



City Contract Routing Form

City Contract #: 9493

(To be assigned by the City Clerk's Office)

Section 1 – Attach Contract Documents



(multiple files can be uploaded)

Is an insurance certificate attached?

☒ Yes☐ Not applicable

Comments: _____

Section 2 – Fill Out Contract Details

Date: 08/25/2020 Department: Parks and Recreation Division: Recreation Mail Stop: 4NPKProject Administrator Name: Katie Fraser Extension: 2350

Project Manager Name (if different than above): _____ Extension: _____

Contract Type: General/Operating Services If other, please indicate: _____Contract Title: Redmond Pool Operations AgreementContractor/Consultant Name: Kfir Ami-adContract Description: WAVE AquaticsProject ID #: N/A Budget/Account #: 110.59000.34761Council Approval Date: N/A Council Agenda Memo #: N/A RFP/IFB/RFQ #: Sole Source NIGP #: 96100☒ New ContractTotal Amount: 50% of the positive net income report, if known (if contract is multi-year): N/AStart Date: 09/01/2020 End Date: 12/31/2025Renewal Option (Y/N): Y If yes, how many? 5 Years☐ Amendment/Renewal/Change Order #: _____ Original CC #: _____

New Start Date: _____ New End Date: _____

Current Contract Amount (including all previous amendments/change orders): _____

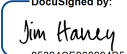
Amount of this Amendment/Change Order (proposed increase/decrease): _____

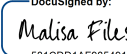
New/Cumulative Contract Amount: _____

Section 3 – Route Contract for Signatures and Approvals

☒ Department Director:  Date: 8/25/2020 Comments: _____

☐ TIS Director: _____ Date: _____ Comments: _____

☒ City Attorney:  Date: 8/31/2020 Comments: _____

☒ Risk Manager:  Date: 9/1/2020 Comments: _____

☒ Mayor or Designee:  Date: 9/1/2020 Comments: _____

☒ City Clerk's Office:  Date: 9/2/2020 Comments: Electronic Original - in Hummingbird

☐ Purchasing: no signature required – for copy only

(For Purchasing Use Only) PO/PA #: _____

Operational Services Agreement [Non-Public Work]

PROJECT TITLE Redmond Pool Operations Agreement between WAVE Aquatics and City of Redmond	EXHIBITS <i>(List all attached exhibits - Scope of Work, Work Schedule, Payment Schedule, Renewal Options, etc.)</i>
CONTRACTOR WAVE Aquatics	CITY OF REDMOND PROJECT ADMINISTRATOR <i>(Name, address, phone #)</i> City of Redmond Katie Fraser 6505 176th Ave NE Redmond, WA 98052 kfraser@redmond.gov
CONTRACTOR'S CONTACT INFORMATION <i>(Name, address, phone #)</i> Kfir-Ami-ad, Board President PO Box 2953 Kirkland, WA 98083 Kfir.ami-ad@waveaquaticsboard.org	BUDGET OR FUNDING SOURCE
CONTRACT COMPLETION DATE December 31, 2025	MAXIMUM AMOUNT PAYABLE WAVE shall pay the City 50% of the positive net income for each operational calendar year, which runs January 1 – December 31,

**AGREEMENT BETWEEN THE CITY OF REDMOND AND WAVE
AQUATICS FOR THE OPERATION OF THE REDMOND POOL**

THIS OPERATING AGREEMENT ("the Operating Agreement") is entered by and between the City of Redmond, a Washington municipal corporation ("the City"), and WAVE Aquatics, a 501(c)(3) private non-profit corporation ("WAVE").

RECITALS

A. The Redmond Pool ("the Pool"), located at 17535 NE 104th Street, Redmond, Washington, was built as part of the Forward Thrust Initiative in approximately 1974.

B. From the date of its construction until April 1, 2003, the Pool was owned and operated by King County on land owned by the City, pursuant to a forty (40) year ground lease dated May 28, 1970.

