

STATE OF TEXAS  
COUNTY OF FORT BEND

§  
§  
§

KNOW ALL MEN BY THESE PRESENTS:

**AGREEMENT FOR PROFESSIONAL MATERIALS TESTING  
ENGINEERING SERVICES**

THIS AGREEMENT is made and entered into by and between FORT BEND COUNTY, TEXAS, a public body corporate and politic of the State of Texas acting by and through the Fort Bend County Commissioners Court (hereinafter referred to as "County") and Paradigm Consultants, Inc., hereinafter referred to as "Engineer," authorized to conduct business in the State of Texas.

WITNESSETH:

WHEREAS, County desires that Engineer provide a professional construction materials testing services for improvements to Mason Road, Phase 1 located in Fort Bend County, Texas, hereinafter called the "Project;" and,

WHEREAS, Engineer represents that it is qualified and desires to perform such services; and

WHEREAS, Engineer represents that it is qualified and desires to perform such services pursuant to Engineer's response to County's Bid No. 12-060.

NOW, THEREFORE, County and Engineer, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:

**SECTION I  
CHARACTER AND EXTENT OF SERVICES**

- 1.01 Engineer agrees to provide the services described Engineer's Proposal No. P12-153 dated August 23, 2012, as included in Exhibit A, attached hereto and incorporated by reference as if set forth herein verbatim for all purposes.
- 1.02 Engineer agrees to complete the services called for in Exhibit A on or before December 31, 2013.

**SECTION II  
ENGINEER'S COMPENSATION**

- 2.01 For and in consideration of the services rendered by Engineer, and subject to the limit of appropriation under Section VI, County shall pay to Engineer an amount not to exceed \$165,506.50, including reimbursable expenses, if any.
- 2.02 Engineer shall submit invoices to County and County shall pay each invoice within thirty (30) days after the County's written approval provided however, that the approval or payment of any invoice shall not be considered to be conclusive evidence of performance by the Engineer to the point indicated by such invoice or of receipt or acceptance by the County of the services covered by such invoice.
- 2.03 Engineer's fees shall be calculated at rates not to exceed the amounts included on Exhibit B, incorporated by reference herein as if set-forth herein verbatim.

SECTION III  
TERMINATION

- 3.01 County may terminate this Agreement at any time by providing thirty (30) days written notice to the Consultant.
- 3.02 Upon receipt of such notice, the Engineer shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement.
- 3.03 Within thirty (30) days after receipt of notice of termination, the Engineer shall submit a statement, showing in detail the services performed under this Agreement to the date of termination.
- 3.04 County shall then pay the Engineer that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, less such payments on account of charges as have been previously made.
- 3.05 Copies of all completed or partially completed designs, drawings, electronic data files and specifications prepared under this Agreement shall be delivered to the County when and if this Agreement is terminated in the manner and for the purposes provided in this Agreement.

SECTION IV  
INSURANCE

Engineer shall, prior to performing billable services and for the duration of term of this Agreement, keep in full force and effect a policy of general liability insurance of not less than \$1,000,000.00 for each claim aggregate, which shall be approved by the Fort Bend County Risk Management Department prior to purchase. The policy shall contain a clause that the insurer will not cancel or reduce the insurance without first giving County ten (10) days prior written notice. The insurance shall be in a company acceptable to the Fort Bend County Risk Management Department and a copy of the policy or certification of insurance shall be delivered to the Fort Bend County Risk Management Department as soon as available. Failure of Engineer to provide the appropriate insurance information shall invalidate this Agreement.

SECTION V  
NOTICE

- 5.01 Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to the County or the Engineer at the addresses set forth below.
- 5.02 If mailed, any notice or communication shall be deemed to be received three days after the date of deposit in the United States Mail.
- 5.03 Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

A. If to Engineer:

1BT  
Attn: Brent Lapsley  
9980 W Sam Houston  
Parkway South  
Suite 500  
Houston, TX 77099

Paradigm Consultants, Inc.

Attn: Frank Ong, P.E.  
~~2501 Central Parkway, Suite A3~~  
Houston, Texas 77092  
713-688-6795 - fax

B. If to County notice must be sent to both the Fort Bend County Purchasing Agent and County Project Manager:

Fort Bend County Purchasing Department  
Gilbert D. Jalomo, Jr., CPPB  
301 Jackson  
Richmond, Texas 77469

Richard W. Stolleis, P.E.  
County Engineer  
301 Jackson  
Richmond, Texas 77469

5.04 Either party may designate a different address by giving the other party ten (10) days written notice.

#### SECTION VI LIMIT OF APPROPRIATION

- 6.01 Prior to the execution of this Agreement, Engineer has been advised by County, and Engineer clearly understands and agrees, such understanding and agreement being of the absolute essence to this contract, that County shall have available the total maximum sum of \$165,506.50, including reimbursable expenses, if any, specifically allocated to fully discharge any and all liabilities which may be incurred by County.
- 6.02 Engineer does further understand and agree, said understanding and agreement also being of the absolute essence of this contract, that the total maximum compensation that Engineer may become entitled to hereunder and the total maximum sum that County shall become liable to pay to Engineer hereunder shall not under any conditions, circumstances or interpretations thereof exceed the sum of \$165,506.50 for described scope of work in Exhibit A.

#### SECTION VII SUCCESSORS AND ASSIGNS

- 7.01 County and Engineer bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement.
- 7.02 Neither County nor Engineer shall assign, sublet or transfer its or his interest in this Agreement without the prior written consent of the other.
- 7.03 Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public and/or governmental body that may be a party hereto.

#### SECTION VIII PUBLIC CONTACT

- 8.01 Contact with any media outlet, citizens of Fort Bend County or governmental agencies shall be the sole responsibility of County.
- 8.02 Under no circumstances, whatsoever, shall Engineer release any material or information developed in the performance of its services hereunder without the express written permission of County, except where required to do so by law.

SECTION IX  
COMPLIANCE AND STANDARDS

Engineer shall render the services hereunder in accordance with highest accepted standards of Consultants practicing in the Greater Houston Metro Area, applicable thereto and shall use that highest degree of care and skill commensurate with the profession similar to the Project to comply with all applicable state, federal, and local laws, ordinances, rules and regulations relating to the services to be rendered hereunder, and Consultant's performance.

