6. For **Labor Day**, between the hours of **4:00 PM** Friday and **7:00 AM** Tuesday.
7. For **Thanksgiving Day**, between the hours of **4:00 PM** Tuesday and **7:00 AM** Monday.
8. For **Christmas**, between the hours of **4:00 PM** the Friday before the week of Christmas Day and **7:00 AM** the following Tuesday after the week of Christmas Day.

Holidays and holiday weekends shall include New Year's, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. The Contractor shall schedule his work so that lane closures will not be required during these periods, unless otherwise directed by the Engineer.

The time of availability for this intermediate contract work shall be the time the Contractor begins to install all traffic control devices for lane closures according to the time restrictions listed herein.

The completion time for this intermediate contract work shall be the time the Contractor is required to complete the removal of all traffic control devices for lane closures according to the time restrictions stated above and place traffic in the existing traffic pattern.

The liquidated damages are **Two Hundred Fifty Dollars (\$ 250.00)** per hour.

NON-EXCLUSIVE CONTRACT:

(6-1-15)

SPD 01-750

The Department may, as it deems to be in the best interest of the state and the Department of Transportation, execute more than one contract based on this proposal. The Contractor(s) understands and agrees, by signature on the Purchase Order Contract Bid Proposal, that this agreement **does not** constitute an exclusive contract. If awarded, the contracts will be executed with the lowest responsible bidders. The Department of Transportation reserves the right to make multiple awards for the services provided by this contract. Furthermore, the Department reserves the right to reject all bids received.

WORK ORDER ASSIGNMENT (MULTIPLE AWARDS) FOR ID/IQ:

(2-15-22)(Rev. 4-19-22)

SPD 01-800B

Work orders will be assigned based on the lowest work order cost for the line items and estimated quantities necessary to complete the work order. Unit prices from each awarded contractor's bid will be used to determine the lowest cost for each work order. The assigned Contractor shall respond to the work order assignment with the anticipated start date, within three working days of notification unless noted otherwise. Failure on the part of the Contractor to reply within the specified time frame may be received as a rejection of the work order. If the Contractor with the lowest work order cost cannot complete the work within the time specified in the assignment, the Engineer may contact the Contractor with the next lowest work order cost. If that Contractor can complete the work within the time specified in the assignment, then the work order will be assigned to that contractor. If not, assignment of work order will continue in order of work order cost until all awarded Contractors have had a chance to accept the terms of the assignment.

For federal ID/IQ contracts, all work orders will be assigned via the Work Order Assignment form (Form IDIQ-1MA), and the Contractor is required to formally respond in writing for federal work orders within three working days, unless noted otherwise. The Work Order Assignment form will also be used for any state ID/IQ contract in which the estimated work order cost meets the threshold for Performance and Payment Bonds in accordance with the Bonding Requirements for ID/IQ

provision found elsewhere in this contract. For state ID/IQ contracts in which the work order assignment doesn't meet the threshold for bonds, the Department has the option to use the Work Order Assignment Form or other methods for work order assignments as agreed upon by the Engineer and Contractor.

The Contractor shall be required to prosecute the work in a continuous and uninterrupted manner from the time they begin the work until completion and final acceptance of the work order. Multiple failures of the Contractor to mobilize and begin work on the work order within the agreed upon time frame or failure to complete the work within the given time frame may result in the Contractor being excluded from future work on this contract in accordance with the *Standard Specifications*.

MOBILIZATION AND LIQUIDATED DAMAGES FOR ID/IQ:

(2-15-22)

SPD 01-820

The Contractor shall mobilize to each location he is required to perform work. The measurement and payment for mobilization is addressed elsewhere in the contract.

The Contractor will be provided a Work Order Assignment for each project with location(s), estimated quantities, and liquidated damages unless waived by the Engineer. Notification will be verbal followed by a faxed or emailed signed Work Order Assignment. There will be no minimum quantities for any line item associated with a particular mobilization. The Contractor shall complete the work identified on each Work Order Assignment.

The Contractor shall mobilize and complete the work within the time specified on the Work Order Assignment. Failure to complete the work by the completion date may result in the application of liquidated damages. Liquidated damage amounts will be based on the work order estimate and the liquidated damage table below.

Work Order Value	Liquidated Damages (per calendar day)
\$0 - \$100K	\$100.00
\$100K - \$200K	\$250.00
\$200K - \$300K	\$500.00
\$300K - \$500K	\$600.00
\$500K - \$1M	\$700.00
\$1M - \$2M	\$850.00

RENEWAL OF CONTRACT (CPI PRICE ADJUSTMENT) FOR ID/IQ:

(2-15-22)(Rev. 9-19-23)

SPD 01-840

The Contractor shall submit a bid for one year. At the option of the Department, this contract may be extended for 2 additional periods of one year each (maximum (3) three years total). Each year shall have a limit of **One Million Dollars (\$1,000,000.00)**.

The compensation payable to the contractor shall be fixed for the first twelve months of this contract. However, upon an application of renewal of the contract, or thirty days prior to the end of each contract period, the renewal contract may be adjusted to reflect the adjustment in the Consumer Price Index over the latest twelve month period as published by the US Bureau of Labor

and Statistics at <http://www.bls.gov/cpi> to be applied to new work order assignments. The Consumer Price Index for All Urban Consumers (CPI-U), US City Average, All Items, 1982-84=100, not seasonally adjusted will be used. If the amount of the requested adjustment is more than ten percent, the Department of Transportation reserves the right to cancel this contract.

CPI adjustment values can be determined using the calculator on the NCDOT Construction website.

This price escalation method will not be applied to items of work that are separately covered under commodity price escalation clauses. No other changes in the terms, conditions, etc. of this contract will be made when an extension to the contract is implemented. The Engineer will notify the Contractor in writing, **60 days** if the contract may be extended. The Contractor must notify the Engineer in writing, **30 days** of his acceptance or rejection of this offer. Failure on the part of the Contractor to reply will be received as a rejection of contract extension.

DISPUTE RESOLUTION PROCESS FOR ID/IQ:

(2-15-22)

SPD 01-850

If a question should arise on the contract or assignment of a work order, the contractor should notify the Engineer noted on the assignment documentation or the Division Engineer within 48 hours after the scheduled time of bid opening or work order assignment. The following should be included in the notification if applicable:

- the contract for which bids were solicited;
- the particular law, regulation, or contract specification violated;
- a detailed description of the alleged violation; and
- any other information deemed to be relevant.

Once the initial evaluation has been completed, the contractor may be asked to attend a meeting for further discussion and clarification.

Once a determination has been made, the contractor will be notified of the decision by the Division Engineer. If the decision does not meet the satisfaction of the contractor, they have 24 hours from the Division Engineer's notification to elevate the dispute to the Chief Engineer. The Chief Engineer will make the final decision and will not be subject to further review by NCDOT.

NO MAJOR CONTRACT ITEMS:

(2-19-02) (Rev. 8-21-07)

104

SP1 G31

None of the items included in this contract will be major items.

NO SPECIALTY ITEMS:

(7-1-95)(Rev. 1-16-24)

108-6

SP1 G34

None of the items included in this contract will be specialty items (see Article 108-6 of the *Standard Specifications*).

SCHEDULE OF ESTIMATED COMPLETION PROGRESS:

(7-15-08)(Rev. 1-16-24)

108-2

SP1 G58

The Contractor's attention is directed to the Standard Special Provision entitled *Availability of Funds Termination of Contracts* included elsewhere in this proposal. The Department of Transportation's schedule of estimated completion progress for this project as required by that Standard Special Provision is as follows:

<u>Fiscal Year</u>		<u>Progress (% of Dollar Value)</u>
2024	(7/01/23 - 6/30/24)	40% of Total Amount Bid
2025	(7/01/24 - 6/30/25)	60% of Total Amount Bid

The Contractor shall also furnish his own progress schedule in accordance with Article 108-2 of the *Standard Specifications*. Any acceleration of the progress as shown by the Contractor's progress schedule over the progress as shown above shall be subject to the approval of the Engineer.

SMALL BUSINESS ENTERPRISE (MULTI-YEAR MAINTENANCE CONTRACTS):

(4-20-21)(Rev. 2-15-22)

SP1 G74

This contract is a multi-year maintenance contract let pursuant to the Small Business Enterprise provisions of N.C. General Statute §136-28.10. No minimum quantity of services is guaranteed to be awarded bidders under this contract. In accordance with N.C. General Statute §136-28.10, an award in a contract may be for an amount less but shall not exceed \$1,000,000 per year. No payments in excess of this amount will be disbursed, in accordance with the Statute.

USE OF UNMANNED AIRCRAFT SYSTEM (UAS):

(8-20-19)

SP1 G092

The Contractor shall adhere to all Federal, State and Local regulations and guidelines for the use of Unmanned Aircraft Systems (UAS). This includes but is not limited to US 14 CFR Part 107 *Small UAS Rule*, NC GS 15A-300.2 *Regulation of launch and recovery sites*, NC GS 63-95 *Training required for the operation of unmanned aircraft systems*, NC GS 63-96 *Permit required for commercial operation of unmanned aircraft system*, and NCDOT UAS Policy. The required operator certifications include possessing a current Federal Aviation Administration (FAA) Remote Pilot Certificate, a NC UAS Operator Permit as well as operating a UAS registered with the FAA.

Prior to beginning operations, the Contractor shall complete the NCDOT UAS – Flight Operation Approval Form and submit it to the Engineer for approval. All UAS operations shall be approved by the Engineer prior to beginning the operations.

All contractors or subcontractors operating UAS shall have UAS specific general liability insurance to cover all operations under this contract.

The use of UAS is at the Contractor's discretion. No measurement or payment will be made for the use of UAS. In the event that the Department directs the Contractor to utilize UAS, payment will be in accordance with Article 104-7 Extra Work.

EQUIPMENT IDLING GUIDELINES:

(1-19-21)

107

SP1 G096

Exercise reduced fuel consumption and reduced equipment emissions during the construction of all work associated with this contract. Employees engaged in the construction of this project should turn off vehicles when stopped for more than thirty (30) minutes and off-highway equipment should idle no longer than fifteen (15) consecutive minutes.

These guidelines for turning off vehicles and equipment when idling do not apply to:

1. Idling when queuing.
2. Idling to verify the vehicle is in safe operating condition.
3. Idling for testing, servicing, repairing or diagnostic purposes.
4. Idling necessary to accomplish work for which the vehicle was designed (such as operating a crane, mixing concrete, etc.).
5. Idling required to bring the machine system to operating temperature.
6. Emergency vehicles, utility company, construction, and maintenance vehicles where the engines must run to perform needed work.
7. Idling to ensure safe operation of the vehicle.
8. Idling when the propulsion engine is providing auxiliary power for other than heating or air conditioning. (such as hydraulic systems for pavers)
9. When specific traffic, safety, or emergency situations arise.
10. If the ambient temperature is less than 32 degrees Fahrenheit. Limited idling to provide for the safety of vehicle occupants (e.g. to run the heater).
11. If the ambient temperature is greater than 90 degrees Fahrenheit. Limited idling to provide for the safety of vehicle occupants of off-highway equipment (e.g. to run the air conditioning) no more than 30 minutes.
12. Diesel powered vehicles may idle for up to 30 minutes to minimize restart problems.

Any vehicle, truck, or equipment in which the primary source of fuel is natural gas or electricity is exempt from the idling limitations set forth in this special provision.

COOPERATION BETWEEN CONTRACTORS:

(7-1-95)(Rev. 1-16-24)

105-7

SP1 G133

The Contractor's attention is directed to Article 105-7 of the Standard Specifications.

The Engineer will identify projects and locations, where applicable.

The Contractor on this project shall cooperate with the Contractor working within or adjacent to the limits of this project to the extent that the work can be carried out to the best advantage of all concerned.

OUTSOURCING OUTSIDE THE USA:

(9-21-04) (Rev. 5-16-06)

SPI G150

All work on consultant contracts, services contracts, and construction contracts shall be performed in the United States of America. No work shall be outsourced outside of the United States of America.

Outsourcing for the purpose of this provision is defined as the practice of subcontracting labor, work, services, staffing, or personnel to entities located outside of the United States.

The North Carolina Secretary of Transportation shall approve exceptions to this provision in writing.

PROJECT SPECIAL PROVISIONS

ROADWAY

[NEXT PAGE]

BRIDGE PRESERVATION CREW:

(01-09-2024)

PSP R1

Description

Provide and mobilize a bridge preservation crew to perform bridge preservation and maintenance activities.

Traffic Control

Traffic Control is addressed elsewhere in this contract.

Materials

All materials needed will be provided by the Department, contact the Engineer prior to work to acquire materials. These materials are stored at the reporting stations defined elsewhere in this contract. The Contractor shall be responsible for transporting the required materials from the reporting station to the work site.

Mobilization

The Contractor shall mobilize a Bridge Preservation Crew within **5** business days to the appropriate reporting site once notified by the Engineer. The reporting stations are listed below:

District 3: Macon / Clay / Cherokee / Graham

- a. **Reporting Station: Marble** (for work performed in Graham and Cherokee)
Route 1 Box 128
Marble, 28905
- b. **Reporting Station: Franklin** (for work performed in Macon and Clay)
60 Prison Camp Road
Franklin, NC 28734

Utility Conflicts

In the event that any utility service is interrupted by the Contractor's activities, the Contractor shall notify the Engineer and the utility owner immediately, and shall cooperate with the owner, in the restoration of service in the shortest time possible. Any damage caused to existing utilities by the Contractor is the responsibility of the Contractor to repair at no cost to the Department.

The Contractor shall not block the accessibility of fire hydrants at any time.

Cooperation with State Forces and Other Contractors

The Contractor shall cooperate with State forces and other Contractors working within the limits of this project as directed by the Engineer.

Traffic Signs and Mailboxes

The Contractor shall restore, daily, those permanent traffic signs and mailboxes that have been temporarily removed due to interference with the bridge preservation and maintenance operations. Prior to the temporary removal of permanent signs and mailboxes, the Contractor shall mark the proper location of those signs and mailboxes by placing an offset stake behind the ditch line to ensure proper replacement.

Bridge Preservation Crew Requirements

A Bridge Preservation Crew shall consist of a minimum of **4** workmen and **1** crew leader with sufficient abilities, skills, hand tools, and equipment capable of performing any typical bridge preservation activity described elsewhere.

The required minimum personnel and equipment will consist of the following:

BRIDGE PRESERVATION CREW COMPLEMENT		
PERSONNEL LEVEL	NUMBER REQUIRED	DESCRIPTION
Crew Supervisor/Operator	1	Job Site Leader / Operator / Truck Driver. Must be available to communicate with NCDOT personnel.
Operator	2	Operator / Truck Driver. May also serve as a General Laborer / Flagger.
Laborer	2	General Laborer / Flagger

As directed by the Engineer, the Contractor's crews may be assigned to supplement Department crews for various projects and durations.

The Contractor shall maintain daily time logs. All charges shall be determined to the **nearest 1/4 hour** based upon the time the crew is actively engaged in work order scope assignments. The Contractor shall meet with the Engineer weekly to review time records.

Bridge Preservation Crew Equipment Requirements

BRIDGE PRESERVATION CREW EQUIPMENT COMPLEMENT		
EQUIPMENT	NUMBER REQUIRED	DESCRIPTION
Trailer	1	Capable of transporting the required materials/tools.
Crew Truck	2	Capable of transporting necessary hand tools, traffic control, and personnel.
Leaf Blower	1	Commercial grade

The equipment and tools must operate at a noise level less than 90 decibels at a distance of 50 feet.