C. The ground lease expired on May 28, 2010 and the City took ownership of the Pool from King County. The City originally entered into an operating agreement for the Pool with Northwest Center, but that operating agreement was terminated in 2010 by mutual agreement.

D. In October 2010, the City and WAVE entered into an Operating Agreement under which WAVE has operated the Pool. The initial October 2010 Operating Agreement expired on December 31, 2012, and was subsequently renewed to December 31, 2014 (first renewal, City Contract #7011), and was subsequently renewed again to December 31, 2016 (second renewal, City Contract #6351-3). In 2017, an amendment was executed to extend the agreement for a term of three (3) additional months, which expired March 31, 2017 (City Contract #6351-4); this amendment contained a renewal provision for up to six (6) three-month periods, which was acknowledged and affirmed by WAVE and the City, by both parties having acted and performed upon the renewal provision, which expired September 30, 2018. A subsequent amendment was executed to extend the agreement to December 31, 2019 (City Contract #6351-5).

E. WAVE and the City acknowledge that the City made capital improvements to the Pool in 2010 and made essential improvements in 2019 - 2020. Repairs and improvements occurred in two phases over two years, resulting in better air and water quality, energy efficiencies, and operational savings that will help preserve the Pool for an estimated 25 to 30 years more.

F. WAVE and the City have agreed to enter into a new Operating Agreement for the Pool and have agreed to set forth the terms and conditions of their agreement in writing. This Agreement shall run from September 1, 2020, or when construction is at substantial completion, thru December 31, 2025 for an initial term of 5 years, with one 5-year extension.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION OF the terms and conditions set forth below, the parties agree as follows:

1. WAVE to Operate Pool. WAVE shall operate the Pool during the term of this Agreement. Operation includes providing the following at WAVE's expense, in addition to any other duties prescribed in this Agreement:

A. Provide for the day-to-day operation, maintenance, and repair of the Pool in compliance with all federal, state, and local laws and regulations and in a clean, safe, and professional manner;

B. Provide programs and hours of operation that are reasonably similar to those programs and hours of operation provided under the October 2018 Operating Agreement; and working with the City of Redmond Parks and Recreation Department to assess program and event needs, and to address accommodation for persons with disabilities and other special needs; and providing timely information for City promotions and website. WAVE will increase community access to the Redmond pool by providing up to 96 hours of guarded pool time for City programs per operational calendar year, which runs January 1 – December 31. Community access will include providing space for up to 40 City registered participants during regular pool hours or providing additional guarded hours for City programs that are mutually agreed upon by both parties.

C. Provide fee assistance program consistent with City guidelines; apply up to 1% of gross revenue from Redmond Pool programs and activities toward fee assistance to Redmond residents participating in non-competitive swim activities, excluding rentals and competitive swim activities.

D. Obtain all necessary licenses and permits for operation of the Pool;

E. Manage pool advertising and promotions, patron registrations, agreements with various user groups, drop-in use and instruction, and specialty programming provided by outside agencies, such as SCUBA training or Redmond Parks and Recreation, and provide content to the Program Administrator to advertise WAVE activities on the City social media site, website, activity guide, and ActiveNet registration platform;

F. Maintain pool water quality standards and arranging and paying for water quality sampling, laboratory analysis, and field testing of pool water as prescribed by WAC 246-260-11. Copies of the results of such sampling and testing shall be provided to the City;

G. Comply with all monitoring, reporting, and recordkeeping requirements of a pool owner under WAC 246-260-121;

H. Establish and implement standard operating procedures and develop and maintain a written operation manual as required by WAC 246-260-131. A copy of the procedures and written operations manual shall be provided to the City;

I. Check each physical component of the pool facility routinely in order to ensure that the requirements of WAC 246-260-131 are met, and maintain and repair pool equipment, such as diving boards, diving blocks, and other equipment used for programming. Report any and all deficiencies or required repairs to City of Redmond;

J. Provide, maintain, and repair pool depth markings and signage specifying user rules and safety information as required by WAC 246-260-131;