SECTION X  
OWNERSHIP OF DOCUMENTS

- 10.01 County shall be the absolute and unqualified owner of all drawings, preliminary layouts, record drawings, sketches and other documents prepared pursuant to this Agreement by the Engineer and his contractors or subcontractors (deliverables).
- 10.02 No reuse fees or royalty payments will be paid to the Engineer in connection with future reuse or adaptation of designs derived under this contract.
- 10.03 Copies of all complete or partially completed mylar reproducible, preliminary layouts, record drawings, digital files, sketches and other documents prepared pursuant to this Agreement shall be delivered to County when and if this Agreement is terminated or upon completion of this Agreement, whichever occurs first, as provided in this Agreement.
- 10.04 Engineer is expressly prohibited from selling, licensing or otherwise marketing or donating such documents, or using such documents in the preparation of other work for any other client, or from duplicating the appearance of the Project depicted in the deliverables for any without the prior express written permission of County.
- 10.05 The documents referenced in this Section are not intended or presented by Engineer to be suitable for reuse by County or others on extensions of this Project or on other unrelated projects.
- 10.06 Any adaptation or use by County of such documents on extension of this Project or other unrelated projects shall be at County's sole risk.

SECTION XI  
INDEMNIFICATION

- 11.01 **ENGINEER SHALL SAVE HARMLESS COUNTY FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS FEES, ARISING FROM ACTIVITIES OF CONSULTANT, ITS AGENTS, ENGINEERS OR EMPLOYEES, PERFORMED UNDER THIS AGREEMENT THAT RESULT FROM THE NEGLIGENT ACT, ERROR, OR OMISSION OF ENGINEER ANY OF ENGINEER'S AGENTS, SERVANTS OR EMPLOYEES.**
- 11.02 **ENGINEER SHALL ALSO SAVE HARMLESS COUNTY FROM AND AGAINST ANY AND ALL EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES WHICH MIGHT BE INCURRED BY COUNTY, IN LITIGATION OR OTHERWISE RESISTING SAID CLAIMS OR LIABILITIES THAT MIGHT BE IMPOSED ON COUNTY AS THE RESULT OF SUCH NEGLIGENT ACTS, ERRORS OR OMISSIONS BY ENGINEER, ITS AGENTS, SUBCONTRACTORS OR EMPLOYEES.**

SECTION XII  
MODIFICATIONS

This instrument contains the entire Agreement between the parties relating to the rights herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent written modification signed by both parties hereto.

SECTION XIII  
MISCELLANEOUS

- 13.01 By entering into this Agreement, the parties do not intend to create any obligations, express or implied, other than those specifically set out in this Agreement.
- 13.02 Nothing in this Agreement shall create any rights or obligations in any party who is not a signatory to this Agreement.
- 13.03 Engineer agrees and understands that: by law, the Fort Bend County Attorney's Office may only advise or approve contracts or legal documents on behalf of its clients; the Fort Bend County Attorney's Office may not advise or approve a contract or other legal document on behalf of any other party not its client; the Fort Bend County Attorney's Offices has reviewed this document solely from the legal perspective of its client; the approval of this document by the Fort Bend County Attorneys Office was offered solely to benefit its client; Engineer and other parties should not rely on this approval and should seek review and approval by their own respective legal counsel.
- 13.04 If there is a conflict between this Agreement and Exhibit A, the provisions of this Agreement shall prevail.

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22B

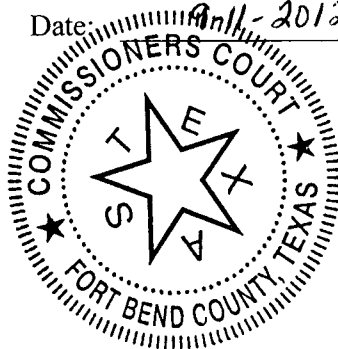
SECTION XIV  
EXECUTION

This Agreement shall become effective upon execution by County

FORT BEND COUNTY:

By: *Robert E. Hebert*  
Robert E. Hebert, County Judge

Date: Aug. 2012



ATTEST: *Dianne Wilson*  
Dianne Wilson, County Clerk

REVIEWED:  
By: *Richard W. Stolleis*  
Richard W. Stolleis, P.E.  
County Engineer

Date: 8/31/12

CONSULTANT: Paradigm Consultants, Inc.  
*Thomas Lapsley*  
Thomas Lapsley, Principal

Aug. 31, 2012

MER:Paradigm Materials.Mason Road.2012

**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$165,506.50 to accomplish and pay the obligation of the Fort Bend County under this contract.

*Ed Sturdivant*  
Ed Sturdivant, Fort Bend County Auditor

- Exhibit A: August 23, 2012 proposal from Engineer
- Exhibit B: Engineer's Wage Rates

Exhibit A

August 23, 2012  
Proposal No. P12-153

Fort Bend County Engineering Department  
c/o Mr. Mark Dessens  
Schaumburg & Polk, Inc.  
11767 Katy Freeway, Suite 900  
Houston, Texas 77079

**Construction Materials Testing Proposal  
Construction of Mason Road From  
FM 359 to North of Skinner Lane  
BID 12-060**

Dear Mr. Dessens:

Paradigm Consultants, Inc., (Paradigm) appreciates the opportunity to provide the construction materials testing proposal for the referenced project. This proposal presents our estimated cost of services and is based on our review of bid documents, project plans and specifications.

We estimate the cost of services to be \$165,506.50 as shown on the attached spreadsheet. We will invoice in accordance with Harris County Fee Schedule for Materials Engineering Laboratory Services dated March 31, 2008.

We appreciate the opportunity to provide this proposal. If you need additional information prior to that time, please call.

Sincerely,  
Paradigm Consultants, Inc.

  
Thomas Brent Lapsley  
Principal

Enc. Summary of Estimated Services and Costs



Paradigm  
Consultants, Inc.

3800 W. Sam Houston Pkwy S  
Suite 500  
Houston, Texas 77069

Tel: 713.866.6771  
Fax: 713.866.6785  
paradigmconsultants.com  
TBPB Reg. No. P-051473