The following tools shall be required for bridge preservation activities:

Carpentry tools	Measurement instruments
Chainsaws	Cutting torch
Hammers	Saws
Drills	Variety of other common hand tools

Construction Methods

The Contractor shall provide a crew to perform bridge preservation operations on State-maintained roadways in accordance with these specifications, and as directed by the Engineer. Typical work activities may include, but not be limited to, timber rail repair, crutch bent installation, decking repair, scour repair, timber bulkhead repair, Division Bridge Maintenance Crew support, and other bridge preservation activities.

The Engineer will identify the proposed work locations for the Contractor.

Measurement and Payment

Bridge Preservation Crew will be paid for hours of work confirmed and accepted by the Engineer; this time will begin when the full crew complement is present at the reporting station. There will be no compensation for downtime due to meals, equipment failure, unsatisfactory weather, or any other conditions not approved by the Engineer.

Mobilization will be paid per each initial visit that the contractor is mobilized to the designated reporting station. No additional mobilization will be paid for work occurring in the workday within county limits for the work order reporting station. The crew will be paid the established hourly rate for moving within the county.

Payment will be made under:

Pay Item	Pay Unit
Bridge Preservation Crew	Hour
Mobilization (Reporting Station)	Each

STANDARD SPECIAL PROVISION
AVAILABILITY OF FUNDS – TERMINATION OF CONTRACTS

(5-20-08)(Rev. 1-16-24)

Z-2

General Statute 143C-6-11. (h) Highway Appropriation is hereby incorporated verbatim in this contract as follows:

(h) Amounts Encumbered. – Transportation project appropriations may be encumbered in the amount of allotments made to the Department of Transportation by the Director for the estimated payments for transportation project contract work to be performed in the appropriation fiscal year. The allotments shall be multiyear allotments and shall be based on estimated revenues and shall be subject to the maximum contract authority contained in *General Statute 143C-6-11(c)*. Payment for transportation project work performed pursuant to contract in any fiscal year other than the current fiscal year is subject to appropriations by the General Assembly. Transportation project contracts shall contain a schedule of estimated completion progress, and any acceleration of this progress shall be subject to the approval of the Department of Transportation provided funds are available. The State reserves the right to terminate or suspend any transportation project contract, and any transportation project contract shall be so terminated or suspended if funds will not be available for payment of the work to be performed during that fiscal year pursuant to the contract. In the event of termination of any contract, the contractor shall be given a written notice of termination at least 60 days before completion of scheduled work for which funds are available. In the event of termination, the contractor shall be paid for the work already performed in accordance with the contract specifications.

Payment will be made on any contract terminated pursuant to the special provision in accordance with Subarticle 108-13(D) of the *Standard Specifications*.

STANDARD SPECIAL PROVISION**ERRATA**

(1-16-24)

Z-4

Revise the 2024 *Standard Specifications* as follows:

Division 3

Page 3-5, Article 305-2 MATERIALS, after line 16, replace " 1032-3(A)(7)" with "1032-3" and add the item "Galvanized Corrugated Steel Pipe" with Section "1032-3".

Page 3-6, Article 310-2 MATERIALS, after line 9, add the item "Galvanized Corrugated Steel Pipe" with Section "1032-3".

Division 9

Page 9-17, Article 904-4 MEASUREMENT AND PAYMENT, prior to line 1, replace " Sign Erection, Relocate Type (Ground Mounted)" with "Sign Erection, Relocate Type ___ (Ground Mounted)".

Division 10

Page 10-51, Article 1024-4 WATER, prior to line 1, delete the "unpopulated blank row" in Table 1024-2 between "Time of set, deviation from control" and "Chloride Ion Content, Max.".

Page 10-170, Subarticle 1081-1(C) Requirements, line 4, replace "maximum" with "minimum".

Division 11

Page 11-15, Article 1160-4 MEASUREMENT AND PAYMENT, line 24, replace "Where barrier units are moved more than one" with "Where barrier units are moved more than once".

Division 15

Page 15-10, Article 1515-4 MEASUREMENT AND PAYMENT, lines 11, replace " All piping" with "All labor, the manhole, other materials, excavation, backfilling, piping".

Division 16

Page 16-14, Article 1633-5 MEASUREMENT AND PAYMENT, line 20-24 and prior to line 25, delete and replace with the following " *Flocculant* will be measured and paid in accordance with Article 1642-5 applied to the temporary rock silt checks."

Page 16-3, Article 1609-2 MATERIALS, after line 26, replace "Type 4" with "Type 4a".

Page 16-25, Article 1644-2 MATERIALS, after line 22, replace "Type 4" with "Type 4a".

STANDARD SPECIAL PROVISION**PLANT AND PEST QUARANTINES****(Imported Fire Ant, Gypsy Moth, Witchweed, Emerald Ash Borer, Guava Root Knot Nematode, And Other Noxious Weeds)**

(3-18-03) (Rev. 5-21-19)

Z-04a

Within Quarantined Area

This project may be within a county regulated for plant and/or pests. If the project or any part of the Contractor's operations is located within a quarantined area, thoroughly clean all equipment prior to moving out of the quarantined area. Comply with federal/state regulations by obtaining a certificate or limited permit for any regulated article moving from the quarantined area.

Originating in a Quarantined County

Obtain a certificate or limited permit issued by the N.C. Department of Agriculture/United States Department of Agriculture. Have the certificate or limited permit accompany the article when it arrives at the project site.

Contact

Contact the N.C. Department of Agriculture/United States Department of Agriculture at 1-800-206-9333, 919-707-3730, or <https://www.ncagr.gov/plantindustry/Plant/quaran/table2.htm> to determine those specific project sites located in the quarantined area or for any regulated article used on this project originating in a quarantined county.

Regulated Articles Include

1. Soil, sand, gravel, compost, peat, humus, muck, and decomposed manure, separately or with other articles. This includes movement of articles listed above that may be associated with cut/waste, ditch pulling, and shoulder cutting.
2. Plants with roots including grass sod.
3. Plant crowns and roots.
4. Bulbs, corms, rhizomes, and tubers of ornamental plants.
5. Hay, straw, fodder, and plant litter of any kind.
6. Clearing and grubbing debris.
7. Used agricultural cultivating and harvesting equipment.
8. Used earth-moving equipment.
9. Any other products, articles, or means of conveyance, of any character, if determined by an inspector to present a hazard of spreading imported fire ant, gypsy moth, witchweed, emerald ash borer, guava root knot nematode, or other noxious weeds.

STANDARD SPECIAL PROVISION**MINIMUM WAGES**

(7-21-09)

Z-5

FEDERAL: The Fair Labor Standards Act provides that with certain exceptions every employer shall pay wages at the rate of not less than SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

STATE: The North Carolina Minimum Wage Act provides that every employer shall pay to each of his employees, wages at a rate of not less than SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

The minimum wage paid to all skilled labor employed on this contract shall be SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

The minimum wage paid to all intermediate labor employed on this contract shall be SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

The minimum wage paid to all unskilled labor on this contract shall be SEVEN DOLLARS AND TWENTY FIVE CENTS (\$7.25) per hour.

This determination of the intent of the application of this act to the contract on this project is the responsibility of the Contractor.

The Contractor shall have no claim against the Department of Transportation for any changes in the minimum wage laws, Federal or State. It is the responsibility of the Contractor to keep fully informed of all Federal and State Laws affecting his contract.

STANDARD SPECIAL PROVISION**TITLE VI AND NONDISCRIMINATION:**

(6-28-77)(Rev 6/19/2018)

Z-6

Revise the *2018 Standard Specifications* as follows:

Replace Article 103-4(B) with the following:

The North Carolina Department of Transportation is committed to carrying out the U.S. Department of Transportation's policy of ensuring nondiscrimination in the award and administration of contracts.

The provisions of this section related to United States Department of Transportation (US DOT) Order 1050.2A, Title 49 Code of Federal Regulations (CFR) part 21, 23 United States Code (U.S.C.) 140 and 23 CFR part 200 (or 49 CFR 303, 49 U.S.C. 5332 or 49 U.S.C. 47123) are applicable to all North Carolina Department of Transportation (NCDOT) contracts and to all related subcontracts, material supply, engineering, architectural and other service contracts, regardless of dollar amount. Any Federal provision that is specifically required not specifically set forth is hereby incorporated by reference.

(1) Title VI Assurances (USDOT Order 1050.2A, Appendix A)

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

(a) Compliance with Regulations

The contractor (hereinafter includes consultants) shall comply with the Acts and the Regulations relative to Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

(b) Nondiscrimination

The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.

(c) Solicitations for Subcontractors, Including Procurements of Materials and Equipment

In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Nondiscrimination on the grounds of race, color, or national origin.

(d) Information and Reports

The contractor shall provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor shall so certify to the Recipient or the FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.

(e) Sanctions for Noncompliance:

In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it and/or the FHWA may determine to be appropriate, including, but not limited to:

- (i) Withholding payments to the contractor under the contract until the contractor complies; and/or
- (ii) Cancelling, terminating, or suspending a contract, in whole or in part.

(f) Incorporation of Provisions

The contractor shall include the provisions of paragraphs (a) through (f) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor shall take action with respect to any subcontract or procurement as the Recipient or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

(2) Title VI Nondiscrimination Program (23 CFR 200.5(p))

The North Carolina Department of Transportation (NCDOT) has assured the USDOT that, as a condition to receiving federal financial assistance, NCDOT will comply with Title VI of the Civil Rights Act of 1964 and all requirements imposed by Title 49 CFR part 21 and related nondiscrimination authorities to ensure that no person shall, on the ground of race, color, national origin, limited English proficiency, sex, age, or disability (including religion/creed or income-level, where applicable), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any programs, activities, or services conducted or funded by NCDOT. Contractors and other organizations under contract or agreement with NCDOT must also comply with Title VI and related authorities, therefore:

- (a) During the performance of this contract or agreement, contractors (e.g., subcontractors, consultants, vendors, prime contractors) are responsible for complying with NCDOT's Title VI Program. Contractors are not required to prepare or submit Title VI Programs. To comply with this section, the prime contractor shall:
 1. Post NCDOT's Notice of Nondiscrimination and the Contractor's own Equal Employment Opportunity (EEO) Policy in conspicuous locations accessible to all employees, applicants and subcontractors on the jobsite.

2. Physically incorporate the required Title VI clauses into all subcontracts on federally-assisted and state-funded NCDOT projects, and ensure inclusion by subcontractors into all lower-tier subcontracts.
 3. Required Solicitation Language. The Contractor shall include the following notification in all solicitations for bids and requests for work or material, regardless of funding source:

“The North Carolina Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award. In accordance with other related nondiscrimination authorities, bidders and contractors will also not be discriminated against on the grounds of sex, age, disability, low-income level, creed/religion, or limited English proficiency in consideration for an award.”
 4. Physically incorporate the FHWA-1273, in its entirety, into all subcontracts and subsequent lower tier subcontracts on Federal-aid highway construction contracts only.
 5. Provide language assistance services (i.e., written translation and oral interpretation), free of charge, to LEP employees and applicants. Contact NCDOT OCR for further assistance, if needed.
 6. For assistance with these Title VI requirements, contact the NCDOT Title VI Nondiscrimination Program at 1-800-522-0453.
- (b) Subrecipients (e.g. cities, counties, LGAs, planning organizations) may be required to prepare and submit a Title VI Plan to NCDOT, including Title VI Assurances and/or agreements. Subrecipients must also ensure compliance by their contractors and subrecipients with Title VI. (23 CFR 200.9(b)(7))
 - (c) If reviewed or investigated by NCDOT, the contractor or subrecipient agrees to take affirmative action to correct any deficiencies found within a reasonable time period, not to exceed 90 calendar days, unless additional time is granted by NCDOT. (23 CFR 200.9(b)(15))
 - (d) The Contractor is responsible for notifying subcontractors of NCDOT’s External Discrimination Complaints Process.
 1. Applicability

Title VI and related laws protect participants and beneficiaries (e.g., members of the public and contractors) from discrimination by NCDOT employees, subrecipients and contractors, regardless of funding source.

2. Eligibility

Any person—or class of persons—who believes he/she has been subjected to discrimination based on race, color, national origin, Limited English Proficiency (LEP), sex, age, or disability (and religion in the context of employment, aviation, or transit) may file a written complaint. The law also prohibits intimidation or retaliation of any sort.

3. Time Limits and Filing Options

Complaints may be filed by the affected individual(s) or a representative and must be filed no later than 180 calendar days after the following:

- (i) The date of the alleged act of discrimination; or
- (ii) The date when the person(s) became aware of the alleged discrimination; or
- (iii) Where there has been a continuing course of conduct, the date on which that conduct was discontinued or the latest instance of the conduct.

Title VI and related discrimination complaints may be submitted to the following entities:

- North Carolina Department of Transportation, Office of Civil Rights, Title VI Program, 1511 Mail Service Center, Raleigh, NC 27699-1511; toll free 1-800-522-0453
- Federal Highway Administration, North Carolina Division Office, 310 New Bern Avenue, Suite 410, Raleigh, NC 27601, 919-747-7010
- US Department of Transportation, Departmental Office of Civil Rights, External Civil Rights Programs Division, 1200 New Jersey Avenue, SE, Washington, DC 20590; 202-366-4070

4. Format for Complaints

Complaints must be in writing and signed by the complainant(s) or a representative, and include the complainant's name, address, and telephone number. Complaints received by fax or e-mail will be acknowledged and processed. Allegations received by telephone will be reduced to writing and provided to the complainant for confirmation or revision before processing. Complaints will be accepted in other languages, including Braille.

5. Discrimination Complaint Form

Contact NCDOT Civil Rights to receive a full copy of the Discrimination Complaint Form and procedures.

6. Complaint Basis

Allegations must be based on issues involving race, color, national origin (LEP), sex, age, disability, or religion (in the context of employment, aviation or transit). "Basis" refers to the complainant's membership in a protected group category.

**TABLE 103-1
COMPLAINT BASIS**

Protected Categories	Definition	Examples	Applicable Nondiscrimination Authorities
Race and Ethnicity	An individual belonging to one of the accepted racial groups; or the perception, based usually on physical characteristics that a person is a member of a racial group	Black/African American, Hispanic/Latino, Asian, American Indian/Alaska Native, Native Hawaiian/Pacific Islander, White	Title VI of the Civil Rights Act of 1964; 49 CFR Part 21; 23 CFR 200; 49 U.S.C. 5332(b); 49 U.S.C. 47123. (<i>Executive Order 13166</i>)
Color	Color of skin, including shade of skin within a racial group	Black, White, brown, yellow, etc.	
National Origin (<i>Limited English Proficiency</i>)	Place of birth. Citizenship is not a factor. (<i>Discrimination based on language or a person's accent is also covered</i>)	Mexican, Cuban, Japanese, Vietnamese, Chinese	
Sex	Gender. The sex of an individual. <i>Note: Sex under this program does not include sexual orientation.</i>	Women and Men	1973 Federal-Aid Highway Act; 49 U.S.C. 5332(b); 49 U.S.C. 47123.
Age	Persons of any age	21-year-old person	Age Discrimination Act of 1975 49 U.S.C. 5332(b); 49 U.S.C. 47123.
Disability	Physical or mental impairment, permanent or temporary, or perceived.	Blind, alcoholic, para-amputee, epileptic, diabetic, arthritic	Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990
Religion (in the context of employment) (<i>Religion/ Creed in all aspects of any aviation or transit-related construction</i>)	An individual belonging to a religious group; or the perception, based on distinguishable characteristics that a person is a member of a religious group. In practice, actions taken as a result of the moral and ethical beliefs as to what is right and wrong, which are sincerely held with the strength of traditional religious views. <i>Note: Does not have to be associated with a recognized religious group or church; if an individual sincerely holds to the belief, it is a protected religious practice.</i>	Muslim, Christian, Sikh, Hindu, etc.	Title VII of the Civil Rights Act of 1964; 23 CFR 230; FHWA-1273 Required Contract Provisions. (<i>49 U.S.C. 5332(b); 49 U.S.C. 47123</i>)

(3) Pertinent Nondiscrimination Authorities

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

- (a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.