K. Provide trained lifeguards and other appropriate trained personnel to provide monitoring of the pool facilities and to perform other tasks required by this Agreement and WAC 246-260-131, and ensure that all such persons have been subjected to appropriate background checks for persons with access to children and vulnerable adults and possess any required certifications, and schedule Redmond Pool WAVE employees to complete the City Customer Service training annually;

L. Provide prompt and timely payment of all applicable taxes and remittance of all employee-related withholdings, including but not limited to all personnel, employment, and sales taxes;

M. Prepare and implement an emergency response plan as required by WAC 246-260-131. A copy of the emergency response plan shall be provided to the City;

N. Provide all uniforms, office equipment, office systems, and office supplies necessary for WAVE to operate the Pool as required by this Agreement;

O. Provide ordinary, routine maintenance for the pool facility including but not limited to; cleaning restrooms, offices, public spaces, electrical rooms, and equipment rooms, and performing minor maintenance and repairs;

P. Provide the necessary supplies for pool operations including but not limited to; pool chemicals.

Q. Keep inventory and ensure adequate supply of common consumable supplies including but not limited to, paper towels, restroom supplies, and janitorial cleaning products. Consumable supplies of this nature shall be furnished by the City and orders shall be placed through the central warehouse. Wave will coordinate pickup of orders from the warehouse during normal business hours. The City will not provide delivery of consumable supplies to the Pool. The City will schedule daily janitorial services, 5 days per week, to be completed by an outside contractor. WAVE shall pay approximately \$1,500 per month for the first year of the operational agreement and CPI (Consumer Price Index) will be reflected annually thereafter. This amount will be taken out of the annual revenue owed by WAVE.

R. Provide and display copies of SDS forms for all chemicals on the premises as required by law. SDS forms for products provided by the City are available upon request to the central warehouse;

S. Provide compliance with state law and City policies prohibiting use of tobacco or tobacco products/use of any alcohol or drugs or other controlled substances on the premises;

T. Provide supervisor training for all pool supervisors and head guards, and training of all employees on harassment and sexual harassment annually;

U. Provide appropriate personal protective equipment (PPE) for all pool employees for the nature of work assigned, and training on the use of PPE;

2. Pool Revenues

A. The positive net income from pool operations shall be split equally between the parties as follows: as provided in the October 2010 Operating Agreement and subsequent amendments, by mutual consent of the parties, WAVE shall pay the City 50% of the positive net income for each operational calendar year, which runs January 1 – December 31, by the 1st of February of the subsequent year, unless another arrangement is agreed to by the parties.

B. In the event that a City-led construction or improvement project to the Pool or surrounding environs extends the planned timeline or scope, resulting in WAVE's inability to operate the Pool in a normal manner as per Section 8A, then upon written mutual agreement by both parties, WAVE may apply all or a portion of the net losses from one fiscal year towards the net income of the subsequent fiscal year, in an effort to recapture unexpected lost income. In no event shall the offset of net losses from a prior year exceed 50% of the total amount owed, consistent with Section 2A, the amount owed to the City by WAVE in a subsequent, positive net income year. Should WAVE experience net losses two or more years in a row, WAVE may only carry forward the most recent year's net losses towards the net income of the subsequent fiscal year. WAVE may request to carry forward net losses for any year within the contract term, for as many times as is necessary, except for the final year of the contract. At the end of the initial 5-year term, should the City and WAVE execute the optional 5-year extension, the final year of the contract shall be considered the final year of the extension, unless sooner extended or terminated. Inflation and interest shall not be factored into the calculation of any offset. A request by WAVE to apply net losses from a prior fiscal year towards the net income of the subsequent fiscal year must be made to the City by the 1st of February of the subsequent year, unless another arrangement is agreed to by the parties. Further, a request must be accompanied by WAVE's income and expense statements and any other support documentation the City may require. Nothing in this Section shall relieve WAVE of its obligations under Section 1Q, whereby WAVE's annual payments shall continue to be added to the City's annual revenue owed by WAVE for any year with positive net income. Nothing in this Section shall be construed to provide tax relief to WAVE, for the purposes of Internal Revenue Service reporting.