Exhibit B

**Paradigm Consultants, Inc.**

Construction of Mason Road from FM 359 to North of Skinner Lane - BID 12-060

Proposal No.: P12-153

Description	Est. Quan.	Unit	Rate	Amount	
<b>Earthwork Monitoring and Testing</b>					
Atterberg Limits	40	Each	\$53.00	\$2,120.00	
Percent Passing #200 Sieve	40	Each	\$41.00	\$1,640.00	
Moisture/Density Relation - Standard	10	Each	\$175.00	\$1,750.00	
NICET III Engineering Technician, RT	1200	Hour	\$56.00	\$67,200.00	
NICET III Engineering Technician, OT	120	Hour	\$84.00	\$10,080.00	
Cement Treated Sand Cylinders - Mold & Test	50	Set of 4	\$244.00	\$12,200.00	
Lime Determination - pH Method	4	Each	\$202.00	\$808.00	
Lime Slurry - Percent Solids	50	Each	\$32.00	\$1,600.00	
Nuclear Density Device	1320	Hour	\$9.00	\$11,880.00	
Vehicle Charge (8-hr max charger per day)	1320	Hour	\$7.50	\$9,900.00	
<b>Earthwork Subtotal</b>					<b>\$119,178.00</b>
<b>Concrete Monitoring and Testing</b>					
NICET III Engineering Technician, RT	300	Hour	\$56.00	\$16,800.00	
NICET III Engineering Technician, OT	75	Hour	\$84.00	\$6,300.00	
Compressive Strength Cylinders	240	Each	\$15.00	\$3,600.00	
Sieve Analysis	10	Each	\$46.00	\$460.00	
Concrete Coring (4" diameter to 6" Thickness)	22	Each	\$90.00	\$1,980.00	
Additional Thickness (6" to 12")	44	Inch	\$8.00	\$352.00	
Core Measurement	22	Each	\$11.00	\$242.00	
Pachometer Survey	3	Day	\$78.00	\$234.00	
Vehicle Charge (8-hr max charger per day)	375	Hour	\$7.50	\$2,812.50	
<b>Concrete Subtotal</b>					<b>\$32,780.50</b>
<b>Asphalt Inspection and Testing</b>					
NICET III Engineering Technician, RT	60	Hour	\$56.00	\$3,360.00	
NICET III Engineering Technician, OT	12	Hour	\$84.00	\$1,008.00	
Extraction/Gradation (TEX 210-F)	3	Each	\$174.00	\$522.00	
Specific Gravity (D-2041 / TEX-201F)	3	Each	\$62.00	\$186.00	
Mold Lab Specimens	3	Set of 3	\$54.00	\$162.00	
Bulk Specific Gravity of Lab Molded or Core	3	Set of 3	\$46.00	\$138.00	
Maximum Theoretical Specific Gravity	3	Each	\$78.00	\$234.00	
HVEEM Stability	3	Set of 3	\$82.00	\$246.00	
Nuclear Density Device (8-hr maximum charge)	72	Hour	\$9.00	\$648.00	
Asphalt Coring - Minimum Charge	1	Minimum	\$290.00	\$290.00	
Asphalt Core Measurement	3	Each	\$8.00	\$24.00	
Vehicle Charge (8-hr max charger per day)	72	Hour	\$7.50	\$540.00	
<b>Asphalt Inspection and Testing Subtotal</b>					<b>\$7,358.00</b>
<b>Engineering Services</b>					
Principal		Hour	\$167.00	\$0.00	
Senior Engineer (*10 yrs experience)	10	Hour	\$123.00	\$1,230.00	
Project Engineer, P.E.	20	Hour	\$66.00	\$1,320.00	
Graduate Engineer, CMT Manager	40	Hour	\$76.00	\$3,040.00	
<b>Engineering Subtotal</b>					<b>\$6,190.00</b>
<b>TOTAL ESTIMATED TESTING COST</b>					<b>\$165,506.50</b>



Terra Insurance Company  
(A Risk Retention Group)  
Two Fifer Avenue, Suite 100  
Corte Madera CA 94925



**CERTIFICATE OF INSURANCE**

**DATE**

08/31/12

**NAME AND ADDRESS OF INSURED**

Paradigm Consultants, Inc.  
9980 W. Sam Houston Parkway S, #500  
Houston, TX 77099

This certifies that the "claims made" insurance policy (described below by policy number) written on forms in use by the Company has been issued. This certificate is not a policy or a binder of insurance and is issued as a matter of information only, and confers no rights upon the certificate holder. This certificate does not alter, amend or extend the coverage afforded by this policy.

The policy of insurance listed below has 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 policy described herein is subject to all the terms, exclusions and conditions of such policy. Aggregate limits shown may have been reduced by paid claims.

**TYPE OF INSURANCE** Professional Liability

POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE
212199	01/01/12	12/31/12

**LIMITS OF LIABILITY** \$1,000,000 EACH CLAIM  
\$1,000,000 ANNUAL AGGREGATE

**PROJECT DESCRIPTION**

Project: Improvements to Mason Road, Phase 1 located in Fort Bend County, Texas

**CANCELLATION** If the described policy is cancelled by the Company before its expiration date, the Company will mail written notice to the certificate holder thirty (30) days in advance, or ten (10) days in advance for non-payment of premium. If the described policy is cancelled by the insured before its expiration date, the Company will mail written notice to the certificate holder within thirty (30) days of the notice to the Company from the insured.

**CERTIFICATE HOLDER**

Fort Bend County Purchasing Department  
Attn: Gilbert D. Jalomo, Jr. CPPB  
301 Jackson  
Richmond, TX 77469

**ISSUING COMPANY:**  
TERRA INSURANCE COMPANY  
(A Risk Retention Group)

A handwritten signature in black ink, appearing to read "David Collette".

President

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

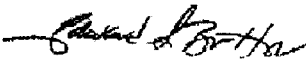
## TEXAS CANCELLATION PROVISION OR COVERAGE CHANGE ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: 11/01/2011	Countersigned By:    (Authorized Representative)
Named Insured: Paradigm Consultants, Inc.	

### SCHEDULE

<b>Number of Days' Notice</b>	30
<b>Name Of Person Or Organization</b>	ANY PERSON OR ORGANIZATION WITH WHOM THE NAMED INSURED HAS ENTERED INTO A WRITTEN CONTRACT REQUIRING WRITTEN NOTICE OF CANCELLATION. EXCEPT 10 DAYS NOTICE SHALL BE GIVEN FOR NON-PAYMENT
<b>Address</b>	

If this policy is canceled or materially changed to reduce or restrict coverage, we will mail notice of cancellation or change to the person or organization named in the Schedule. We will give the number of day's notice indicated in the Schedule.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**TEXAS CHANGES - AMENDMENT OF CANCELLATION PROVISIONS  
OR COVERAGE CHANGE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
LIQUOR LIABILITY COVERAGE PART  
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART  
RAILROAD PROTECTIVE LIABILITY COVERAGE PART

In the event of cancellation or material change that reduces or restricts the insurance afforded by this Coverage Part, we agree to mail prior written notice of cancellation or material change to:

SCHEDULE

1. **Name:** ANY PERSON OR ORGANIZATION WITH WHOM THE INSURED HAS ENTERED INTO A WRITTEN CONTRACT WHICH REQUIRES WRITTEN NOTICE OF CANCELLATION. AS PER CERTIFICATES ON FILE WITH COMPANY.
2. **Address:**
3. **Number of days advance notice:** 30

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsements.)