- (b) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- (c) Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- (d) Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability) and 49 CFR Part 27;
- (e) The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- (f) Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- (g) The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- (h) Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- (i) The Federal Aviation Administration's Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- (j) Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- (k) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- (l) Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).
- (m) Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e et seq., Pub. L. 88-352), (prohibits employment discrimination on the basis of race, color, religion, sex, or national origin).

(4) Additional Title VI Assurances

***The following Title VI Assurances (Appendices B, C and D) shall apply, as applicable*

- (a) Clauses for Deeds Transferring United States Property (1050.2A, Appendix B)

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4.

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the North Carolina Department of Transportation (NCDOT) will accept title to the lands and maintain the project constructed thereon in accordance with the North Carolina General Assembly, the Regulations for the Administration of the Federal-Aid Highway Program, and the policies and procedures prescribed by the Federal Highway Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the NCDOT all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the North Carolina Department of Transportation (NCDOT) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the NCDOT, its successors and assigns.

The NCDOT, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the NCDOT will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and] (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

(b) Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program (1050.2A, Appendix C)

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the North Carolina Department of Transportation (NCDOT) pursuant to the provisions of Assurance 7(a):

1. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - (i.) In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
2. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, the NCDOT will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. *
3. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the NCDOT will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the NCDOT and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

(c) Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program (1050.2A, Appendix D)

The following clauses will be included in deeds, licenses, permits, or similar instruments/ agreements entered into by the North Carolina Department of Transportation (NCDOT) pursuant to the provisions of Assurance 7(b):

1. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
2. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, the NCDOT will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. *
3. With respect to deeds, in the event of breach of any of the above Nondiscrimination covenants, the NCDOT will there upon revert to and vest in and become the absolute property of the NCDOT and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

STANDARD SPECIAL PROVISION**ON-THE-JOB TRAINING**

(10-16-07) (Rev. 4-21-15)

Z-10

Description

The North Carolina Department of Transportation will administer a custom version of the Federal On-the-Job Training (OJT) Program, commonly referred to as the Alternate OJT Program. All contractors (existing and newcomers) will be automatically placed in the Alternate Program. Standard OJT requirements typically associated with individual projects will no longer be applied at the project level. Instead, these requirements will be applicable on an annual basis for each contractor administered by the OJT Program Manager.

On the Job Training shall meet the requirements of 23 CFR 230.107 (b), 23 USC – Section 140, this provision and the On-the-Job Training Program Manual.

The Alternate OJT Program will allow a contractor to train employees on Federal, State and privately funded projects located in North Carolina. However, priority shall be given to training employees on NCDOT Federal-Aid funded projects.

Minorities and Women

Developing, training and upgrading of minorities and women toward journeyman level status is a primary objective of this special training provision. Accordingly, the Contractor shall make every effort to enroll minority and women as trainees to the extent that such persons are available within a reasonable area of recruitment. This training commitment is not intended, and shall not be used, to discriminate against any applicant for training, whether a member of a minority group or not.

Assigning Training Goals

The Department, through the OJT Program Manager, will assign training goals for a calendar year based on the contractors' past three years' activity and the contractors' anticipated upcoming year's activity with the Department. At the beginning of each year, all contractors eligible will be contacted by the Department to determine the number of trainees that will be assigned for the upcoming calendar year. At that time the Contractor shall enter into an agreement with the Department to provide a self-imposed on-the-job training program for the calendar year. This agreement will include a specific number of annual training goals agreed to by both parties. The number of training assignments may range from 1 to 15 per contractor per calendar year. The Contractor shall sign an agreement to fulfill their annual goal for the year.\

Training Classifications

The Contractor shall provide on-the-job training aimed at developing full journeyman level workers in the construction craft/operator positions. Preference shall be given to providing training in the following skilled work classifications:

Equipment Operators	Office Engineers
Truck Drivers	Estimators
Carpenters	Iron / Reinforcing Steel Workers
Concrete Finishers	Mechanics
Pipe Layers	Welders

The Department has established common training classifications and their respective training requirements that may be used by the contractors. However, the classifications established are not all-inclusive. Where the training is oriented toward construction applications, training will be allowed in lower-level management positions such as office engineers and estimators. Contractors shall submit new classifications for specific job functions that their employees are performing. The Department will review and recommend for acceptance to FHWA the new classifications proposed by contractors, if applicable. New classifications shall meet the following requirements:

Proposed training classifications are reasonable and realistic based on the job skill classification needs, and

The number of training hours specified in the training classification is consistent with common practices and provides enough time for the trainee to obtain journeyman level status.

The Contractor may allow trainees to be trained by a subcontractor provided that the Contractor retains primary responsibility for meeting the training and this provision is made applicable to the subcontract. However, only the Contractor will receive credit towards the annual goal for the trainee.

Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. The number of trainees shall be distributed among the work classifications on the basis of the contractor's needs and the availability of journeymen in the various classifications within a reasonable area of recruitment.

No employee shall be employed as a trainee in any classification in which they have successfully completed a training course leading to journeyman level status or in which they have been employed as a journeyman.

Records and Reports

The Contractor shall maintain enrollment, monthly and completion reports documenting company compliance under these contract documents. These documents and any other information as requested shall be submitted to the OJT Program Manager.

Upon completion and graduation of the program, the Contractor shall provide each trainee with a certification Certificate showing the type and length of training satisfactorily completed.

Trainee Interviews

All trainees enrolled in the program will receive an initial and Trainee/Post graduate interview conducted by the OJT program staff.

Trainee Wages

Contractors shall compensate trainees on a graduating pay scale based upon a percentage of the prevailing minimum journeyman wages (Davis-Bacon Act). Minimum pay shall be as follows:

60 percent	of the journeyman wage for the first half of the training period
75 percent	of the journeyman wage for the third quarter of the training period
90 percent	of the journeyman wage for the last quarter of the training period

In no instance shall a trainee be paid less than the local minimum wage. The Contractor shall adhere to the minimum hourly wage rate that will satisfy both the NC Department of Labor (NCDOL) and the Department.

Achieving or Failing to Meet Training Goals

The Contractor will be credited for each trainee employed by him on the contract work who is currently enrolled or becomes enrolled in an approved program and who receives training for at least 50 percent of the specific program requirement. Trainees will be allowed to be transferred between projects if required by the Contractor's scheduled workload to meet training goals.

If a contractor fails to attain their training assignments for the calendar year, they may be taken off the NCDOT's Bidders List.

Measurement and Payment

No compensation will be made for providing required training in accordance with these contract documents.

TC-1

DN12107181

Cherokee, Clay, Graham, Macon

WORK ZONE TRAFFIC CONTROL Project Special Provisions

Table of Contents

Special Provision	Page
Temporary Traffic Control	TC-2

TC-2

DN12107181

Cherokee, Clay, Graham, Macon

TRAFFIC CONTROL (PER SITE):

(01-09-24)

1101 - 1190

PSP 1 TC1

Description

Furnish, install, maintain, relocate, and remove all work zone traffic control devices specific at each site.

General Requirements

Maintain traffic on all roads in accordance with Divisions 10, 11 and 12 of the *NCDOT Standard Specifications* and the following provisions:

Install Work Zone Advance Warning Signs when work is within 40 ft. from the edge of the travel lane in accordance with Standard Drawing No. 1101.01 of the *NCDOT Roadway Standard Drawings* prior to beginning any other work. If signs are installed more than 3 calendar days prior to the beginning of work, cover the signs until the work begins. Install each work zone advance warning sign separately and not on the same post or stand with any other sign.

When personnel and/or equipment are working within 15 ft. of an open travel lane, close the nearest open shoulder using Roadway Standard Drawing No. 1101.04 unless the work area is protected by barrier or guardrail or a lane closure is installed.

When personnel and/or equipment are working on the shoulder adjacent to an undivided facility and within 5 ft. of an open travel lane, close the nearest open travel lane using Roadway Standard Drawing No. 1101.02 of the *NCDOT Roadway Standard Drawings* unless the work area is protected by barrier or guardrail.

When personnel and/or equipment are working on the shoulder adjacent to a divided facility and within 10 ft. of an open travel lane, close the nearest open travel lane using Roadway Standard Drawing No. 1101.02 of the *NCDOT Roadway Standard Drawings*, unless the work area is protected by barrier or guardrail.

When personnel and/or equipment are working within a lane of travel of an undivided or divided facility, close the lane using Roadway Standard Drawing No. 1101.02 of the *NCDOT Roadway Standard Drawings* or as directed by the Engineer. Conduct the work so that all personnel and/or equipment remain within the closed travel lane. Perform work only when weather and visibility conditions allow safe operations as directed by the Engineer.

Do not work simultaneously within 15 ft. on both sides of an open travel way, ramp, or loop within the same location, unless protected with guardrail or barrier.

Remove lane closure devices from the lane when work is not being performed behind the lane closure or when a lane closure is no longer needed or as directed by the Engineer.

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DN12107181

Cherokee, Clay, Graham, Macon

Temporary Traffic Control (TTC)

Refer to Standard Drawing No. 1101.02, 1101.03, 1101.04, 1101.11, 1110.01, 1110.02, 1115.01, 1130.01, 1135.01, 1145.01, 1150.01, 1165.01, and 1180.01 of the *NCDOT Roadway Standard Drawings* when closing a lane of travel or shoulder in the work zone.

Notify the Engineer (30) calendar days prior to any traffic pattern alteration.

Ensure all necessary signing is in place prior to altering any traffic pattern.

When lane closures are not in effect, space channelizing devices in work areas no greater in feet than twice the posted speed limit (MPH), except 10 ft. on-center in radii, and 3 ft. off the edge of an open travelway. Refer to *NCDOT Standard Specifications* Sections 1130 (Drums), 1135 (Cones), and 1180 (Skinny Drums) for additional requirements.

Place additional sets of three channelizing devices (Drums, Cones, or Skinny Drums) perpendicular to the edge of travelway on 100 to 500 ft. centers, as directed by the Engineer, when unopened lanes are closed to traffic.

Place Type III Barricades with “ROAD CLOSED” sign R11-2 attached, of sufficient length to close the entire roadway.

Install black on orange “DIP” (W8-2) and/or “BUMP” (W8-1) signs in advance of the uneven area in accordance with Roadway Standard Drawing 1101.11, or as directed by the Engineer.

Project Requirements

Failure to comply with the following requirements will result in a suspension of all other operations:

1. Prior to beginning work, the Contractor shall submit a written construction sequence for traffic control and construction lighting to the Engineer at the first pre-construction meeting and the sequence must be approved before closing a lane of traffic.
2. Obtain written approval of the Engineer before working in more than one location or setting up additional lane closures. The maximum length of any one lane closure is 1 mile unless otherwise directed by the Engineer.
3. If Lane Closure Restrictions apply, see Special Provision, “Intermediate Contract Times and Liquidated Damages”.
4. Contractor shall conduct operations in an order such that water does not accumulate.
5. The Contractor on this and any adjacent projects, or subcontractors working within this project shall coordinate lane closure location, type, and direction with the Engineer to best maintain lane continuity through the limits of this and adjacent projects.

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DN12107181

Cherokee, Clay, Graham, Macon

6. Operate paving equipment and conduct paving operations in the same direction as the flow of traffic unless the operation is protected by barrier or guardrail or as directed by the Engineer. Maintain vehicular access in accordance with Section 1101-05 of the *NCDOT Standard Specifications*.
7. Provide appropriate construction lighting in accordance with Section 1413 of the *NCDOT Standard Specifications*.

Materials

Traffic control devices shall include but will not be limited to signs (portable, stationary, and/or barricade mounted), including detour signing, Truck Mounted Attenuators (TMA), Portable Changeable Message Signs (PCMS), Flashing Arrow Boards (FAB), Pilot Vehicle, Flaggers, Cones, Skinny Drums and Drums. Not all items will be used at every site. The Department will direct the Contractor as to which devices are to be installed at each site, at the work order level.

Refer to Division 10 of the *2024 Standard Specifications*.

Item Section	Section
Work Zone Signs	1089-1
Work Zone Signs Supports	1089-2
Barricades	1089-3
Sequential Flashing Warning Lights	1089-4
Channelizing Devices	1089-5
Flashing Arrow Boards	1089-6
Portable Changeable Message Signs	1089-7
Temporary Crash Cushions	1089-8
Flagger	1089-10

Construction

Furnish, install, maintain, relocate, and remove all work zone traffic control devices specific at each site, per the work order requirements or as directed by the Engineer.

Measurement and Payment

Two Lane Work Zone Traffic Control, Multilane Work Zone Traffic Control, and Shoulder Closure Work Zone shall include but not be limited to providing Signs (portable, stationary, and/or barricade mounted), including detour signing, Truck Mounted Attenuators (TMA), Portable Changeable Message Signs (PCMS), Flashing Arrow Boards (FAB), Pilot Vehicle, Flaggers, Cones, Skinny Drums and Drums as shown in the applicable Roadway Standard Drawings and all labor, tools, equipment and incidentals necessary to furnish, install, maintain and remove traffic control devices when no longer required.

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DN12107181

Cherokee, Clay, Graham, Macon

Two Lane Work Zone Traffic Control, Multilane Work Zone Traffic Control, and Shoulder Closure Work Zone do not include Portable Concrete Barrier, Waterfilled Barrier, Temporary Crash Cushions, Digital Speed Limit Signs, Sequential Flashing Lights, or Presence Lights as these devices are beyond the scope of this provision.

Payment will be made under:

Pay Item	Pay Unit
Two Lane Work Zone Traffic Control	Each
Multilane Work Zone Traffic Control	Each
Shoulder Closure Work Zone	Each

DN12107181

Contract No. _____

Rev. 1-16-18

County Cherokee, Clay, Graham, Macon

**EXECUTION OF CONTRACT
NON-COLLUSION, DEBARMENT AND GIFT BAN CERTIFICATION**

LIMITED LIABILITY COMPANY

The Contractor declares (or certifies, verifies, or states) under penalty of perjury under the laws of the United States that neither he, nor any official, agent or employee has entered into any agreement, participated in any collusion, or otherwise taken any action which is in restraint of free competitive bidding in connection with this Contract, that the Contractor has not been convicted of violating *N.C.G.S. § 133-24* within the last three years, and that the Contractor intends to do the work with its own bona fide employees or subcontractors and did not bid for the benefit of another contractor.

By submitting this Execution of Contract, Non-Collusion and Debarment Certification, the Contractor is certifying his status under penalty of perjury under the laws of the United States in accordance with the Debarment Certification attached, provided that the Debarment Certification also includes any required statements concerning exceptions that are applicable.