3. Capital Improvements and Major Repairs. Except as provided in this section 3, the City shall be responsible for all capital improvements and major repairs to the Pool, including but not limited to, improvements and repairs to the building shell (building structure, exterior walls, doors, locks, and roof), pool drains, electrical system, plumbing system, pool liner, and HVAC system. WAVE shall be responsible for repairs necessitated by the negligent acts, errors, or omissions of WAVE in operating the Pool. WAVE shall not make any alterations, additions, renovations, or capital improvements or major repairs to the Pool, or seek funding to make such capital improvements or major repairs to the Pool without the City's express written consent. Nothing in this Agreement obligates the City to make any capital improvement or major repair to the Pool which the City determines, in its sole discretion, is not financially prudent for the City. The City's responsibility to make capital improvements and repairs under this Section is expressly subject to the City's right to terminate this Agreement as set forth in Section 12 below.

The City agrees to consult with WAVE before making any final decision on whether to make any capital improvement or repair, but the City has the sole discretion as to whether to make such an improvement or repair. A good faith effort will be made to make repairs with a minimum disruption to the program schedule. Any improvements or repairs proposed to be made or constructed by WAVE, and the funding proposed for such improvements or repairs, are subject to the City's review and approval. WAVE shall provide the City with an estimated cost and verification of the actual cost to complete any agreed upon improvements.

All improvements made and trade fixtures installed by WAVE shall become the property of the City at the expiration or termination of this Operating Agreement without further compensation to WAVE.

4. Utilities. WAVE shall be responsible for paying the monthly charges for water, sewer, storm water, electricity, and natural gas provided to the Pool facility. WAVE will also be responsible for paying the monthly charges for telephone, internet, and cable television service, if any.

5. Reports. WAVE shall provide the following reports about the Redmond Pool to the City:

A. WAVE shall immediately report any and all accidents and incidents at the Redmond Pool to the City, including those requiring 911 response, and shall provide the City with copies of all accident reports required by WAC 246-260-121: An incident is a pool-related event in which injury or ill-health occurred or could have occurred, either an accident or a near miss (meaning that no-injury or illness occurred).

B. WAVE shall immediately report any violation noted by the Department of Health to the City and shall provide the City with copies of any report or notice generated by the Department of Health and any response or report of corrective action generated by WAVE.

C. WAVE shall immediately report any maintenance, repair, or other emergency building response that will require the City to allocate staff or resources to resolve.

D. WAVE shall provide mutually agreed upon monthly reports to the City regarding usage, maintenance, and operation of the Pool, including but not limited to, usage and revenue there from, pool users, including location of residency, where available, repairs and improvements, fee schedules, utility costs, staffing costs, hours of operation, staff in-service training agendas and attendance logs, pool schedule and programs, and maintenance costs.

E. WAVE shall maintain a logbook to record daily operational issues, including, but not limited to, customer complaints, staff concerns, actions/decisions, incidents, lifeguard assists, and shall make this log available to the City upon request.

F. WAVE shall immediately report to the City any and all complaints made against Redmond Pool employees, including but not limited to, harassment, sexual harassment, and sex offenses.

G. WAVE shall immediately report to the City all WAVE Pool employee discipline, including written, suspension, or termination.

H. WAVE shall immediately report to the City the arrest of any WAVE Pool employee.

I. WAVE shall be required to document all complaints against WAVE Pool employees, and immediately report those complaints to the City.

6. Inspections. The City shall have the right to enter the Pool at any time in order to inspect the facility and to ensure the safety and health of customers and WAVE employees, and that all provisions of this Agreement and all state, federal and local building, fire, and pool operation regulations are being complied with.