\*EXCEPT IN THE EVENT OF CANCELLATION FOR NON-PAYMENT OF PREMIUM FOR WHICH 10 DAYS NOTICE SHALL BE GIVEN.

TEXAS NOTICE OF MATERIAL CHANGE ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Texas is shown in Item 3.A. of the Information Page.

In the event of cancellation or other material change of the policy, we will mail advance notice to the person or organization named in the Schedule. The number of days advance notice is shown in the Schedule.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

- 1. Number of days advance notice: 30

\*EXCEPT IN THE EVENT OF CANCELLATION FOR NON-PAYMENT OF PREMIUM FOR WHICH 10 DAYS SHALL BE GIVEN.

- 2. Notice will be mailed to: ANY PERSON OR ORGANIZATION WITH WHOM THE NAMED INSURED HAS ENTERED INTO A WRITTEN CONTRACT REQUIRING WRITTEN NOTICE OF CANCELLATION.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

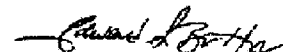
Endorsement Effective 11/01/2011 Policy No. WC206959001

Endorsement No.

Insured

Premium \$

Paradigm Consultants, Inc.



Insurance Company

Countersigned by \_\_\_\_\_

Amerisure Insurance Company

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### DESIGNATED INSURED - PRIMARY COVERAGE

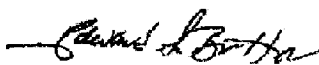
This endorsement modifies insurance provided under the

**BUSINESS AUTO COVERAGE FORM**

The provisions of the Coverage Form apply unless changed by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insured" under the Who Is An Insured Provision of the Coverage Form.

This endorsement changes the policy on the inception date of the policy, unless another date is shown below.

Endorsement Effective: 11/01/2011	Countersigned By:
Named Insured. Paradigm Consultants, Inc.	 (Authorized Representative)

(No entry may appear above. If so, information to complete this endorsement is in the Declarations.)

Section II – Liability Coverage, A. Coverage, 1. Who Is An Insured is amended to add:

Any Person or Organization with whom you have an "insured contract" which requires:

- i. that Person or Organization to be added as an "insured" under this policy; and
- ii. this policy to be primary and non-contributory to any like insurance available to the Person or Organization.

Each such person or organization is an "insured" for Liability Coverage. They are an "insured" only if that person or organization is an "insured" under in SECTION II of the Coverage Form.

The contract between the Named Insured and the person or organization is an "insured contract".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**TEXAS**  
**CONTRACTOR'S BLANKET ADDITIONAL INSURED ENDORSEMENT**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

All of the terms, provisions, exclusions, and limitations of the coverage form apply except as specifically stated below.

<b>Policy Number</b> CPP2024925090011	<b>Agency Number</b>	<b>Policy Effective Date</b> 11/01/2011
<b>Policy Expiration/Cancellation Date</b> 11/01/2012	<b>Date</b> 11/01/2011	<b>Account Number</b> 20015983
<b>Named Insured</b> Paradigm Consultants, Inc.	<b>Agency</b> Bowen Middleton & Britt	<b>Issuing Company</b> Amerisure Insurance Company

1. **SECTION II - WHO IS AN INSURED** is amended to add as an insured any person or organization whom you are required to add as an additional insured on this policy under a written contract or written agreement relating to your business. The written contract or written agreement must require additional insured status for a time period during the term of this policy and be executed prior to the "bodily injury", "property damage", or "personal and advertising injury" giving rise to a claim under this policy. If, however, "your work" was commenced under a letter of intent or work order, subject to a subsequent reduction to writing within 30 days from such commencement and with customers whose customary contracts require they be named as additional insureds, we will provide additional insured status as specified in this endorsement.
2. **SECTION II - WHO IS AN INSURED** is amended to add the following:  
If the additional insured is:
  - a. An individual, their spouse is also an additional insured.
  - b. A partnership or joint venture, members, partners, and their spouses are also additional insureds.
  - c. A limited liability company, members and managers are also additional insureds.
  - d. An organization other than a partnership, joint venture or limited liability company, executive officers and directors of the organization are also additional insureds. Stockholders are also additional insureds, but only with respect to their liability as stockholders.
  - e. A trust, trustees are also insureds, but only with respect to their duties as trustees.
3. The insurance provided to the additional insured under this endorsement is limited as follows:
  - a. That person or organization is only an additional insured with respect to liability arising out of:
    - (1) Premises you own, rent, lease, or occupy; or
    - (2) Your ongoing operations, unless the written contract or written agreement also requires completed operations coverage (or wording to the same effect), in which case the coverage provided shall extend to your completed operations for that additional insured.

Premises, as respects this provision, shall include common or public areas about such premises if so required in the written contract or written agreement.

Includes copyrighted material of Insurance Services Office, Inc.

Ongoing operations, as respects this provision, does not apply to "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 site 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.
- b. The limits of insurance applicable to the additional insured are the least of those specified in the written contract or written agreement or in the Declarations of this policy. The limits of insurance applicable to the additional insured are inclusive of and not in addition to the limits of insurance shown in the Declarations.
  - c. The additional insured status provided by this endorsement does not extend beyond the expiration or termination of a premises lease or rental agreement nor beyond the term of this policy.
  - d. If a written contract or written agreement as outlined above requires that additional insured status be provided by the use of CG 20 10 11 85, then the terms of that endorsement, which are shown below, are incorporated into this endorsement as respects such additional insured, to the extent that such terms do not restrict coverage otherwise provided by this endorsement:

**ADDITIONAL INSURED - OWNERS, LESSEES OR  
CONTRACTORS (FORM B)**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART.**

**SCHEDULE**

Name of Person or Organization: Blanket Where Required by Written Contract or Agreement that the terms of CG 20 10 11 85 apply.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

Copyright, Insurance Services Office, Inc., 1984

**CG 20 10 11 85**

- e. The insurance provided to the additional insured does not apply to "bodily injury", "property damage", or "personal and advertising injury" arising out of an architect's, engineer's, or surveyor's rendering of or failure to render any professional services including but not limited to:
    - (1) The preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, design specifications; and
    - (2) Supervisory, inspection, or engineering services.
  - f. **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, paragraph 4. **Other Insurance** is deleted and replaced with the following:
- 4. Other Insurance.**

Any coverage provided in this endorsement is excess over any other valid and collectible insurance available to the additional insured whether primary, excess, contingent, or on any other basis unless the written contract or written agreement requires that this insurance be primary, in which case this insurance will be primary without contribution from such other insurance available to the additional insured.