N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

SIGNATURE OF CONTRACTOR

Cam Contracting, LLC.

Full Name of Firm

PO Box 607 Robbinsville, NC 28771

Address as Prequalified

K. Lindsey Burke
Signature of Witness

Cambrie L. Anderson
Signature of ~~Member~~ Manager/Authorized Agent
Select appropriate title

K. Lindsey Burke
Print or type Signer's name

Cambrie L. Anderson
Print or type Signer's Name

DEBARMENT CERTIFICATION

Conditions for certification:

1. The prequalified bidder shall provide immediate written notice to the Department if at any time the bidder learns that his certification was erroneous when he submitted his debarment certification or explanation filed with the Department, or has become erroneous because of changed circumstances.
2. The terms *covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded*, as used in this provision, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. A copy of the Federal Rules requiring this certification and detailing the definitions and coverages may be obtained from the Contract Officer of the Department.
3. The prequalified bidder agrees by submitting this form, that he will not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in NCDOT contracts, unless authorized by the Department.
4. For Federal Aid projects, the prequalified bidder further agrees that by submitting this form he will include the Federal-Aid Provision titled *Required Contract Provisions Federal-Aid Construction Contract (Form FHWA PR 1273)* provided by the Department, without subsequent modification, in all lower tier covered transactions.
5. The prequalified bidder may rely upon a certification of a participant in a lower tier covered transaction that he is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless he knows that the certification is erroneous. The bidder may decide the method and frequency by which he will determine the eligibility of his subcontractors.
6. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this provision. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
7. Except as authorized in paragraph 6 herein, the Department may terminate any contract if the bidder knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available by the Federal Government.

DEBARMENT CERTIFICATION

The prequalified bidder certifies to the best of his knowledge and belief, that he and his principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records; making false statements; or receiving stolen property;
- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph b. of this certification; and
- d. Have not within a three-year period preceding this proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- e. Will submit a revised Debarment Certification immediately if his status changes and will show in his bid proposal an explanation for the change in status.

If the prequalified bidder cannot certify that he is not debarred, he shall provide an explanation with this submittal. An explanation will not necessarily result in denial of participation in a contract.

Failure to submit a non-collusion and debarment certification will result in the prequalified bidder's bid being considered non-responsive.

Check here if an explanation is attached to this certification.

ITEMIZED PROPOSAL FOR CONTRACT NO. DN12107181							
Line #	Item Number	Sec #	Description	Qty	Units	Unit Cost	Amount
ROADWAY ITEMS							
0001	0000915000-N	SP	Mobilization (Marble)	63	EA	\$100.00	\$6,300.00
0002	0000915000-N	SP	Mobilization (Franklin)	62	EA	\$100.00	\$6,200.00
0003	0000910000-N	SP	Bridge Preservation Crew	1,000	HR	\$260.00	\$260,000.00
0004	4600000000-N	SP	Two Lane Work Zone Traffic Control	100	EA	\$100.00	\$10,000.00
0005	4600000000-N	SP	Shoulder Closure Work Zone Traffic Control	25	EA	\$125.00	\$3,125.00
Total Amount of Bid For Entire Project:							\$285,625.00

Execution of Contract

Contract No: DN12107181

County: Cherokee, Clay, Graham, and Macon

ACCEPTED BY THE DEPARTMENT

DocuSigned by:

Jeffrey E. Alspangh

Proposals Engineer

02/08/2024

Date

EXECUTION OF CONTRACT AND BONDS
APPROVED AS TO FORM:

DocuSigned by:

Wanda H. Payne

Division Engineer

02/08/2024

Date



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

02/02/2024

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 TIS Insurance Services, Inc. 1900 N. Winston Rd. Suite 100 Knoxville TN 37919	CONTACT NAME: Cassandra Aponte PHONE (A/C, No, Ext): E-MAIL ADDRESS: caponte@tisins.com	FAX (A/C, No):
	INSURER(S) AFFORDING COVERAGE	
INSURED CAM Contracting, LLC 887 Tallulah Rd PO Box 607 Robbinsville NC 28771	INSURER A: Associated Industries Insurance Co., Inc. NAIC # 23140	
	INSURER B: State Automobile Mutual Insurance Co. 25135	
	INSURER C: The Burlington Insurance Company 23620	
	INSURER D: Hartford Underwriters Insurance 30104	
	INSURER E:	
	INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 23/24 GEN

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 type="checkbox"/> LOC OTHER:	Y		AES1198623 03	07/01/2023	07/01/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 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
B	AUTOMOBILE LIABILITY <input checked="" 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			10032610CA	07/23/2023	07/23/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ BAPLS \$
C	<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 type="checkbox"/> RETENTION \$	Y		820BE07343-01	07/01/2023	07/01/2024	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	6S60UB5N00421123	07/01/2023	07/01/2024	<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

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

Contract No. DN12107181
 County: Cherokee, Clay, Graham, Macon
 Description: ID-IQ On-Call Bridge Preservation Services District 3 at Various Routes Throughout Cherokee, Clay, Graham, and Macon Counties
 The certificate holder is additional insured with respect to general liability and umbrella as required by written contract per policy form # CG20330704.
 Umbrella Liability Follows Form.

CERTIFICATE HOLDER**CANCELLATION**

NC Department of Transportation Highway Division 14 253 Webster Rd. Sylva NC 28779	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.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – AUTOMATIC STATUS WHEN
REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. Section II – Who Is An Insured** is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and 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.
- A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.
- B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:
- This insurance does not apply to:
1. "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 failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - b. Supervisory, inspection, architectural or engineering activities.
 2. "Bodily injury" or "property damage" occurring after:
 - a. 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
 - b. 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.

INSURANCE POLICY

of

The Burlington Insurance Company

A Stock Company

Home Office, Administrative Office and Claim Office
City Place II, 185 Asylum Street, 7th Floor, Hartford, CT 06103
Tel. 860-723-4150 or
Toll Free 1-800-328-8719



In Witness Whereof, we have caused this policy to be executed and attested, and, if required by state law, this policy shall not be valid unless countersigned by our authorized representatives.

A handwritten signature in black ink, appearing to read "Debra L. Ryan".

Secretary

A handwritten signature in black ink, appearing to read "J. P. Ryan".

President

THE BURLINGTON INSURANCE COMPANY

Home Office, Administrative Office and Claim Office
 City Place II, 185 Asylum Street, 7th Floor, Hartford, CT 06103

ITEM 1. NAMED INSURED AND MAILING ADDRESS

CAM Contracting, LLC

887 Tallulah Road, PO Box 607
 Robbinsville, NC 28771

ITEM 2. POLICY PERIOD

Effective Date: 07/01/2023 12:01 A.M. Expiration Date: 07/01/2024 12:01 A.M.
 Standard Time at your mailing address shown above

Producing Broker

RT Specialty, a Division of RSG
 Specialty, LLC
 540 West Madison Street
 9th Floor
 Chicago, IL 60661
 Producer Code: 0820
 Co. Use: KMK
 SL License: 1000082096

ITEM 3. In return for the payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy.

ITEM 4. EXCESS POLICY LIMITS OF INSURANCE

Each Occurrence Limit: \$ 4,000,000
 Aggregate Limit: \$ 4,000,000
 Which is Part Of:

ITEM 5. PREMIUM

Excess Liability Premium	\$ 20,000
Terrorism Risk Insurance Act Premium	N/A
Total Policy Premium or Deposit Premium	\$ 20,000
Other Charges (if applicable)	
Total Other Charges	N/A
TOTAL AMOUNT DUE	\$ 20,000

ITEM 6. PREMIUM AUDIT PERIOD (if applicable)

Annual Other (specify)

Rating Basis: N/A
 Premium Basis: N/A
 Rate is: N/A
 Rate: N/A

Premium is: Flat	Policy Minimum Premium \$ 20,000
----------------------------	--

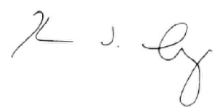
In the event you cancel this policy, we will retain a minimum premium. See BG-I-015

ITEM 7. Forms and Endorsements application to this policy: See "Listing or Forms and Endorsements" (IFG-I-0150)

THESE DECLARATIONS TOGETHER WITH THE COMMON POLICY CONDITIONS AND COVERAGE FORM(S) AND ANY ENDORSEMENT(S), COMPLETE THE ABOVE NUMBERED POLICY.

The insurance company with which this coverage has been placed is not licensed by the State of North Carolina and is not subject to its supervision. In the event of the insolvency of the insurance company, losses under this policy will not be paid by any State insurance guaranty or solvency fund. Surplus Line Licensee: Kieran Dempsey

Countersigned Date: _____
 Issue Date: 07/19/2023

By:  _____
 Authorized Representative

SCHEDULE OF "CONTROLLING UNDERLYING INSURANCE"
COVERAGE: COMMERCIAL EXCESS LIABILITY

Insurance Company:	Starstone		
Policy Number:	TBD		
Policy Period:	Effective: 07/01/2023	Expiration:	07/01/2024
Each Occurrence Limit:	\$1,000,000		
Aggregate Limit:	\$1,000,000		

Policy Premium	\$20,000.00
Surplus Lines Tax	\$1,000.00
Stamping Fee	\$60.00
Policy Fee	\$250.00
	\$0.00
	\$0.00
	\$0.00
Total	\$21,310.00

POLICY NUMBER: 820BE07343-01

POLICY PERIOD: 07/01/2023
Effective Date

07/01/2024
Expiration Date

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LISTING OF FORMS AND ENDORSEMENTS

This listing forms a part of the following:

Commercial Excess Liability Policy

<u>NUMBER</u>	<u>TITLE</u>
<u>Cover Page</u>	
IFG-I-0002 08 21	Policy Cover Page
<u>Interline</u>	
IFG-I-0402 04 19	Service of Suit Amendment
BG-I-015 03 17	25% Minimum Earned Premium
IFG-I-1004 11 21	Exclusion - Cyber Incident
<u>Commercial Excess Liability</u>	
IFG-FB-000a 11 20	Commercial Excess Liability Declarations
IFG-FX-0001 07 17	Commercial Excess Liability Coverage Form
IFG-FX-0161 11 22	Exclusion - Designated Operations Covered By A Consolidated (Wrap-Up) Insurance Program
IFG-FX-0198 07 17	Exclusion - Your Product Or Your Work (Prior To A Certain Date)
IFG-FX-0230 01 21	Exclusion - Terrorism Outside USA
IFG-FX-0231 01 21	Auto - Excl. of Terrorism
CX 21 01 09 08	Nuclear Energy Liability Exclusion Endorsement
CX 21 14 04 13	Exclusion - Exterior Insulation And Finish Systems
CX 21 17 04 13	Exclusion - Communicable Disease
CX 21 19 04 13	Exclusion - Employment-Related Practices
CX 21 20 04 13	Exclusion - Professional Services
CX 21 47 11 16	Public Or Livery Passenger Conveyance And On-Demand Delivery Services Exclusion
IFG-FX-0027 07 17	Exclusion - Aircraft Products And Grounding, Including Unmanned Aircraft Or Unmanned Aerial Vehicle
IFG-FX-0028 07 22	Excl-Damage To Property

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LISTING OF FORMS AND ENDORSEMENTS

This listing forms a part of the following:

Commercial Excess Liability Policy

<u>NUMBER</u>	<u>TITLE</u>
IFG-FX-0036 11 21	Exclusion - Lead Bearing Substance
IFG-FX-0039 07 17	Exclusion - ERISA
IFG-FX-0044 07 17	Exclusion - Recall Of Products, Work or Impaired Property
IFG-FX-0049 07 17	Exclusion - Land Subsidence
IFG-FX-0063 07 17	Exclusion - Fungi or Bacteria
IFG-FX-0064 07 17	Exclusion - Punitive Damages
IFG-FX-0067 07 17	Exclusion - Intellectual Property
IFG-FX-0071 07 17	Exclusion - War
IFG-FX-0076 07 17	Exclusion - Aircraft Liability
IFG-FX-0077 07 17	Recording And Distribution Of Material Or Information In Violation Of Law Exclusion
IFG-FX-0078 11 21	Exclusion - Asbestos Or Asbestos-Related Dust
IFG-FX-0097 07 17	Exclusion - Injury To Independent Contractors/Subcontractors
IFG-FX-0099 07 17	Limitation - Independent Contractors/Subcontractors
IFG-FX-0103 05 16	Amendment of Premium Conditions
IFG-FX-0131 07 17	Exclusion - Discrimination
IFG-FX-0140 07 17	Exclusion - Breach Of Contract
IFG-FX-0145 03 21	Exclusion - Toxic Substances
IFG-FX-0159 07 17	Exclusion - Contaminated Drywall
IFG-FX-0163 04 15	Exclusion - Cross Suits - Named Insured Versus Named Insured
IFG-FX-0169 07 17	Total Pollution Exclusion
IFG-FX-0185 07 17	Colorado - Exclusion - Any Construction Or Contracting Activities
IFG-FX-0188 11 21	Exclusion - Silica Or Silica-Related Dust

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LISTING OF FORMS AND ENDORSEMENTS

This listing forms a part of the following:

Commercial Excess Liability Policy

<u>NUMBER</u>	<u>TITLE</u>
IFG-FX-0192 07 17	Designated State(s) - Exclusion - Residential Construction Or Residential Contracting Activities - Arizona, California, Colorado, Nevada, New York, Oregon, And Washington
IFG-FX-0221 03 22	Anti-Stacking Of Limits
IFG-FX-0225 03 21	NY-Excl -- Any Constr or Contr

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SERVICE OF SUIT AMENDMENT

Pursuant to any statute of any state, territory or district of the United States which makes provision therefor, we hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the Statute, or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, "suit" or proceeding instituted by or on behalf of the insured or any beneficiary hereunder arising out of this contract of insurance, and hereby designate the above named person as the person to whom the said officer is authorized to mail process or a true copy thereof.

It is further agreed that service of process in such "suit" may be made upon the President, or their nominee at:

The Burlington Insurance Company
City Place II
185 Asylum Street, 7th Floor,
Hartford, Connecticut 06103

and that in any "suit" instituted against any of them upon this policy, we will abide by the final decision of such Court or of any Appellate Court in the event of an appeal.

It is agreed that in any state requiring a standard form of policy, insurance hereunder on values or properties in such state shall attach and cover in accordance with the terms and conditions of such standard form.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

25% MINIMUM EARNED PREMIUM

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
COMMERCIAL PROPERTY COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL EXCESS LIABILITY COVERAGE PART
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART
GARAGE COVERAGE FORM
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

If the first Named Insured or anyone with his, her, its or their power of attorney cancels this policy, then the minimum earned premium shall be 25% of the annual premium or \$100.00, whichever is greater.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – CYBER INCIDENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE
PRODUCTS-COMPLETED OPERATIONS COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE
LIQUOR LIABILITY COVERAGE PART
COMMERCIAL EXCESS LIABILITY COVERAGE PART
AUTO DEALERS COVERAGE FORM
GARAGE COVERAGE FORM

- A.** The following exclusion is added to the **Exclusions** section of all coverages under all forms and endorsements that comprise this Coverage Part, Coverage Form, endorsement, or Policy and supersedes any contradictory exclusion in the Coverage Part, Coverage Form, endorsement, or Policy to which this coverage applies. This exclusion applies regardless of any other cause or event that contributes concurrently or in any sequence to the "injury or damage".