7. Records-Audits. Each party shall have the right, at any time during regular business hours, to review the books and records maintained by the other party with respect to pool operations, maintenance, revenues, and expenditures, including but not limited to, programming materials, maintenance logs, safety and accident reports, Department of Health reports, income and expense statements, inspection reports, and registration information and reports, in order to audit the same and determine compliance with this Agreement.

8. Pool Closures.

A. The parties acknowledge that the Pool may have to be closed temporarily from time to time or for an extended time frame during the term of this Agreement in order to perform required maintenance or to make necessary repairs or improvements. If either party determines that closure is necessary for such purpose, the parties shall meet and confer regarding the need for such closure and the duration thereof. The final decision on any such closure shall rest with the City. WAVE shall not be entitled to any compensation from the City for lost revenues as the result of a closure for required maintenance or repairs.

B. In the event that the Department of Health orders the Pool closed because of any non-compliance by WAVE with Department of Health requirements, or in the event that the Pool must otherwise be closed because of the failure of WAVE to comply with any other term or condition of this Agreement, WAVE shall be liable for all closure-related expenses, including but not limited to, any actual expenses incurred by the City in physically closing the Pool and any program or contract refunds. WAVE shall not be held accountable for a Department of Health closure that is the result of the City not performing the necessary maintenance and repairs.

9. Indemnity.

A. WAVE shall release, protect, save harmless, indemnify, and defend, at its own expense, the City, its officers, elected officials, agents, volunteers, and employees from any and all costs, claims, judgments or awards of damages of any kind (including attorney's fees and costs) arising out of or in any way resulting from the negligent acts, errors, or omissions of WAVE, its officers, employees, contractors, subcontractors, agents, and volunteers in performing this Agreement.

B. No liability shall be attached to either party by reason of entering into this Agreement except as expressly provided herein.

C. It is further specifically and expressly understood that WAVE's indemnification provided herein constitutes such party's waiver of immunity under the Industrial Insurance Act, Title 51 RCW, solely for the purpose and solely to the extent required to provide the indemnification required in this Section.

D. The provisions of this Section 9 shall survive the expiration or termination of this Agreement.

10. Insurance. Throughout the term of this Agreement, WAVE shall maintain a combination of commercial general liability, automobile insurance, and excess coverage of not less than \$5 million (\$5,000,000) per occurrence. WAVE shall maintain workers' compensation insurance in amounts sufficient pursuant to the laws of the State of Washington. The City, its officers, elected officials, agents, volunteers, and employees shall be named as a Primary Noncontributory additional insured on all such policies, except for workers' compensation coverage. WAVE shall provide certificates of insurance and an endorsement copy of such insurance concurrent with the execution of this Agreement. All insurance policies shall contain a clause or endorsement providing that they may not be terminated or materially amended during the term of this Agreement, except after thirty (30) days prior written notice to the City.

11. Duration. This Agreement and the obligations of the parties under it shall become effective on September 1, 2020, or when construction is at substantial completion, and shall be in effect for 5 years,

expiring at the close of business for the Pool on December 31, 2025, unless sooner extended or terminated. The City reserves the right to extend the term of this Agreement for one (1) additional five-year period as necessary if mutually agreed by both parties, unless sooner extended or terminated, provided that 1) WAVE Aquatics is in compliance with the terms and conditions of the contract and, 2) that the annual payment is cost-effective as determined by the City and, 3) that sufficient funds have been appropriated by the City. Additional factors that will determine the 5-year term extension include the following for WAVE Aquatics; they are in good financial standing, they have upheld safety standards outlined in this agreement, and they have provided service in alignment with those of the City.

12. Termination. This Agreement may be terminated as follows:

- A. By mutual agreement of the parties;
- B. By either party without cause upon the giving of thirty (30) days' written notice to the other party. All terms of the Agreement remain in effect until the stated termination date. Final cost settlement shall be made thirty (30) days after termination of this Agreement.
- C. By either party for material breach of this Agreement's terms by the other party, provided, that no such termination shall become effective unless the non-breaching party provides at least thirty (30) days' written notice to the other party and an opportunity to cure the breach within that thirty (30) day period. If the breach cannot reasonably be cured within thirty (30) days, this Agreement shall not terminate if the breaching party has commenced cure within thirty (30) days and diligently pursues the same to conclusion.