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**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

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

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

**ANY PERSON OR ORGANIZATION FOR WHOM THE NAMED INSURED HAS AGREED BY WRITTEN CONTRACT TO FURNISH THIS WAIVER**

"This endorsement is not applicable in California, Kentucky, New Hampshire, New Jersey, Texas and Utah."

"This endorsement does not apply to policies in Missouri where the employer is in the construction group of code classifications. According to Section 287.150(B) of the Missouri Statutes, a contractual provision purporting to waive subrogation rights is against public policy and void where one party to the contract is an employer in the construction group of code classifications."

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(This information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 11/01/2011 Policy No. WC206959001

Endorsement No.

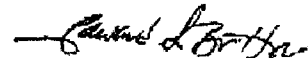
Insured

Premium \$

Paradigm Consultants, Inc.

Insurance Company

Countersigned by



Amerisure Insurance Company

**TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

This endorsement applies only to the insurance provided by the policy because Texas is shown in Item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule where you are required by a written contract to obtain this waiver from us.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

The premium for this endorsement is shown in the Schedule.

Schedule

1.  Specific Waiver

Name of person or organization

Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations:

3. Premium

The premium charge for this endorsement shall be 0.020 percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

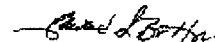
Endorsement Effective 11/01/2011 Policy No. WC206959001

Endorsement No.

Insured

Premium \$

Paradigm Consultants, Inc.



Insurance Company

Countersigned by \_\_\_\_\_

Amerisure Insurance Company

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## TEXAS CONTRACTOR'S GENERAL LIABILITY EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Under **SECTION I - COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, paragraph **2. EXCLUSIONS**, provisions **1.** through **6.** of this endorsement amend the policy as follows:

#### 1. LIQUOR LIABILITY

Exclusion **c. Liquor Liability** is deleted.

#### 2. NONOWNED WATERCRAFT

Exclusion **g. Aircraft, Auto or Watercraft**, subparagraph **(2)** is deleted and replaced with the following:

**(2)** A watercraft you do not own that is:

- (a)** Less than 51 feet long; and
- (b)** Not being used to carry persons or property for a charge.

#### 3. PREMISES ALIENATED

**A.** Exclusion **j. Damage to Property**, subparagraph **(2)** is deleted.

**B.** The following paragraph is deleted from Exclusion **j. Damage to Property**;

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

#### 4. PROPERTY DAMAGE LIABILITY - ELEVATORS AND SIDETRACK AGREEMENTS

**A.** Exclusion **j. Damage to Property**, paragraphs **(3)**, **(4)**, and **(6)** do not apply to the use of elevators.

**B.** Exclusion **k. Damage to Your Product** does not apply to:

- 1. The use of elevators; or
- 2. Liability assumed under a sidetrack agreement.

#### 5. PROPERTY DAMAGE LIABILITY - BORROWED EQUIPMENT

**A.** Exclusion **j. Damage to Property**, paragraph **(4)** does not apply to "property damage" to borrowed equipment while at a jobsite and not being used to perform operations.

**B.** With respect to any one borrowed equipment item, provision **5.A.** above does not apply to "property damage" that exceeds \$25,000 per occurrence or \$25,000 annual aggregate.

#### 6. PRODUCT RECALL EXPENSE

**A.** Exclusion **n. Recall of Products, Work or Impaired Property** does not apply to "product recall expenses" that you incur for the "covered recall" of "your product". This exception to the exclusion does not apply to "product recall expenses" resulting from:

- 1. Failure of any products to accomplish their intended purpose;
- 2. Breach of warranties of fitness, quality, durability or performance;
- 3. Loss of customer approval or any cost incurred to regain customer approval;

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4. Redistribution or replacement of "your product", which has been recalled, by like products or substitutes;
  5. Caprice or whim of the insured;
  6. A condition likely to cause loss, about which any insured knew or had reason to know at the inception of this insurance;
  7. Asbestos, including loss, damage or clean up resulting from asbestos or asbestos containing materials;
  8. Recall of "your product(s)" that have no known or suspected defect solely because a known or suspected defect in another of "your product(s)" has been found.
- B.** Under **SECTION III - LIMITS OF INSURANCE**, paragraph **3.** is replaced in its entirety as follows and paragraph **8.** is added:
3. The Products-Completed Operations Aggregate Limit is the most we will pay for the sum of.
    - a. Damages under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** because of "bodily injury" and "property damage" included in the "products-completed operations hazard" and
    - b. "Product recall expenses".
  8. Subject to paragraph **5.** above, \$25,000 is the most we will pay for all "product recall expenses" arising out of the same defect or deficiency

The insurance afforded by reason of provisions **1.** through **6.** of this endorsement is excess over any valid and collectible insurance (including any deductible) available to the insured whether primary, excess or contingent, and **SECTION IV.**, paragraph **4.** **Other Insurance** is changed accordingly

#### **7. BLANKET CONTRACTUAL LIABILITY – RAILROADS**

When a written contract or written agreement requires Contractual Liability - Railroads, the definition of "insured contract" in Section V - Definitions is replaced by the following with respect to operations performed for, or affecting, a railroad:

9. "Insured Contract" means:
  - a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
  - b. A sidetrack agreement;
  - c. Any easement or license agreement;
  - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
  - e. An elevator maintenance agreement;
  - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

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

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them;

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- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (1) above and supervisory, inspection, architectural or engineering activities.

**8. CONTRACTUAL LIABILITY - PERSONAL AND ADVERTISING INJURY**

Under **SECTION 1 - COVERAGE B.**, paragraph **2. Exclusions**, paragraph **e. Contractual Liability** is deleted.

**9. SUPPLEMENTARY PAYMENTS**

Under **SECTION I - SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**, paragraph **1.b.** is deleted and replaced with the following:

1. **b.** Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

**10. BROADENED WHO IS AN INSURED**

**SECTION II - WHO IS AN INSURED** is deleted and replaced with the following:

1. If you are designated in the Declarations as:
- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
  - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

Paragraphs **(1)(a)**, **(1)(b)** and **(1)(c)** above do not apply to your "employees" who are:

- (i) Managers;
- (ii) Supervisors;
- (iii) Directors; or
- (iv) Officers;

with respect to "bodily injury" to a co-"employee".

2. Each of the following is also an insured:
- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees," other than either your "executive officers," (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insured for:
    - (1) "Bodily injury" or "personal and advertising injury":
      - (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business.

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- g.** Any person or organization to whom you are obligated by virtue of a written contract to provide insurance such as is afforded by this policy, but only with respect to liability arising out of the maintenance or use of that part of any premises leased to you, including common or public areas about such premises if so required in the contract.