Exclusion – Cyber Incident:

We will not pay for any "injury or damage" because of, caused by, arising or resulting, directly or indirectly, in whole or in part from a "cyber incident".

- 1.** As used in this exclusion "cyber incident" means:
- (a)** Unauthorized access to, acquisition, processing, storage, use, dissemination, publication, disclosure, or diversion of; or
 - (b)** Exceeding authorized use, misuse, alteration, misappropriation, theft, loss, loss of use, corruption or impairment of, damage to, inability to access, failure to provide access to, failure to remove or rectify, failure to destroy, failure to protect or secure (including, but not limited to, failure to encrypt), or inability to manipulate;

any person's or organization's confidential information or personal information including, but not limited to, patents, trade secrets, processing methods, customer or customer related information (including, but not limited to, customer lists), business plans or records, financial information, personally identifiable information, payment card information (including, but not limited to, credit, debit, or stored value cards), medical or health information, or any other type or combination of types of personal data or nonpublic information, whether such data or information is "electronic data" or in any other form or media, or any "computer system"; or

- 2.** Malicious code, virus, or any other harmful or unauthorized code that is directed at, enacted upon, or introduced into any "computer system" and is designed to access, alter, corrupt, damage, delete, destroy, disrupt, encrypt, exploit, use, prevent or restrict access to, or the use of "electronic data" or any part of any "computer system", or otherwise disrupt its normal functioning, use, or operation; or
- 3.** Denial of service attack, denial of access to, denial or interruption of service, degradation, loss, loss of use, misappropriation, transmission, unauthorized use or access, misuse, delay, alteration, diversion, failure, destruction, corruption or impairment of, damage to, or inability to access, operate, host, use, manage, control or interface with, any "computer system", including any insured's, other person's, or organization's "computer system"; or

4. Collection, sale, dissemination, publication, or disclosure of any person's or organization's confidential information, personal information, or personal data, including, but not limited to, patents, trade secrets, processing methods, customer or customer related information (including, but not limited to, customer lists), business plans or records, financial information, personally identifiable information, payment card information (including, but not limited to, credit, debit, or stored value cards), medical or health information, or any other type or combination of types of personal data or nonpublic information, whether such data or information is "electronic data" or in any other form or media, or any "computer system"; or
 5. Loss, loss of use, corruption, or disruption of, damage to, or inability to access or alter "electronic data" or a "computer system"; or
 6. Transfer, payment, or delivery of money or any form of currency, including virtual currency, in response to a fraudulent instruction or demand; or
 7. Demand for ransom payments or other extortion made in connection with the actual or threatened perpetration of any of the events described in **A.1. – 6.**
- B.** This exclusion applies even if "injury or damage" is claimed for any remediation measures (including, but not limited to, notification costs or credit monitoring), payment card replacement costs, business interruption, investigation, mitigation or restoration expenses, fines or penalties, public relations expenses, or any other damage, injury, cost, or expense because of, caused by, arising or resulting from, directly or indirectly, in whole or in part from a "cyber incident".
- C.** This exclusion applies to any liability or "injury or damage" because of, caused by, arising or resulting directly or indirectly, in whole or in part any failure (including, but not limited to, failure to timely or properly act) to notify of, disclose, prepare for, respond to, protect against, remediate, mitigate, or comply with any statutory, regulatory, contractual, common law, or other legal obligation relating to a "cyber incident".
- D.** This exclusion applies regardless of the cause or source of any "injury or damage" or the legal theory asserted, including, but not limited to, occurrences or offenses reported, claims made, or "suits" brought against any insured alleging breach of contract, misrepresentation, unfair or deceptive trade practices, defamation, violation of a person's right to privacy, violation of an intellectual property right (including, but not limited to, copyright, trademark or patent infringement), negligence, failure to comply with a legal obligation, or any other wrongdoing, including, but not limited to, the investigation, supervision, hiring, employment, training, or monitoring of others or the investigation, supervision, monitoring, or intervention with respect to "electronic data", "computer systems" or premises, by any insured or by any other person or organization acting for or on behalf of any insured.
- E.** We will have no duty to investigate or defend any claim or "suit" that alleges, or is because of, caused by, arises or results, directly or indirectly, in whole or in part from a "cyber incident" as defined in Paragraph **A.1. – 7.** of this endorsement.
- F.** For the purposes of this exclusion, the following are added to the **Definitions** section and supersede any contradictory definitions in the Coverage Part, Coverage Form, endorsement, or Policy:
- "Electronic data" means:
Information, facts, files, or computer programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices, or any other repositories of computer software, including, but not limited to, those which are used with electronically controlled equipment or any other "computer systems".
- "Computer systems" means:
- (a) Computer software, firmware, hardware and associated input and output devices (including wireless, mobile, peripheral or component devices), data storage and data processing devices, networking equipment, and backup facilities, including cloud computing devices and facilities; and
 - (b) Any computer network, network interface, or network of devices or hardware, including, but not limited to, communication networks or devices, computer-controlled devices, operating and control systems; websites or domains; intranets, extranets, the internet or any other internal or external networks (including, but not limited to, cloud computing).

"Injury or damage" means any injury, damages, loss, cost, or expense, including, but not limited to, "bodily injury", "property damage", "personal or advertising injury", "covered pollution cost or expenses", "damages", "injury", "loss", or "ultimate net loss" as defined or referenced in the Coverage Part, Coverage Form, endorsement, or Policy to which this exclusion applies.

All other terms and conditions of the Policy remain unchanged.

COMMERCIAL EXCESS LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this policy. The words "we", "us" and "our" refer to the company providing this insurance. The word "insured" means any person or organization qualifying as such under the "controlling underlying insurance".

Other words and phrases that appear in quotation marks in this Coverage Part have special meaning. Refer to Section IV – Definitions. Other words and phrases that are not defined under this Coverage Part but are defined in the "controlling underlying insurance" will have the meaning described in the policy of "controlling underlying insurance".

The insurance provided under this Coverage Part will follow the same provisions, exclusions and limitations that are contained in the applicable "controlling underlying insurance", unless otherwise directed by this insurance. To the extent such provisions differ or conflict, the provisions of this Coverage Part will apply. However, the coverage provided under this Coverage Part will not be broader than that provided by the applicable "controlling underlying insurance".

There may be more than one "controlling underlying insurance" listed in the Declarations and provisions in those policies conflict, and which are not superseded by the provisions of this Coverage Part. In such a case, the provisions, exclusions and limitations of the "controlling underlying insurance" applicable to the particular "event" for which a claim is made or suit is brought will apply.

SECTION I – COVERAGES

1. Insuring Agreement

- a. We will pay on behalf of the insured the "ultimate net loss" in excess of the "retained limit" because of "injury or damage" to which insurance provided under this Coverage Part applies.

We will have the right and duty to defend the insured against any suit seeking damages for such "injury or damage" when the applicable "retained limits" of "controlling underlying insurance" have been exhausted solely by the payment of the "retained limit" by the "controlling underlying insurer" in accordance with the provisions of such "controlling underlying insurance". Such payments

must be made in satisfaction of judgment or settlements under the "controlling underlying insurance" in the full amount of the "controlling underlying insurance".

When we have no duty to defend, we may exercise the right to defend at our own expense, or to participate in the defense of, the insured at the expense of the "controlling underlying insurer" against any suit seeking damages for "injury or damage".

However, we will have no duty to defend the insured against any suit seeking damages for which insurance under this policy does not apply or when the "retained limit" of the "controlling underlying insurance" has not been exhausted by actual payment of the full amount of the "retained limit" by either the insured or the "controlling underlying insurer(s)".

At our discretion, we may investigate any "event" that may involve this insurance and settle any resultant claim or suit, for which we have the duty to defend.

But:

- (1) The amount we will pay for "ultimate net loss" is limited as described in Section II – Limits Of Insurance; and
 - (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under this Coverage Part. However, if the policy of "controlling underlying insurance" specifies that limits are reduced by defense expenses, our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of defense expenses, judgments or settlements under this Coverage Part.
- b. This insurance applies to "injury or damage" that is subject to an applicable "retained limit". If any other limit, such as a sublimit, is specified in the "controlling underlying insurance", this insurance does not apply to "injury or damage" arising out of that exposure unless that specific sublimit is specified in the Declarations under the Schedule of "controlling underlying insurance".

c. If the "controlling underlying insurance" requires, for a particular claim, that the "injury or damage" occur during its policy period in order for that coverage to apply, then this insurance will only apply to that "injury or damage" if it occurs during the policy period of this Coverage Part. If the "controlling underlying insurance" requires that the "event" causing the particular "injury or damage" takes place during its policy period in order for that coverage to apply, then this insurance will apply to the claim only if the "event" causing that "injury or damage" takes place during the policy period of this Coverage Part.

d. Any additional insured under any policy of "controlling underlying insurance" will automatically be an additional insured under this insurance. If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance required by the contract, less any amounts payable by any "controlling underlying insurance".

Additional insured coverage provided by this insurance will not be broader than coverage provided by the "controlling underlying insurance" and will be subject to the Other Insurance condition of this Coverage Part.

2. Exclusions

The following exclusions, and any other exclusions added by endorsement, apply to this Coverage Part. In addition, the exclusions applicable to any "controlling underlying insurance" apply to this insurance unless superseded by the following exclusions, or superseded by any other exclusions added by endorsement to this Coverage Part.

Insurance provided under this Coverage Part does not apply to:

a. Medical Payments

Medical payments coverage or expenses that are provided without regard to fault, whether or not provided by the applicable "controlling underlying insurance".

b. Auto

Any loss, cost or expense payable under or resulting from any of the following auto coverages:

- (1) First-party physical damage coverage;
- (2) No-fault coverage;
- (3) Personal injury protection or auto medical payments coverage; or
- (4) Uninsured or underinsured motorists' coverage.

c. Pollution

- (1) "Injury or damage" caused by or arising, directly or indirectly, in whole or in part, out of the actual, alleged or threatened discharge, dispersal, disposal, seepage, migration, release or escape of "pollutants" at any time.
- (2) Any loss, cost or expense caused by or arising, directly or indirectly, in whole or in part out of any:
 - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

This exclusion applies whether or not such "pollutants" have any function in your business, operations, premises, site or location or constitutes your product or is a component of your product or products you use.

This exclusion does not apply to the extent that valid "controlling underlying insurance" for the "pollution" liability risks described above exists or would have existed but for the exhaustion of underlying limits for "injury or damage" covered under this Coverage Part.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

SECTION II – LIMITS OF INSURANCE

1. 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 number of vehicles involved;
 - c. Persons or organizations making claims or bringing suits; or
 - d. Limits available under any "controlling underlying insurance".
2. The Limits of Insurance of this Coverage Part will apply as follows:

- a. This insurance only applies in excess of the "retained limit".
 - b. The Aggregate Limit is the most we will pay for the sum of all "ultimate net loss", for all "injury or damage" covered under this Coverage Part.
However, this Aggregate Limit only applies to "injury or damage":
 - (1) that is subject to an aggregate limit of insurance under the "controlling underlying insurance"; and
 - (2) to which insurance provided under this Coverage Part applies.
 - c. Subject to Paragraph 2.b. above, the Each Occurrence Limit is the most we will pay for the sum of all "ultimate net loss" under this insurance because of all "injury or damage" arising out of any one "event" and to which insurance provided under this Coverage Part applies.
 - d. If the Limits of Insurance of the "controlling underlying insurance" are reduced by defense expenses by the terms of that policy, any payments for defense expenses we make will reduce our applicable Limits of Insurance in the same manner.
3. If any "controlling underlying insurance" has a policy period that is different from the policy period of this Coverage Part then, for the purposes of this insurance, the "retained limit" will only be reduced or exhausted by payments made for "injury or damage" covered under this insurance.

The Aggregate Limit of this Coverage Part applies separately to each consecutive annual period of this Coverage Part and to any remaining period of this Coverage Part of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

SECTION III – CONDITIONS

The following conditions apply. In addition, the conditions applicable to any "controlling underlying insurance" are also applicable to the coverage provided under this insurance unless superseded by the following conditions.

1. Appeals

If the "controlling underlying insurer" or insured elects not to appeal a judgment in excess of the amount of the "retained limit", we may do so at our own expense. We will also pay for taxable court costs, pre- and postjudgment interest and disbursements associated with such appeal. In no event will this provision increase our liability beyond the applicable Limits of Insurance described in Section II – Limits Of Insurance.

2. Bankruptcy

a. Bankruptcy Of Insured

Bankruptcy, insolvency, rehabilitation or liquidation of, or financial inability to pay by the insured or the insured's estate will not relieve us of our obligations under this Coverage Part provided the "retained limit" has been exhausted solely by the actual payment of the full amount of the "retained limit" by the "controlling underlying insurer(s)", the insured, or the insured's estate. Our obligation under this Coverage Part will only apply to the "ultimate net loss" in excess of the "retained limit".

b. Bankruptcy Of Controlling Underlying Insurer

Bankruptcy, insolvency, rehabilitation or liquidation of, or inability or refusal to pay by the "controlling underlying insurer" will not relieve us of our obligations under this Coverage Part provided the "retained limit" is exhausted as set forth in paragraph 2.c. below.

c. No Drop Down/No Gap-Filling

Insurance provided under this Coverage Part will not drop down or replace any "controlling underlying insurance":

- (1) in the event of bankruptcy, insolvency, rehabilitation or liquidation of, or inability or refusal to pay the "retained limit" by the "controlling underlying insurer(s)", the insured or the insured's estate; or
- (2) if the "controlling underlying insurance" is exhausted by payment of losses not covered by insurance provided under this Coverage Part.

In the event of the bankruptcy, insolvency, rehabilitation or liquidation of, or inability or refusal of the "controlling underlying insurer(s)" to pay the "retained limit" or defense costs if outside the limit of liability of the "controlling underlying insurance", the insured will be obligated to pay that amount of the "retained limit" or defense costs not actually paid by the "controlling underlying insurer(s)".

In no event will our obligations under this Coverage Part be expanded by the loss of or partial payment of the "retained limit" by the "controlling underlying insurer" or its successor or assigns or any state guarantee fund or liquidation bureau.

3. Duties In The Event Of An Event, Claim Or Suit

a. You must see to it that we are notified as soon as practicable of an "event", regardless of the amount, which may result in a claim under this insurance. To the extent possible, notice should include:

- (1) How, when and where the "event" took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any "injury or damage" arising out of the "event".

b. If a claim is made or suit is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or suit and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or suit as soon as practicable.

c. You and any other insured involved must:

- (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 or settlement of the claim or defense against the suit; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of "injury or damage" to which this insurance may also apply.

d. 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.

4. First Named Insured Duties

The first Named Insured is the person or organization first named in the Declarations and is responsible for the payment of all premiums. The first Named Insured will act on behalf of all other Named Insureds for giving and receiving of notice of cancellation or the receipt of any return premium that may become payable.

At our request, the first Named Insured must furnish us, within 60 days, with a complete copy of any "controlling underlying insurance" and any subsequently issued endorsements or policies which may in any way affect the insurance provided under this Coverage Part.

5. Cancellation

a. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.

b. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:

- (1) 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
- (2) 30 days before the effective date of cancellation if we cancel for any other reason.

c. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.

d. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

e. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

f. If notice is mailed, proof of mailing will be sufficient proof of notice.