13. Dispute Resolution. The parties mutually agree to use a formal dispute resolution process, such as mediation, through an agreed upon mediator, if agreement cannot be reached regarding interpretation or implementation of any provision of this Agreement. All costs for mediation services will be divided equally among the parties to the dispute. Each party will be responsible for their own legal representation, provided, that nothing in this Section 13 shall be construed to limit or negate the parties' ability to indemnify and defend as set forth in Section 9 above. In the event that agreement cannot be reached through the formal dispute resolution process contemplated by this Section, the parties reserve the right to seek any available legal or equitable remedy, including litigation, to resolve the dispute.

14. Notices. Notices required by this Agreement shall be given to the parties at the following addresses:

To the City:

Carrie Hite
Parks Director
City of Redmond
15670 N.E. 85th Street
P.O. Box 97010
Redmond, WA 98073-9710

To WAVE:

Kfir Ami-ad
Board President
WAVE Aquatics
P.O. Box 2953
Kirkland, WA 98083-2953

Notices shall be deemed given upon either personal delivery or e-mail to the individuals named above mailed, three days after the written notice is placed in the United States Mail, postage prepaid, addressed to the individuals named above.

15. Force Majeure. Neither party shall be liable to the other or deemed in breach or default for any failure or delay in performance under this Agreement during the time and to the extent its performance is prevented by reasons of force majeure. For the purposes of this Agreement, force majeure means an

occurrence that is beyond the reasonable control of and without fault or negligence of the party claiming force majeure and which, by exercise of due diligence of such party, could not have been prevented or overcome. Force majeure shall include natural disasters, including fire, flood, earthquake, windstorm, avalanche, mudslide, and other similar events; acts of war or civil unrest when an emergency has been declared by appropriate governmental officials, including delays by or acts or orders of any governmental body or changes in laws or governmental regulations; acts of civil or military authority; freight embargoes; epidemics; quarantine restrictions; labor strikes; boycotts; terrorist acts; riots; insurrections; explosions; and nuclear accidents. A party claiming suspension or termination of its obligations due to force majeure shall give the other party prompt written notice of the impediment and its effect on the ability to perform; failure to provide such notice shall preclude recovery under this provision; such notice shall release both parties from their future respective obligations under the Agreement, provided that written notice setting forth in detail the nature of any delay or suspension is given by such party to the other party within 72 hours of the order to cancel or reschedule the event or activity. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion may be extended by Agreement modification for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Agreement. The City reserves the right to cancel this Agreement in accordance with the "Termination" sections of this Agreement and/or purchase materials, equipment or services from the best available source during the time of force majeure, and WAVE shall have no recourse against the City.

16. Miscellaneous Provisions.

A. Assignment and Subcontract. WAVE shall not assign or subcontract its rights or obligations under this Agreement without the express written consent of the City.

B. No Waiver. Waiver by any party of any breach of this Agreement shall not constitute a waiver of any subsequent breach or of a breach of any other provision.

C. Severability. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of any other provision.

D. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington. Subject to the dispute resolution provisions of Section 13, venue for any action brought to enforce any provision of this Agreement or to seek redress for any breach thereof shall be in the superior court of King County, Washington.

E. Attorney's Fees. In the event that either party commences litigation against the other party to enforce any provision of this Agreement or to seek redress for any breach thereof, the prevailing party in any such litigation shall be entitled to recover its costs and reasonable attorney's fees incurred in the litigation from the other party.

F. Construction. Both parties participated equally in the drafting of this Agreement and this Agreement shall not be construed against either party as drafter.

G. Amendment. This Agreement may be amended only by a written instrument signed by both parties.

H. Entire Agreement. This Agreement constitutes the entire Agreement between the parties concerning its subject matter and supersedes all prior understandings and agreements.