However, no such person or organization is an insured with respect to:

- (1)** Any "occurrence" that takes place after you cease to occupy those premises; or
- (2)** Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization

- h.** Any state or political subdivision but only as respects legal liability incurred by the state or political subdivision solely because it has issued a permit with respect to operations performed by you or on your behalf.

However, no state or political subdivision is an insured with respect to:

- (1)** "Bodily injury", "property damage", "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2)** "Bodily injury" or "property damage" included within the "products-completed operations hazard."

- i.** Any person or organization who is the lessor of equipment leased to you, to whom you are obligated by virtue of a written contract to provide insurance such as is afforded by this policy, but only with respect to their liability arising out of the maintenance, operation or use of such equipment by you or a subcontractor on your behalf with your permission and under your supervision.

However, no such person or organization is an insured with respect to any "occurrence" that takes place after the equipment lease expires.

- j.** Any architect, engineer, or surveyor engaged by you but only with respect to liability arising out of your premises or "your work."

However, no architect, engineer, or surveyor is an insured with respect to "bodily injury," "property damage," or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

- (1)** The preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
- (2)** Supervisory, inspection, or engineering services.

This paragraph **j.** does not apply if form CG 70 85, Texas Contractors Blanket Additional Insured Endorsement, is attached to the policy.

- k.** Any manager, owner, lessor, mortgagee, assignee or receiver of premises, including land leased to you, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises or land leased to you.

However, no such person or organization is an insured with respect to:

- (1)** Any "occurrence" that takes place after you cease to occupy that premises, or cease to lease the land; or
- (2)** Structural alteration, new construction or demolition operations performed by or on behalf of that person or organization

- 3.** Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a.** Coverage under this provision is afforded only until the end of the policy period;
- b.** Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization;

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- c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
  - d. Coverage **A** does not apply to "product recall expense" arising out of any withdrawal or recall that occurred before you acquired or formed the organization.
4. Any person or organization (referred to below as vendor) with whom you agreed, because of a written contract or agreement to provide insurance is an insured, but only with respect to "bodily injury" or "property damage" arising out of "your products" that are distributed or sold in the regular course of the vendor's business.

However, no such person or organization is an insured with respect to:

- a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement.
- b. Any express warranty unauthorized by you;
- c. Any physical or chemical change in "your product" made intentionally by the vendor;
- d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of "your products";
- f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the "your product";
- g. "Your products" which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor.
- h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
  - (1) The exceptions contained in subparagraphs **d.** or **f.**; or
  - (2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

This insurance does not apply to any insured person or organization from which you have acquired "your products", or any ingredient, part, or container, entering into, accompanying or containing "your products".

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

#### 11. INCIDENTAL MALPRACTICE LIABILITY

As respects provision 10., **SECTION II – WHO IS AN INSURED**, paragraph 2.a.(1)(d) does not apply to any nurse, emergency medical technician or paramedic employed by you to provide medical or paramedical services, provided that you are not engaged in the business or occupation of providing such services, and your "employee" does not have any other insurance that would also cover claims arising under this provision, whether the other insurance is primary, excess, contingent or on any other basis.

Under **SECTION III - LIMITS OF INSURANCE**, provisions 12. through 14. of this endorsement amend the policy as follows:

#### 12. AGGREGATE LIMITS PER PROJECT

The General Aggregate Limit applies separately to each of your construction projects away from premises owned by or rented to you.

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**13. INCREASED MEDICAL PAYMENTS LIMITS AND REPORTING PERIOD**

- A. The requirement under **SECTION I – COVERAGE C MEDICAL PAYMENTS** that expenses be incurred and reported to us within one year of the date of the accident is changed to three years.
- B. **SECTION III - LIMITS OF INSURANCE**, paragraph 7., the Medical Expense Limit, is subject to all the terms of **SECTION III – LIMITS OF INSURANCE** and is the greater of:
  - 1. \$10,000; or
  - 2. The amount shown in the Declarations for Medical Expense Limit.
- C. This provision **13.** does not apply if **COVERAGE C MEDICAL PAYMENTS** is excluded either by the provisions of the Coverage Form or by endorsement.

**14. DAMAGE TO PREMISES RENTED TO YOU – SPECIFIC PERILS**

- A. The word fire is changed to "specific perils" where it appears in:
  - 1. The last paragraph of **SECTION I – COVERAGE A**, paragraph 2. **Exclusions**;
  - 2. **SECTION IV**, paragraph 4.b. **Excess Insurance**.
- B. The Limits of Insurance shown in the Declarations will apply to all damage proximately caused by the same event, whether such damage results from a "specific peril" or any combination of "specific perils."
- C. The Damage To Premises Rented To You Limit described in **SECTION III - LIMITS OF INSURANCE**, paragraph 6., is replaced by a new limit, which is the greater of:
  - 1. \$1,000,000; or
  - 2. The amount shown in the Declarations for Damage To Premises Rented To You Limit.
- D. This provision **14.** does not apply if the Damage To Premises Rented To You Limit of **SECTION I - COVERAGE A** is excluded either by the provisions of the Coverage Form or by endorsement.

Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**, provisions **15.** through **17.** of this endorsement amend the policy as follows:

**15. KNOWLEDGE OF OCCURRENCE**

Under **2. Duties In The Event Of Occurrence, Offense, Claim, Or Suit**, paragraph **a.** is deleted and replaced and paragraphs **e.** and **f.** are added as follows:

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense, regardless of the amount, which may result in a claim. Knowledge of an "occurrence" or an offense by your "employee(s)" shall not, in itself, constitute knowledge to you unless one of your partners, members, "executive officers," directors, or managers has knowledge of the "occurrence" or offense. To the extent possible, notice should include:
  - (1) How, when and where the "occurrence" or offense 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 "occurrence" or offense.
- e. If you report an "occurrence" to your workers compensation carrier that develops into a liability claim for which coverage is provided by the Coverage Form, failure to report such an "occurrence" to us at the time of the "occurrence" shall not be deemed a violation of paragraphs a., b., and c. above. However, you shall give written notice of this "occurrence" to us as soon you become aware that this "occurrence" may be a liability claim rather than a workers compensation claim.
- f. You must see to it that the following are done in the event of an actual or anticipated "covered recall" that may result in "product recall expense":
  - (1) Give us prompt notice of any discovery or notification that "your product" must be withdrawn or recalled. Include a description of "your product" and the reason for the withdrawal or recall;

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- (2) Cease any further release, shipment, consignment or any other method of distribution of like or similar products until it has been determined that all such products are free from defects that could be a cause of loss under the insurance.