6. Changes

This Coverage Part contains all the agreements between you and us concerning the insurance afforded. The first Named Insured is authorized by all other insureds to make changes in the terms of this Coverage Part with our consent. If we exercise our right to request a complete copy of any "controlling underlying insurance" and any subsequently issued endorsements or policies which may in any way affect the insurance provided under this Coverage Part, we reserve the right to make changes to the terms of this Coverage Part. This Coverage Part's terms can be amended or waived only by endorsement.

7. Maintenance Of/Changes To Controlling Underlying Insurance

Any "controlling underlying insurance", including any renewals or replacements, must be maintained in full effect without reduction of coverage or "retained limits" except for the reduction of aggregate limits in accordance with the provisions of such "controlling underlying insurance" that results from "injury or damage" to which this insurance under this Coverage Part applies.

Such exhaustion or reduction is not a failure to maintain "controlling underlying insurance". Failure to maintain "controlling underlying insurance" will not invalidate insurance provided under this Coverage Part, but insurance provided under this Coverage Part will apply as if the "controlling underlying insurance" were in full effect at the time the "event" took place and is subsequently exhausted solely by the payment of the "retained limit". Such "retained limit" will be equal to the full amount of "controlling underlying insurance" and such payment has been made to the claimant(s) or plaintiff(s).

The first Named Insured must notify us in writing, as soon as practicable, if any "controlling underlying insurance" is cancelled, not renewed, replaced or otherwise terminated, or if the limits or scope of coverage of any "controlling underlying insurance" is changed. These changes will not apply to our policy unless we agree to them in writing.

8. Other Insurance

- a. This insurance is excess over, and shall not contribute with any of the other insurance, whether primary, excess, contingent, or issued to an additional insured, or on any other basis. If the insured is named as or qualifies as an additional insured on any other policy, whether primary or excess, such other insurance is primary to this insurance and may not be applied to reduce or exhaust the "retained limit". The "retained limit" may be reduced or exhausted only by actual payment of the "retained limit" by the "controlling underlying insurer," the insured or the insured's estate.

This condition will not apply to insurance specifically written as excess over this Coverage Part.

When this insurance is excess, if no other insurer defends, we may undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

- b. When this insurance is excess over other insurance, we will pay only our share of the "ultimate net loss" that exceeds the sum of:
 - (1) The total amount that all such other insurance would pay for the loss in the absence of the insurance provided under this Coverage Part; and
 - (2) The total of all deductible and self-insured amounts under all that other insurance.

9. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. If this policy is auditable, the premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit premium is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

10. Loss Payable

Liability under this Coverage Part does not apply to a given claim unless and until:

- a. The insured or the "controlling underlying insurer" has become obligated to pay and has actually paid the full amount of the "retained limit";
- b. All applicable other insurance has been exhausted; and
- c. The obligation of the insured to pay "ultimate net loss" in excess of the "retained limit" has been determined by a final judgment or settlement by the insured with the written consent of us, such consent not to be unreasonably withheld.

11. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- 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 Part 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 Coverage Part 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, "controlling underlying insurer" and the claimant or the claimant's legal representative.

12. Transfer Of Defense

a. Defense Transferred To Us

When the limits of "controlling underlying insurance" have been exhausted, in accordance with the provisions of "controlling underlying insurance", we may elect to have the defense transferred to us. We will cooperate in the transfer of control to us of any outstanding claims or suits seeking damages to which this insurance applies and which would have been covered by the "controlling underlying insurance" had the applicable limit not been exhausted.

b. Defense Transferred By Us

When our limits of insurance have been exhausted our duty to provide a defense will cease.

We will cooperate in the transfer of control of defense to any insurer specifically written as excess over this Coverage Part of any outstanding claims or suits seeking damages to which this insurance applies and which would have been covered by the "controlling underlying insurance" had the applicable limit not been exhausted.

In the event that there is no insurance written as excess over this Coverage Part, we will cooperate in the transfer of control to the insured and its designated representative.

13. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION IV – DEFINITIONS

The definitions applicable to any "controlling underlying insurance" also apply to this insurance. In addition, the following definitions apply.

1. "Controlling underlying insurance" means any policy of insurance or self-insurance listed in the Declarations under the Schedule of "controlling underlying insurance".
2. "Controlling underlying insurer" means any insurer who provides any policy of insurance listed in the Declarations under the Schedule of "controlling underlying insurance".
3. "Event" means an occurrence, offense, accident, act, or other event, to which the applicable "controlling underlying insurance" applies.
4. "Injury or damage" means any injury or damage, covered in the applicable "controlling underlying insurance" arising from an "event".
5. "Pollutants" mean any solid, liquid, gaseous, bacterial, fungal, or thermal substance or material, that is harmful, toxic or hazardous to persons, plants, animals, wildlife or other living organisms or can cause contamination to property, air, land or water, which includes but is not limited to smoke, vapor, soot, fumes, acids, alkalis, chemicals, mineral spirits, solvents, insecticides, pesticides, fungicides, motor fuels, gasoline, diesel fuel, motor oil or any other petroleum based product, brake fluid, transmission fluid, antifreeze, lead paint, or other lead containing substances, carbon monoxide fumes or other exhaust gases, welding fumes, paint fumes, adhesive or glue fumes, asbestos, silica, human or animal sewage and waste.

Waste includes but is not limited to materials to be recycled, reconditioned or reclaimed. A pollutant also includes any substance or material listed, identified or described in any municipal, state or federal environmental statute or regulation that applies to the production, shipping, handling, storage, use, processing, recycling or disposal of such substance or material.

6. "Retained limit" means the available limits of "controlling underlying insurance" applicable to the claim, excluding any deductible paid or self-insured retention under the "controlling underlying insurance" which must be satisfied in accordance with the provisions of that policy before any obligation to pay an "ultimate net loss". The "retained limit" does not include:
 - a. any losses excluded by this Coverage Part; or
 - b. any defense expenses unless the "controlling underlying insurance" specifies that limits are reduced by defense expenses.
7. "Ultimate net loss" means the total sum, of damages covered under this Coverage Part, after reduction for recoveries, or salvages collectible, that the insured becomes legally obligated to pay as damages by reason of:
 - a. Settlements, judgments, binding arbitration; or
 - b. Other binding alternate dispute resolution proceeding entered into with our consent.

"Ultimate net loss" includes defense expenses if the "controlling underlying insurance" specifies that limits are reduced by defense expenses.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – DESIGNATED OPERATIONS COVERED BY A CONTROLLED (WRAP-UP) INSURANCE PROGRAM

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

SCHEDULE

Description And Location(s) Of Operation(s):	Any work that you perform or have performed, at any location, that is insured or will be insured under a consolidated (wrap-up) Insurance Program.
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The following exclusion is added to Paragraph 2. **Exclusions of Section I – Coverages:**

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Designated Operations Covered By A Controlled (Wrap-Up) Insurance Program

Any "injury or damage" arising out of your ongoing operations or operations included within the products-completed operations hazard at the location described in the Schedule of this endorsement, but only if you are enrolled in a "controlled (wrap-up) insurance program" with respect to the "injury or damage" described in this paragraph at such location(s). This exclusion applies whether or not the controlled (wrap-up) insurance program:

- (1) Provides coverage identical to that provided by this Coverage Part;
- (2) Has limits adequate to cover all claims; or
- (3) Remains in effect.

For the purposes of this endorsement, the following is added to the **Definitions** section:

"Controlled (wrap-up) insurance program" means a centralized insurance program under which one party has secured either insurance or self-insurance covering some or all of the contractors or subcontractors performing work on one or more specific project(s).

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – YOUR PRODUCT OR YOUR WORK (PRIOR TO A CERTAIN DATE)

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2.
Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Your Product Or Your Work (Prior To A Certain Date)

Any "injury or damage" caused by or arising out of, directly or indirectly, in whole or in part, by:

- a. Your work completed by any insured or by others on behalf of any insured; or
- b. Your product, including your product manufactured, sold, handled, disposed of or distributed by:
 - (1) Any insured or by others on behalf of any insured;
 - (2) Others trading under your name; or
 - (3) A person or organization whose business or assets you have acquired

prior to 01-11-2023 (date).

If this entry remains blank then this date shall be the inception date of this policy.

This exclusion applies even if claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured.

We shall have no duty to defend or indemnify any insured for any loss, claim, suit or other proceeding alleging damages arising out of or related to any "injury or damage" to which this endorsement applies.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF CERTIFIED ACTS OF TERRORISM AND EXCLUSION OF OTHER ACTS OF TERRORISM COMMITTED OUTSIDE THE UNITED STATES

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

Any endorsement addressing acts of terrorism (however defined) in any "controlling underlying insurance" does not apply to this excess insurance. The following provisions addressing acts of terrorism apply with respect to this excess insurance:

A. The following exclusion is added to Paragraph 2. Exclusions of Section I – Coverages:

2. Exclusions

TERRORISM

Any "injury or damage" caused by or arising, directly or indirectly, in whole or in part out of a "certified act of terrorism", or out of an "other act of terrorism" that is committed outside of the United States (including its territories and possessions and Puerto Rico), but within the coverage territory. However, with respect to an "other act of terrorism", this exclusion applies only when one or more of the following are attributed to such act:

1. The total of insured damage to all types of property exceeds \$25,000,000 (valued in US dollars). In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the terrorism and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
2. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - a. Physical injury that involves a substantial risk of death; or
 - b. Protracted and obvious physical disfigurement; or

- c. Protracted loss of or impairment of the function of a bodily member or organ; or
3. The terrorism involves the actual, alleged, threatened, or attempted use, release, escape, dispersal or application of nuclear materials or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or
4. Nuclear or radioactive materials are released and it is reasonably believed by us that one purpose of the terrorism was to release such materials; or
5. The terrorism is carried out by means of the actual, alleged, threatened, or attempted use, release, escape, dispersal or application of pathogenic or poisonous biological or chemical materials; or
6. Pathogenic or poisonous biological or chemical materials are released and it is reasonably believed by us that one purpose of the terrorism was to release such materials.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the providing or failure to provide warnings, protection, or safeguards against such acts.

With respect to this exclusion, Paragraphs 1. and 2. describe the thresholds used to measure the magnitude of an incident of an "other act of terrorism" and the circumstances in which the threshold will apply for the purpose of determining whether this exclusion will apply to that incident.

B. For the purposes of this endorsement, the following is added to the Definitions section:

1. "Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

- a. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act;
- b. The act resulted in damage:
 - (1) Within the United States (including its territories and possessions and Puerto Rico); or
 - (2) Outside of the United States in the case of:
 - (a) An air carrier (as defined in Section 40102 of title 49, United States Code) or United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs; or
 - (b) The premises of any United States mission; and
- c. The act is a violent act or an act that is dangerous to human life, property, or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

2. "Other act of terrorism" means a violent act or an act that is dangerous to human life, property, or infrastructure that is committed by an individual or individuals and it is reasonably believed by us to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion, and the act is not a "certified act of terrorism".

Multiple incidents of an "other act of terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.

C. The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for "injury or damage" that is otherwise excluded under this Coverage Part.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTO COVERAGE – EXCLUSION OF TERRORISM

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

Any endorsement addressing acts of terrorism (however defined) in any "controlling underlying insurance" does not apply to this excess insurance.

A. The provisions of this endorsement:

1. Apply only to any "injury or damage" caused by or arising, directly or indirectly, in whole or in part out of the ownership, maintenance, or use of any auto that is a covered auto under this Coverage Part; and
2. Supersede the provisions of any other endorsement addressing terrorism attached to this Coverage Part but only with respect to any "injury or damage" caused by or arising, directly or indirectly, in whole or in part out of the ownership, maintenance, or use of any auto that is a covered auto.

B. The following exclusion is added to Paragraph 2. **Exclusions of Section I – Coverages:**

2. Exclusions

TERRORISM

We will not pay for any "injury or damage" caused by or arising, directly or indirectly, in whole or in part out of an act of "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". Any "injury or damage" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such injury or damage. However, this exclusion applies only when one or more of the following are attributed to an act of "terrorism":

1. The "terrorism" involves the actual, alleged, threatened, or attempted use, release, escape, dispersal or application of nuclear materials or directly, or indirectly results in nuclear reaction, or radiation or radioactive contamination; or
2. Nuclear or radioactive materials are released and it is reasonably believed by us that one purpose of the "terrorism" was to release such materials; or

3. The "terrorism" is carried out by means of the actual, alleged, threatened, or attempted use, release, escape, dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released and it is reasonably believed by us that one purpose of the "terrorism" was to release such materials; or
5. The total of insured damage to all types of property exceeds \$25,000,000 (valued in US dollars). In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
6. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - a. Physical injury that involves a substantial risk of death; or
 - b. Protracted and obvious physical disfigurement; or
 - c. Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of "terrorism" which occur within a 72-hour period and it is reasonably believed by us to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraph **B.5.** or **B.6.** are exceeded.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the providing or failure to provide warnings, protection, or safeguards against such acts.

With respect to this exclusion, Paragraphs **B.5.** and **B.6.** describe the thresholds used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this exclusion will apply to that incident. When the exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Part.

In the event of any incident of "terrorism" that is not subject to this exclusion, coverage does not apply to any "injury or damage" that is otherwise excluded under this Coverage Part.

- C.** For the purposes of this endorsement, the following is added to the **Definitions** section:
- 1.** "Terrorism" means acts against persons, organizations or property of any nature:
 - a.** That involve the following or preparation for the following:
 - (1)** Use or threat of force or violence; or
 - (2)** Commission or threat of a dangerous act; or
 - (3)** Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
 - b.** When one or both of the following applies:
 - (1)** The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
 - (2)** It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT

(BROAD FORM)

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2.,
Exclusions:

2. Exclusions

NUCLEAR ENERGY LIABILITY

a. Under any Liability Coverage, to "injury or damage":

(1) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

b. Under any Liability Coverage, to "injury or damage" resulting from "hazardous properties" of "nuclear material", if:

(1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an insured or (b) has been discharged or dispersed therefrom;

(2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an insured; or

(3) The "injury or damage" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (3) applies only to property damage to such "nuclear facility" and any property thereat.

c. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "special nuclear material" or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material (a) containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and (b) resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

(a) Any "nuclear reactor";

(b) Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing "spent fuel", or (3) handling, processing or packaging "waste";

(c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Injury or damage" includes all forms of radioactive contamination of property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – EXTERIOR INSULATION AND FINISH SYSTEMS

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2.
Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to "injury or damage" arising out of, caused by, or attributable to, whether in whole or in part, the following:

- a.** The design, manufacture, construction, fabrication, preparation, distribution and sale, installation, application, maintenance or repair, including remodeling, service, correction or replacement, of any "exterior insulation and finish system" or any part thereof, or any substantially similar system or any part thereof, including the application or use of conditioners, primers, accessories, flashings, coatings, caulking or sealants in connection with such a system; or
- b.** Your product or your work with respect to any exterior component, fixture or feature of any structure if an "exterior insulation and finish system", or any substantially similar system, is used on the part of that structure containing that component, fixture or feature.