**16. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

Paragraph **6. Representations** is deleted and replaced with the following:

**6. Representations**

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

We will not deny coverage under this coverage part if you unintentionally fail to disclose all hazards existing as of the inception date of this policy. You must report to us any knowledge of an error or omission in the description of any premises or operations intended to be covered by the Coverage Form as soon as practicable after its discovery. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or nonrenewal.

**17. TRANSFER OF RIGHTS (BLANKET WAIVER OF SUBROGATION)**

Paragraph **8. Transfer of Rights Of Recovery Against Others To Us** is deleted and replaced with the following:

- 8.** If the insured has rights to recover all or part of any payment we have made under this Coverage Form, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. However, if the insured has waived rights to recover through a written contract, or if "your work" was commenced under a letter of intent or work order, subject to a subsequent reduction to writing with customers whose customary contracts require a waiver, we waive any right of recovery we may have under this Coverage Form.

**18. EXTENDED NOTICE OF CANCELLATION AND NONRENEWAL**

Paragraph 2.b. of **A. Cancellation** of the **COMMON POLICY CONDITIONS** is deleted and replaced with the following:

- b. 60 days before the effective date of the cancellation if we cancel for any other reason.

Under **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Paragraph **9. When We Do Not Renew** is deleted and replaced with the following:

**9. When We Do Not Renew**

- a. We may elect not to renew this policy except, that under the provisions of the Texas Insurance Code, we may not refuse to renew this policy solely because the policyholder is an elected official.
- b. If we elect not to renew this policy, we may do so by mailing or delivering to the first Named Insured, at the last mailing address known to us, written notice of nonrenewal, stating the reason for nonrenewal, at least 60 days before the expiration date. If notice is mailed or delivered less than 60 days before the expiration date, this policy will remain in effect until the 61st day after the date on which the notice is mailed or delivered. Earned premium for any period of coverage that extends beyond the expiration date will be computed pro rata based on the previous year's premium.
- c. If notice is mailed, proof of mailing will be sufficient proof of notice.
- d. The transfer of a policyholder between admitted companies within the same insurance group is not considered a refusal to renew.

**19. MOBILE EQUIPMENT REDEFINED**

Under **SECTION V - DEFINITIONS**, paragraph **12. "Mobile equipment"**, paragraph **f. (1)** does not apply to self-propelled vehicles of less than 1,000 pounds gross vehicle weight that are not designed for highway use.

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## 20. DEFINITIONS

1. **SECTION V – DEFINITIONS**, paragraph 4. "Coverage territory" is replaced by the following definition:

"Coverage territory" means anywhere in the world with respect to liability arising out of "bodily injury," "property damage," or "personal and advertising injury," including "personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication provided the insured's responsibility to pay damages is determined in a settlement to which we agree or in a "suit" on the merits, in the United States of America (including its territories and possessions), Puerto Rico and Canada.

2. **SECTION V – DEFINITIONS** is amended by the addition of the following definitions:

"Covered recall" means a recall made necessary because you or a government body has determined that a known or suspected defect, deficiency, inadequacy, or dangerous condition in "your product" has resulted or will result in "bodily injury" or "property damage".

"Product Recall expenses" mean only reasonable and necessary extra costs, which result from or are related to the recall or withdrawal of "your product" for:

- a. Telephone and telegraphic communication, radio or television announcements, computer time and newspaper advertising;
- b. Stationery, envelopes, production of announcements and postage or facsimiles;
- c. Remuneration paid to regular employees for necessary overtime or authorized travel expense;
- d. Temporary hiring by you or by agents designated by you of persons, other than your regular employees, to perform necessary tasks;
- e. Rental of necessary additional warehouse or storage space;
- f. Packaging of or transportation or shipping of defective products to the location you designate; and
- g. Disposal of "your products" that cannot be reused. Disposal expenses do not include:
  - (1) Expenses that exceed the original cost of the materials incurred to manufacture or process such product; and
  - (2) Expenses that exceed the cost of normal trash discarding or disposal, except as are necessary to avoid "bodily injury" or "property damage".

"Specific Perils" means fire; lightning; explosion, windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; weight of snow, ice or sleet; or "water damage."

"Water damage" means accidental discharge or leakage of water or steam as the direct result of the breaking or cracking of any part of a system or appliance containing water or steam.

"Work contract" means a written agreement between you and one or more parties for work to be performed by you or on your behalf.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## TEXAS ADVANTAGE COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the

### BUSINESS AUTO COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

The premium for this endorsement is \$ \$150.00

#### 1. BROAD FORM INSURED

**SECTION II - LIABILITY COVERAGE, A.1. Who Is An Insured** is amended by the addition of the following:

- d. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or a majority interest, will qualify as a Named Insured. However,
  - (1) Coverage under this provision is afforded only until the end of the policy period;
  - (2) Coverage does not apply to "accidents" or "loss" that occurred before you acquired or formed the organization; and
  - (3) Coverage does not apply to an organization that is an "insured" under any other policy or would be an "insured" but for its termination or the exhausting of its limit of insurance.
- e. Any "employee" of yours using:
  - (1) A covered "auto" you do not own, hire or borrow, or a covered "auto" not owned by the "employee" or a member of his or her household, while performing duties related to the conduct of your business or your personal affairs; or
  - (2) An "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business. However, your "employee" does not qualify as an insured under this paragraph (2) while using a covered "auto" rented from you or from any member of the "employee's" household.
- f. Your members, if you are a limited liability company, while using a covered "auto" you do not own, hire or borrow and while performing duties related to the conduct of your business or your personal affairs.
- g. Any person or organization with whom you agree in a written contract, written agreement or permit, to provide insurance such as is afforded under this policy, but only with respect to your covered "autos".

This provision does not apply:

  - (1) Unless the written contract or agreement is executed or the permit is issued prior to the "bodily injury" or "property damage";
  - (2) To any person or organization included as an insured by an endorsement or in the Declarations; or
  - (3) To any lessor of "autos" unless:
    - (a) The lease agreement requires you to provide direct primary insurance for the lessor;
    - (b) The "auto" is leased without a driver; and

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(c) The lease had not expired.

Leased "autos" covered under this provision will be considered covered "autos" you own and not covered "autos" you hire.

h. Any legally incorporated organization or subsidiary in which you own more than 50% of the voting stock on the effective date of this endorsement.

This provision does not apply to "bodily injury" or "property damage" for which an "insured" is also an insured under any other automobile policy or would be an insured under such a policy, but for its termination or the exhaustion of its limits of insurance, unless such policy was written to apply specifically in excess of this policy.

## 2. COVERAGE EXTENSIONS - SUPPLEMENTARY PAYMENTS

Under **Section II - LIABILITY COVERAGE, A.2.a. Supplementary Payments**, paragraphs (2) and (4) are deleted and replaced as follows:

- (2) Up to \$2,500 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

## 3. AMENDED FELLOW EMPLOYEE EXCLUSION

Under **SECTION II - LIABILITY COVERAGE, B. EXCLUSIONS**, paragraph 5. **Fellow Employee** is deleted and replaced by the following:

### 5. Fellow Employee

"Bodily injury" to:

- a. Any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business. However, this exclusion does not apply to your "employees" that are officers, managers, supervisors or above. Coverage is excess over any other collectible insurance.
- b. The spouse, child, parent, brother or sister of that fellow "employee" as a consequence of paragraph a. above.

## 4. HIRED AUTO PHYSICAL DAMAGE COVERAGE AND LOSS OF USE EXPENSE

A. Under **SECTION III - PHYSICAL DAMAGE COVERAGE, A. COVERAGE**, the following is added:

If any of your owned covered "autos" are covered for Physical Damage, we will provide Physical Damage coverage to "autos" that you or your "employees" hire or borrow, under your name or the "employee's" name, for the purpose of doing your work.

We will provide coverage equal to the broadest physical damage coverage applicable to any covered "auto" shown in the Declarations, Item Three, Schedule of Covered Autos You Own, or on any endorsements amending this schedule.

B. Under **SECTION III - PHYSICAL DAMAGE COVERAGE, A.4. Coverage Extensions**, paragraph b. **Loss Of Use Expenses** is deleted and replaced with the following:

### b. Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver, under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision, only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";

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- (2) Specified Causes of Loss, only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or
- (3) Collision, only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is \$30 per day, to a maximum of \$2,000.

**C. Under SECTION IV – BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance, paragraph b. is replaced by the following:**

- b. For Hired Auto Physical Damage, the following are deemed to be covered "autos" you own:**
  - 1. Any covered "auto" you lease, hire, rent or borrow; and
  - 2. Any covered "auto" hired or rented by your "employees" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto", nor is any "auto" you hire from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

**5. LOAN OR LEASE GAP COVERAGE**

Under **SECTION III – PHYSICAL DAMAGE COVERAGE, A. COVERAGE**, the following is added:

If a covered "auto" is owned or leased and if we provide Physical Damage Coverage on it, we will pay, in the event of a covered total "loss", any unpaid amount due on the lease or loan for a covered "auto", less:

- (a) The amount paid under the Physical Damage Section of the policy; and
- (b) Any:
  - (1) Overdue lease or loan payments including penalties, interest or other charges resulting from overdue payments at the time of the "loss";
  - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
  - (3) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease;
  - (4) Security deposits not refunded by a lessor; and
  - (5) Carry-over balances from previous loans or leases.

**6. RENTAL REIMBURSEMENT**

Under **SECTION III - PHYSICAL DAMAGE COVERAGE, A.4. Coverage Extensions**, paragraph **a. Transportation Expenses** is deleted and replaced by the following:

**a. Transportation Expenses**

- (1) We will pay up to \$75 per day to a maximum of \$2,000 for transportation expense incurred by you because of covered "loss". We will pay only for those covered "autos" for which you carry Collision Coverage or either Comprehensive Coverage or Specified Causes of Loss Coverage. We will pay for transportation expenses incurred during the period beginning 24 hours after the covered "loss" and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss". This coverage is in addition to the otherwise applicable coverage you have on a covered "auto". No deductibles apply to this coverage.

- (2) This coverage does not apply while there is a spare or reserve "auto" available to you for your operation.

## 7. AIRBAG COVERAGE

Under **SECTION III - PHYSICAL DAMAGE, B. EXCLUSIONS**, paragraph 3. is deleted and replaced by the following:

3. We will not pay for "loss" caused by or resulting from any of the following unless caused by other "loss" that is covered by this insurance:

- (1) Wear and tear, freezing, mechanical or electrical breakdown. However, this exclusion does not include the discharge of an airbag.
- (2) Blowouts, punctures or other road damage to tires.

## 8. GLASS REPAIR – WAIVER OF DEDUCTIBLE

**Section III – PHYSICAL DAMAGE COVERAGE, D. Deductible** is amended to add the following:

No deductible applies to glass damage if the glass is repaired rather than replaced.

## 9. COLLISION COVERAGE – WAIVER OF DEDUCTIBLE

Under **Section III - PHYSICAL DAMAGE COVERAGE, D. Deductible** is amended to add the following:

When there is a loss to your covered "auto" insured for Collision Coverage, no deductible will apply if the loss was caused by a collision with another "auto" insured by us.

## 10. KNOWLEDGE OF ACCIDENT

Under **SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions, 2. Duties In The Event Of Accident, Claim, Suit Or Loss**, paragraph a. is deleted and replaced by the following:

- a. You must see to it that we are notified as soon as practicable of an "accident", claim, "suit" or "loss". Knowledge of an "accident", claim, "suit" or "loss" by your "employees" shall not, in itself, constitute knowledge to you unless one of your partners, executive officers, directors, managers, or members (if you are a limited liability company) has knowledge of the "accident", claim, "suit" or "loss". Notice should include:
  - (1) How, when and where the "accident" or "loss" occurred;
  - (2) The "insured's" name and address; and
  - (3) To the extent possible, the names and addresses of any injured persons and witnesses.

## 11. TRANSFER OF RIGHTS (BLANKET WAIVER OF SUBROGATION)

Under **SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions** paragraph 5. **Transfer Of Rights Of Recovery Against Others To Us** is deleted and replaced by the following:

### 5. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them. However, if the "insured" has waived rights to recover through a written contract, or if your work was commenced under a letter of intent or work order, subject to a subsequent reduction in writing with customers whose customary contracts require a waiver, we waive any right of recovery we may have under this Coverage Form.

**12. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

Under **SECTION IV - BUSINESS AUTO CONDITIONS**, **B. General Conditions**, paragraph 2. **Concealment, Misrepresentation Or Fraud** is amended by the addition of the following:

We will not deny coverage under this Coverage Form if you unintentionally fail to disclose all hazards existing as of the inception date of this policy. You must report to us any knowledge of an error or omission in your representations as soon as practicable after its discovery. This provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

**13. BLANKET COVERAGE FOR CERTAIN OPERATIONS IN CONNECTION WITH RAILROADS**

When required by written contract or written agreement, the definition of "insured contract" is amended as follows:

— The exception contained in paragraph **H.3.** relating to construction or demolition operations on or within 50 feet of a railroad; and

— Paragraph **H.a.**

are deleted with respect to the use of a covered "auto" in operations for, or affecting, a railroad.