B. The following definition is added to the **Definitions** section:

"Exterior insulation and finish system" means a non-load bearing exterior cladding or finish system, and all component parts therein, used on any part of any structure, and consisting of:

- 1.** A rigid or semi-rigid insulation board made of expanded polystyrene and other materials;
- 2.** The adhesive and/or mechanical fasteners used to attach the insulation board to the substrate;
- 3.** A reinforced or unreinforced base coat;
- 4.** A finish coat providing surface texture to which color may be added; and
- 5.** Any flashing, caulking or sealant used with the system for any purpose.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – COMMUNICABLE DISEASE

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2.
Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Communicable Disease

"Injury or damage" arising out of the actual or alleged transmission of a communicable disease.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the:

- a. Supervising, hiring, employing, training or monitoring of others that may be infected with and spread a communicable disease;

- b. Testing for a communicable disease;
- c. Failure to prevent the spread of the disease; or
- d. Failure to report the disease to authorities.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – EMPLOYMENT-RELATED PRACTICES

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2.
Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to "injury or damage" to:

- a. A person arising out of any:
 - (1) Refusal to employ that person;
 - (2) Termination of that person's employment; or
 - (3) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or
- b. The spouse, child, parent, brother or sister of that person as a consequence of "injury or damage" to that person at whom any of the employment-related practices described in Paragraph (1), (2) or (3) above is directed.

This exclusion applies whether the injury-causing event described in Paragraph (1), (2) or (3) above occurs before employment, during employment or after employment of that person.

This exclusion applies whether the insured may be liable as an employer or in any other capacity, and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – PROFESSIONAL SERVICES

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2.
Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to "injury or damage" due to the rendering of or failure to render any professional service. This includes but is not limited to:

- a. Legal, accounting or advertising services;
- b. Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings or specifications;
- c. Inspection, supervision, quality control, architectural or engineering activities done by or for you on a project on which you serve as construction manager;
- d. Engineering services, including related supervisory or inspection services;
- e. Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
- f. Any health or therapeutic service treatment, advice or instruction;
- g. Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement, or personal grooming or therapy;
- h. Any service, treatment, advice or instruction relating to physical fitness, including service, treatment, advice or instruction in connection with diet, cardiovascular fitness, bodybuilding or physical training programs;
- i. Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;
- j. Body piercing services;
- k. Services in the practice of pharmacy;
- l. Law enforcement or firefighting services; and
- m. Handling, embalming, disposal, burial, cremation or disinterment of dead bodies.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "event" which caused the "injury or damage" involved the rendering of or failure to render any professional service.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PUBLIC OR LIVERY PASSENGER CONVEYANCE AND ON-DEMAND DELIVERY SERVICES EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2. Exclusions of Section I – Coverages:

Insurance provided under this Coverage Part does not apply to:

**Public Or Livery Passenger Conveyance
And On-demand Services**

"Injury or damage" arising out of any covered auto while being used:

- a. As a public or livery conveyance for passengers. This includes, but is not limited to, any period of time a covered auto is being used by an insured who is logged into a "transportation network platform" as a driver, whether or not a passenger is "occupying" the covered auto; or
- b. By an insured who is logged into a "transportation network platform" or "delivery network platform" as a driver to provide "delivery services", whether or not the goods, items or products to be delivered are in the covered auto.

B. If Excess Uninsured and/or Underinsured Motorists Coverage is attached, then the following exclusion is added to Paragraph C.2.:

2. Additionally, this insurance does not apply to:

**Public Or Livery Passenger Conveyance
And On-demand Services**

Any covered auto while being used:

- a. As a public or livery conveyance for passengers. This includes, but is not limited to, any period of time a covered auto is being used by an insured who is logged into a "transportation network platform" as a driver, whether or not a passenger is "occupying" the covered auto; or

- b. By an insured who is logged into a "transportation network platform" or "delivery network platform" as a driver to provide "delivery services", whether or not the goods, items or products to be delivered are in the covered auto.

C. Additional Definitions

As used in this endorsement:

1. "Delivery network platform" means an online-enabled application or digital network used to connect customers:
 - a. With drivers; or
 - b. With local vendors using drivers; for the purpose of providing prearranged "delivery services" for compensation. A "delivery network platform" does not include a "transportation network platform".
2. "Delivery services" includes courier services.
3. "Occupying" means in, upon, getting in, on, out or off.
4. "Transportation network platform" means an online-enabled application or digital network used to connect passengers with drivers using vehicles for the purpose of providing prearranged transportation services for compensation.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - AIRCRAFT PRODUCTS AND GROUNDING, INCLUDING UNMANNED AIRCRAFT OR UNMANNED AERIAL VEHICLE

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

- A.** The following exclusion is added to Paragraph 2.
Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Aircraft Products and Grounding, Including Unmanned Aircraft Or Unmanned Aerial Vehicle

Any "injury or damage" included within the products-completed operations hazard and caused by or arising out of any "aircraft product" or the "grounding" of any "manned aircraft or manned aerial vehicle" or any "unmanned aircraft or unmanned aerial vehicle".

- B.** The following are added to the **Definitions** Section:

1. "Aircraft Product" means:

- a.** Aircraft including "manned aircraft or manned aerial vehicle", "unmanned aircraft or unmanned aerial vehicle", and any ground support or control equipment used therewith; and
- b.** Any article furnished by the insured and installed in an aircraft (including "manned aircraft or manned aerial vehicle", or "unmanned aircraft or unmanned aerial vehicle"); or used in connection with an aircraft (including "manned aircraft or manned aerial vehicle", or "unmanned aircraft or unmanned aerial vehicle"); or for spare parts for an aircraft (including "manned aircraft or manned aerial vehicle", or "unmanned aircraft or unmanned aerial vehicle"), including ground handling tools and equipment; and

c. Any of "your products" used at an airport for the purpose of guidance, navigation or direction of aircraft (including "manned aircraft or manned aerial vehicle", or "unmanned aircraft or unmanned aerial vehicle"); and

d. Training aids, manuals, blueprints, engineering or other data or advice, and services and labor relating to such aircraft (including "manned aircraft or manned aerial vehicle", or "unmanned aircraft or unmanned aerial vehicle"), articles or products.

- 2.** "Grounding" means the withdrawal of one or more aircraft (including "manned aircraft or manned aerial vehicle", or "unmanned aircraft or unmanned aerial vehicle"), from flight operations or the imposition of speed, passenger or load restrictions on such aircraft, by reason of the existence of or alleged or suspected existence of any defect, fault or condition in such aircraft or any part therefore sold, handled or distributed by the insured or manufactured, assembled or processed by any other person or organization according to specifications, plans, suggestions, orders, or drawings of the insured or with tools, machinery or other equipment furnished to such persons or organizations by the insured, whether such aircraft so withdrawn are owned or operated by the same or different persons, organizations or corporations.

- 3.** "Manned aircraft or manned aerial vehicle" is an aircraft, including any missile or spacecraft whose flight is or can be controlled directly with a human operator on board the aircraft.

4. "Unmanned aircraft or unmanned aerial vehicle" is an aircraft, including any missile or spacecraft without a human operator on board, whose flight can be controlled remotely or autonomously.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – DAMAGE TO PROPERTY

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following is added to Paragraph **2. Exclusions** of **Section I – Coverages**:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Damage To Property

Property damage to:

- (1)** Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization, or entity for repair, replacement, enhancement, restoration, or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2)** Premises you sell, give away, or abandon, if the property damage arises out of any part of those premises;
- (3)** Property loaned or leased to any insured;

- (4)** Personal property in the care, custody, or control of any insured;
- (5)** That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the property damage arises out of those operations; or
- (6)** That particular part of any property that must be restored, repaired, or replaced because your work was incorrectly performed on it.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – LEAD BEARING SUBSTANCE

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following is added to Paragraph 2. **Exclusions** of **Section I – Coverages**:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Lead Bearing Substance

- a.** Any "injury or damage" caused by or arising, directly or indirectly, in whole or in part out of:
 - (1)** The actual, alleged, threatened, or suspected inhalation, ingestion, absorption, consumption, existence, application, presence or use of, contact with, or exposure to lead in any form; or
 - (2)** Any disease or ailment caused by plumbism (lead poisoning).
- b.** Any loss, cost, or expense arising out of any:
 - (1)** Request, demand, order, or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, dispose of, or in any way respond to, or assess the effects of lead; or
 - (2)** Claim or suit brought by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, disposing of, or in any way responding to, or assessing the effects of lead.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- a.** The providing of instructions, warnings, or labeling;
- b.** The supervision, hiring, employment, training, or monitoring of others by that insured; or
- c.** The rendering of or failure to render aid, medical or otherwise, to any person.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - ERISA

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2.
Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

ERISA

- a. Any obligation of the insured under the Employers' Retirement Income Security Act of 1974 and any amendments thereto, and any similar state or local laws; or

- b. Any "injury or damage" arising out of the Employers' Retirement Income Security Act of 1974 and any amendments thereto, and any similar state or local laws.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – RECALL OF PRODUCTS, WORK OR IMPAIRED PROPERTY

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2.
Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Recall Of Products, Work Or Impaired Property

Any "injury or damage" claimed for loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1)** Your product, including your product manufactured, sold, assembled, handled, distributed, or disposed of by:
 - (a)** Any insured or by others on behalf of any insured;
 - (b)** Others trading under your name; or
 - (c)** A person or organization whose business or assets you have acquired;
- (2)** Your work by:
 - (a)** Any insured or by others on behalf of any insured;
 - (b)** Others trading under your name; or
 - (c)** A person or organization whose business assets you have acquired; or
- (3)** Impaired property by:
 - (a)** Any insured or by others on behalf of any insured;
 - (b)** Others trading under your name; or
 - (c)** A person or organization whose business or assets you have acquired if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – LAND SUBSIDENCE

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2.

Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Land Subsidence

Any "injury or damage" caused by or arising out of the subsidence of land as a result of earthquake, landslide, mudflow, earth sinking, earth rising, or earth shifting.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – FUNGI OR BACTERIA

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2.
Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Fungi or Bacteria

Any "injury or damage":

- a.** Which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
- b.** Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to:

- (i)** Any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption; or
- (ii)** The extent that valid "controlling underlying insurance" for the fungi or bacteria risks described above exists or would have existed but for the exhaustion of underlying limits for "injury or damage".

B. The following is added to the **Definitions** Section:

"Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – PUNITIVE DAMAGES

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2.

Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Punitive Damages

Any claim of or indemnification for punitive or exemplary damages. If a suit seeking both compensatory and punitive or exemplary damages has been brought against you for a claim covered by this policy, we will provide defense for such action. We will not have any obligation to pay for any fees, including but not limited to attorney fees, costs, interest or damages attributable to punitive or exemplary damages.

All other terms and conditions on this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – INTELLECTUAL PROPERTY

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2.

Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Intellectual Property

Any "injury or damage" caused by or arising out of the actual or alleged infringement or violation of any intellectual property rights or laws, including but not limited to:

- a. Copyright;
- b. Patent;
- c. Trade dress;
- d. Trade name;
- e. Trade secret; or
- f. Trademark.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - WAR

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2.

Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

War

Any "injury or damage", however caused, arising, directly or indirectly, out of:

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – AIRCRAFT LIABILITY

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2. **Exclusions of Section I – Coverages:**

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Aircraft Liability

Any "injury or damage" caused by or arising out of any "manned aircraft or manned aerial vehicle", or "unmanned aircraft or unmanned aerial vehicle", including loading or unloading.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured.

B. The following is added to the **Definitions** Section:

"Manned aircraft or manned aerial vehicle" is an aircraft, including any missile or spacecraft whose flight is or can be controlled directly with a human operator on board the aircraft.

"Unmanned aircraft or unmanned aerial vehicle" is an aircraft, including any missile or spacecraft without a human operator on board, whose flight can be controlled remotely or autonomously.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

RECORDING AND DISTRIBUTION OF MATERIAL OR INFORMATION IN VIOLATION OF LAW EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2. **Exclusions of Section I – Coverages:**

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Recording And Distribution Of Material Or Information In Violation Of Law

Any "injury or damage" caused by or arising, directly or indirectly, out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;

- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – ASBESTOS OR ASBESTOS-RELATED DUST

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following is added to Paragraph 2. **Exclusions of Section I – Coverages:**

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Asbestos Or Asbestos-Related Dust

a. Any "injury or damage" caused by or arising, directly or indirectly, in whole or in part out of:

- (1) The actual, alleged, threatened, or suspected inhalation, ingestion, absorption, consumption, existence, application, presence or use of, contact with, or exposure to asbestos or asbestos-related dust in any form;
- (2) The handling, distribution, sale, processing, repackaging, testing, analyzing, marketing, production, manufacturing, storage, delivery, transport, warehousing, use, disposal, or removal of asbestos or asbestos-related dust, whether or not it is incorporated into your product or your work;
- (3) Any vapor, gas, dust, fumes, or any substance in any form produced by or arising out of any process or procedure involving asbestos or asbestos-related dust; or
- (4) Any goods, products, or materials to which asbestos or asbestos-related dust has been applied or incorporated into by any party, including, but not limited to, any manufacturer, processor, or distributor of such goods, products, or materials.

b. Any loss, cost, or expense arising out of any:

- (1) Request, demand, order, or statutory or regulatory requirement that any insured or others abate, test for, monitor, clean up, remove, remediate, contain, treat, detoxify, neutralize, dispose of, or in any way respond to, or assess the existence or effects of asbestos or asbestos-related dust, by any insured or by any other person or entity.
- (2) Claim or suit brought by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, disposing of, or in any way responding to or assessing the effects of asbestos or asbestos-related dust.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- a. The providing of instructions, warnings, or labeling;
- b. The supervision, hiring, employment, training, or monitoring of others by that insured; or
- c. The rendering of or failure to render aid, medical or otherwise, to any person.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - INJURY TO INDEPENDENT CONTRACTORS/SUBCONTRACTORS

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2. **Exclusions of Section I – Coverages:**

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Injury To Independent Contractors/Subcontractors

a. Any bodily injury or personal and advertising injury to:

- (1)** Any "independent contractors/subcontractors"; or
- (2)** Any "employee" of any "independent contractors/subcontractors"

hired to do work for or on behalf of any insured or any tenant of any insured that arises out of and in the course of:

- (1)** Employment by any insured; or
- (2)** Directly or indirectly performing duties related to the conduct of any insured's business; or

b. The spouse, child, parent, brother or sister of any "independent contractors/subcontractors" or any "employee" of any "independent contractors/subcontractors" as a consequence of Paragraph **a.** above.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, even if the "event" which caused the bodily injury or personal and advertising injury involved the rendering of or failure to render any service.

B. The following are added to the **Definitions** Section:

"Employee" as used herein means a person working for salary or wages, or any substitute for salary or wages, as compensation in any manner by any "independent contractors/subcontractors", under any contract of hire, express or implied, oral or written, where the "independent contractors/subcontractors" have the power or right to control and direct the "employee". "Employee" includes a person hired by the hour, day or any other irregular or intermittent period. "Employee" includes a "leased worker" or "temporary worker".

"Independent contractors/subcontractors" as used herein means a person or entity that agrees (orally or in writing) to provide all or some portion of the work or service which you have agreed to perform, regardless of who exercises control over the means or methods used in doing the work or performing the service.

"Leased worker" as used herein means a person leased to any "independent contractors/subcontractors" by a labor leasing firm under an agreement between any "independent contractors/subcontractors" and the labor leasing firm, to perform duties related to the conduct of any "independent contractors/subcontractors" business. "Leased worker" does not include a "temporary worker".

"Temporary worker" as used herein means a person who is furnished to any "independent contractors/subcontractors" to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITATION - INDEPENDENT CONTRACTORS/SUBCONTRACTORS

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

- A.** The following exclusion is added to Paragraph 2. **Exclusions of Section I – Coverages:**

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Independent Contractors/Subcontractors

Any "injury or damage" or "ultimate net loss" for any loss, cost or expense caused by, arising out of or resulting from, in whole or in part by the act(s) of any "independent contractors/subcontractors" unless all of the conditions in paragraph **B.** of this endorsement are met.

- B.** The following condition is added to **Section III – Conditions:**

Independent Contractors/Subcontractors Special Conditions

- a.** You will obtain a written agreement from all "independent contractors/subcontractors":

(1) Holding you harmless to the fullest extent of the law from all theories of liability (direct or vicarious) asserted against any insured, including but not limited to all theories of negligence, gross negligence, recklessness or intentional tort, alleged or actual, caused by or arising out of any wrongdoing related to the work or operations performed by the "independent contractors/subcontractors" on your behalf; and

(2) That states you are named as an additional insured for ongoing operations and products-completed operations hazard on their Commercial General Liability insurance policy.

- b.** Commercial General Liability coverage is purchased and maintained by the "independent contractors/subcontractors":

(1) That is equal to or broader than the coverage(s) provided by the Commercial General Liability policy listed in the Schedule Of "Controlling Underlying Insurance"; and

(2) That includes coverage stating that you are named as an additional insured for ongoing operations and products-completed operations hazard.

- c.** You will obtain certificates of insurance from all "independent contractors/subcontractors" providing evidence of valid and enforceable Commercial General Liability insurance coverage that includes but is not limited to:

(1) Products-completed operations hazard; and

(2) Contractual liability

on an occurrence basis with limits of at least \$1,000,000 per occurrence limit.

- C.** The following is added to the **Definitions** Section:

"Independent contractors/subcontractors" as used herein means a person or entity that agrees (orally or in writing) to provide all or some portion of the work or service which you have agreed to perform, regardless of who exercises control over the means or methods used in doing the work or performing the service.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF PREMIUM CONDITIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

Paragraph **9. Premium Audit** of **Section III – Conditions** is replaced by the following:

9. Premium Audit

- a.** We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b.** If this policy is auditable, the premium shown in this Coverage Part as Total Policy Premium Or Deposit premium is a minimum and deposit premium only. At the close of each audit period we will compute the earned premium for that period. Audit premiums are due and payable on notice to the first Named Insured. If the total earned premium for the policy period is less than the Total Policy Premium Or Deposit Premium, the Total Policy Premium Or Deposit Premium is the minimum premium and is not subject to further adjustment.

- c.** The first Named Insured must keep records of the information we need for premium computation and permit us to audit these records or, at our option, send us copies at such times as we may request.
- d.** Should you not cooperate with the terms of this condition, including failure to return any questionnaires or self-audit worksheets applying to this or a prior policy term, we may, at our discretion, nonrenew the policy due to our inability to establish a proper premium.

We reserve the right to accept coverage based upon the policy advance, or minimum and deposit premium, and we are not obligated to perform an audit.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION - DISCRIMINATION

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2.

Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Discrimination

Any "injury or damage" caused by or arising, in whole or in part, out of an actual, alleged, or threatened act or omission of discrimination, whether intentional or unintentional, based upon a person's gender, sexual preference, marital status, race, creed, religion, national origin, age, physical capabilities, characteristics or condition, mental capabilities or condition, or any other protected class under any federal, state, municipal or local statute, ordinance, rule, order or regulation.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – BREACH OF CONTRACT

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2.

Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Breach Of Contract

Any "injury or damage", cost or expense caused by or arising out of, resulting from, or contributed to in any way by, any breach of contract, including breach of an implied in law or implied in fact contract, whether express or oral.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – TOXIC SUBSTANCES

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

A. The following is added to Paragraph **2. Exclusions** of **Section I – Coverages**:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Toxic Substances

Any "injury or damage" caused by or arising, directly or indirectly, in whole or in part out of:

- a. Coal dust;
- b. Polychlorinated biphenyls (PCBs);
- c. "Benzene";
- d. Talc;
- e. Dioxin;
- f. Pesticides, herbicides, fungicides;
- g. "Toluene";
- h. "Formaldehyde";
- i. "Phthalates";
- j. "Methanol"; or
- k. Any substance, material, compound, chemical, resin, extract, or any other derivative, product, by-product, mixture, or combination that consists of or contains any of the foregoing listed in subparagraphs **a. - j.**, in any shape or form, or any derivative thereof, including, but not limited to, gels, powders, liquids, solids, or vapors.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- a. The providing of instructions, warnings, or labeling;
- b. The supervision, hiring, employment, training, or monitoring of others by that insured; or
- c. The rendering of or failure to render aid, medical or otherwise to any person.

B. For the purposes of this endorsement, the following is added to the **Definitions** section:

"Benzene" (CAS No. 71-43-2) means an aromatic hydrocarbon, also known as Benzol, Benzole, and Cyclohexatriene in any form, including any chemical compound, derivative, or by-product thereof.

"Toluene" (CAS No. 108-88-3) means a colorless liquid aromatic hydrocarbon, also known as methylbenzene, toluol, tolu-sol, or phenylmethane in any form, including any chemical compound, derivative, or by-product thereof.

"Formaldehyde" (CAS No. 50-00-0) means an organic compound, also known as Methanal, Methylene Oxide, Formalin (aqueous solution), and Formol in any form, including any chemical compound, derivative, or by-product thereof.

"Phthalates" means a salt of phthalic acid, an ester of phthalic acid, or an anion of phthalic acid in any form, including any chemical compound, derivative, or by-product thereof.

"Methanol" (CAS No. 67-56-1) means an organic compound, also known as Methyl Alcohol, Wood Alcohol, and Carbinol in any form, including any chemical compound, derivative, or by-product thereof.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – CONTAMINATED DRYWALL

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2.
Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Contaminated Drywall

a. Any "injury or damage" arising out of:

- (1)** The distribution, installation, sale, inspection, testing, repair, replacement, removal, disposal or use of "contaminated drywall";
- (2)** The planning or drawing of plans for the use of "contaminated drywall"; or
- (3)** The providing of advice with regard to "contaminated drywall";

by you or on your behalf.

b. Any loss, cost or expense arising out of any:

- (1)** Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "contaminated drywall"; or
- (2)** Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "contaminated drywall".

B. For the purposes of this endorsement, the following is added to the **Definitions** Section:

"Contaminated drywall" means drywall, gypsum board, wallboard, greenboard, blueboard, cement board, plasterboard or similar building materials which contain a substance that emits a fume, odor, pollutant, corrosive or has a corrosive effect.

All other terms and conditions of the Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – CROSS SUITS – NAMED INSURED VERSUS NAMED INSURED

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

A. The following exclusion is added to **2. Exclusions** of **Section I – Coverages**:

2. Exclusions

Insurance provided under this Coverage part does not apply to:

Cross Suits – Named Insured Versus Named Insured

Any claim for damages by any "Named Insured" against another "Named Insured" because of "injury or damage".

B. For the purposes of this endorsement, the following is added to the **Definitions** Section:

"Named Insured" means any party listed as a Named Insured on the Common Declaration Page of the policy and any party qualifying as an insured under **Section II – Who Is An Insured**, but excluding any party qualifying as such under any Additional Insured endorsement.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

TOTAL POLLUTION EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

Exclusion **c.** under Paragraph **2. Exclusions** of **Section I – Coverages** is replaced by the following:

Insurance provided under this Coverage Part does not apply to:

2. Exclusions

c. Pollution

- (1)** "Injury or damage" caused by or arising, directly or indirectly, in whole or part out of the actual, alleged or threatened discharge, dispersal, disposal, seepage, migration, release or escape of "pollutants" at any time; or
- (2)** Any loss, cost or expense caused by or arising, directly or indirectly, in whole or in part out of any:
 - (a)** Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
 - (b)** Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

This exclusion applies whether or not such "pollutants" have any function in your business, operations, premises, site or location or constitutes your product or is a component of your product or products you use.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COLORADO – EXCLUSION – ANY CONSTRUCTION OR CONTRACTING ACTIVITIES

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following exclusion is added to Paragraph 2.
Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Any Construction Or Contracting Activities

"Injury or damage" caused by or arising out of any construction or contracting activities of any kind:

- a. That are performed by you or on your behalf;
- b. Whether the operations are performed for any insured or for any other person or entity; and
- c. Performed or located in the state of Colorado.

This exclusion applies:

- a. To any work performed as part of or in connection with such construction or contracting activities;
- b. Regardless of whether the described operations are ongoing, completed or in any other stage when the loss occurs; and
- c. Even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – SILICA OR OTHER SIMILAR FIBROUS OR MINERAL SUBSTANCES

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

A. The following is added to Paragraph **2. Exclusions** of **Section I – Coverages**:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Silica Or Other Similar Fibrous Or Mineral Substances

a. Any "injury or damage" caused by or arising, directly or indirectly, in whole or in part out of:

- (1)** The actual, alleged, threatened, or suspected inhalation, ingestion, absorption, consumption, existence, application, presence or use of, contact with, or exposure to "silica", or any other similar fibrous or mineral substance in any form;
- (2)** The handling, distribution, sale, processing, repackaging, testing, analyzing, marketing, production, manufacturing, storage, delivery, transport, warehousing, use, or disposal of "silica", or any other similar fibrous or mineral substance in any form whether or not it is incorporated into your product or your work;
- (3)** Any vapor, gas, dust, fumes, or any substance in any form produced by or arising out of any process or procedure involving "silica", or any other similar fibrous or mineral substance in any form; or
- (4)** Any goods, products, or materials to which "silica", or any other similar fibrous or mineral substance in any form has been applied or incorporated into by any party, including, but not limited to, any manufacturer, processor, or distributor of such goods, products, or materials.

b. Any loss, cost, or expense arising out of any:

- (1)** Request, demand, order, or statutory or regulatory requirement that any insured or others abate, test for, monitor, clean up, remove, remediate, contain, treat, detoxify, neutralize, dispose of, or in any way respond to or assess the existence or effects of "silica", or any other similar fibrous or mineral substance in any form by any insured or by any other person or entity.
- (2)** Claim or suit brought by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, disposing of, or in any way responding to, or assessing the effects of "silica", or any other similar fibrous or mineral substance in any form.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in:

- a.** The providing of instructions, warnings, or labeling;
- b.** The supervision, hiring, employment, training, or monitoring of others by that insured; or
- c.** The rendering of or failure to render aid, medical or otherwise, to any person.

B. For the purposes of this endorsement, the following is added to the **Definitions** section:

"Silica" (CAS No. 7631-86-9) means a chemical compound of silicon and oxygen, also known as Silicon Dioxide, Quartz and Cristobalite in dust or any other form, including any chemical compound, derivative, or by-product thereof.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED STATE(S) – EXCLUSION – RESIDENTIAL CONSTRUCTION OR RESIDENTIAL CONTRACTING ACTIVITIES – ARIZONA, CALIFORNIA, COLORADO, NEVADA, NEW YORK, OREGON, AND WASHINGTON

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

SCHEDULE

Designated State(s): Arizona, California, Colorado, Nevada, New York, Oregon, and Washington

- A. The following exclusion is added to Paragraph 2.
Exclusions of Section I – Coverages:

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Residential Construction Or Residential Contracting Activities

Any "injury or damage" caused by or arising out of any "residential" construction or "residential" contracting activities of any kind:

- a. That are performed by you or on your behalf;
- b. Whether the operations are performed for any insured or for any other person or entity; and
- c. Performed or located in the designated state(s) shown in the schedule above.

This exclusion applies:

- a. To any work performed as part of or in connection with such construction or contracting activities;
- b. Regardless of whether the described operations are ongoing, completed or in any other stage when the "event" occurs; and
- c. Even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured.

However, this exclusion does not apply to:

Property to which title is not transferred to individually owned living areas such as apartment buildings; assisted living facilities; nursing homes, hospitals, clinics and sanitariums; hotels and motels; dormitories, military housing or barracks; jails and prisons; which are not, were not or will not be used, occupied, listed or marketed to be sold as a residential premises.

- B. For the purpose of this endorsement, the following definition is added to the **Definitions** section:

"Residential" includes:

Single or multiple family homes, condominiums, cooperatives, townhomes, row houses, and properties which have a mix of residential and commercial or residential and industrial uses. It also includes appurtenant structures, facilities, garages, common areas and fixtures. Residential includes properties which have been converted for use, occupancy, listing or marketing for sale as individually titled or owned units, homes or structures.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ANTI-STACKING OF LIMITS

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

- A.** The following is added to **Section III – Conditions** of the Commercial Excess Liability Coverage Form:

Anti-Stacking Of Limits

If any "event" covered under this policy is also covered under any other Excess policy issued to you by us, or by any insurance company that has common ownership with us, then only the policy with the highest available limit of insurance will apply regardless of whether any "injury or damage":

1. Extends over more than one policy period; or
2. Is caused by or arises out of:
 - a. Substantially the same or related general harmful conditions or substances; or
 - b. Continuous or repeated exposure to substantially the same or related general harmful conditions, substances, or a series of wrongful acts.

If the policies described in Paragraph **A.** have more than one applicable limit of insurance, then only the policy with the highest available limit of insurance shall apply.

If more than one policy has the same limit of insurance, such policies will respond on an equal share basis.

If you, or any other insured covered under this policy, is included as an insured under more than one Excess policy issued by us, or any other insurance company that has common ownership with us covering the same "event", coverage provided to you by us will be limited to only the policy with the highest available Limit of Insurance. However, this condition does not apply if the insurance is specifically written to be excess of this policy.

- B.** For the purposes of this endorsement "event" in the **Definitions** section is deleted and replaced with the following:

"Event" means any occurrence, offense, accident, act, or other event which takes place in its entirety at a specific time and place or is related, in whole or in part, or traceable to the same or related single act, error, or omission, or series of acts, errors, or omissions.

This endorsement applies regardless of any other terms and conditions in this or any other Excess policy, including, but not limited to, the Conditions - Other Insurance section.

This endorsement does not apply to:

Any liability insurance policies issued to you by us, or by any insurance company that has common ownership with us, for which this policy is intended to be excess; or

Other Excess liability insurance policies issued to you by us, or by any other insurance company that has common ownership with us, as excess insurance to this policy.

In no event shall this endorsement be construed to increase the limits of insurance shown on this policy.

All other terms and conditions of this Policy remain unchanged.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEW YORK – EXCLUSION – ANY CONSTRUCTION OR CONTRACTING ACTIVITIES

This endorsement modifies insurance provided under the following:

COMMERCIAL EXCESS LIABILITY COVERAGE PART

The following is added to **2. Exclusions** of **Section I – Coverages** under the Commercial Excess Liability Coverage Form.

2. Exclusions

Insurance provided under this Coverage Part does not apply to:

Any Construction Or Contracting Activities

Any "injury or damage" caused by or arising, directly or indirectly, in whole or in part out of any construction or contracting activities that are performed or located in the state of New York.

This exclusion applies:

- a. To any work performed by, or on behalf of, any insured as part of or in connection with such construction or contracting activities, including, but not limited to, the erection, demolition, repairing, altering, painting, cleaning, or pointing of a building or structure;
- b. Regardless of whether the described operations are:
 - (1) Ongoing, completed, or in any other stage when the loss occurs; or
 - (2) Performed for any insured or for any other person or entity; and
- c. Even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training, or monitoring of others by that insured.

All other terms and conditions of this Policy remain unchanged.