EXECUTED by the parties on the dates hereinafter written.

WAVE AQUATICS:

DocuSigned by:

Kfir Ami-ad

7BD108BA079A4CA

Kfir Ami-ad, Board President

Date: 8/25/2020

CITY OF REDMOND:

DocuSigned by:

Malisa Files (Mayor Designee)

5D9FC872714C4E4...

Angela Birney, Mayor

Date: 9/1/2020

ATTEST/AUTHENTICATED:

DocuSigned by:

Cheryl Xanthos

E725E589816E4E1...

City Clerk, City of Redmond

APPROVED AS TO FORM:

DocuSigned by:

Jim Haney

85394CE968994B5...

Office of the City Attorney



**Scottsdale Insurance Company
National Casualty Company
Scottsdale Indemnity Company
Scottsdale Surplus Lines Insurance Company**

CLAIM REPORTING INFORMATION

Your insurance policy has been placed with a Nationwide® insurance company.

Our commitment to you is to provide fast, fair claim service. Promptly reporting an event that could lead to a claim, as required by your policy, helps us fulfill this commitment to you. Please refer to your policy for this and all other terms and conditions.

To report a claim, you may contact us 24 hours a day, 7 days a week, by calling 1-800-423-7675 or via our website at www.nationwideexcessandsurplus.com.

Thank you for your business and as always, we appreciate the opportunity to serve you.

HOW TO REPORT A CLAIM

Call **1-800-423-7675** or visit our website at www.nationwideexcessandsurplus.com.

In order to expedite this process, please be prepared to furnish as much of the following information as possible:

- Your policy number
- Date, time and location of the loss/accident
- Details of the loss/accident
- Name, address and phone number of any involved parties
- If applicable, name of law enforcement agency or fire department along with the incident number

Please refer to your policy for specific claim reporting requirements.



Underwritten by: Scottsdale Insurance Company
Home Office: One Nationwide Plaza • Columbus, Ohio 43215
Administrative Office: 8877 North Gainey Center Drive • Scottsdale, Arizona 85258
1-800-423-7675 • A Stock Company

In Witness Whereof, the Company has caused this policy to be executed and attested.

Secretary

President

The information contained herein replaces any similar information contained elsewhere in the policy.

COMMON POLICY DECLARATIONS

CPS3188660

Renewal of Number

Underwritten by: Scottsdale Insurance Company

Home Office:

One Nationwide Plaza • Columbus, Ohio 43215

Administrative Office:

8877 North Gainey Center Drive • Scottsdale, Arizona 85258

1-800-423-7675 • A Stock Company

Policy Number

CPS7118636**ITEM 1. NAMED INSURED AND MAILING ADDRESS**

WAVE AQUATICS

17535 NE 104TH ST
REDMOND WA 98052**This contract is registered and delivered as a surplus line coverage under the insurance code of the state of Washington, Title 48 RCW. It is not protected by any Washington state guaranty association law.****AGENT NAME AND ADDRESS**BURNS & WILCOX OVERLAND PARK, KS 7500 COLLEGE
BLVD STE 1215 OVERLAND PARK KS 66210-4000

Agent No.: 15008

Program No.: IH

ITEM 2. POLICY PERIOD

From: 06/13/2020

To: 06/13/2021

Term: 365

12:01 A.M., Standard Time at the mailing address shown in ITEM 1.

Business Description: SWIMMING POOLS

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. This policy consists of the following coverage parts for which a premium is indicated. Where no premium is shown, there is no coverage. This premium may be subject to adjustment.

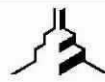
Coverage Part(s)	Premium Summary
Commercial General Liability Coverage Part	\$ 4,725
Commercial Property Coverage Part	\$ NOT COVERED
Commercial Crime And Fidelity Coverage Part	\$ NOT COVERED
Commercial Inland Marine Coverage Part	\$ NOT COVERED
Commercial Auto Coverage Part	\$ NOT COVERED
Professional Liability Coverage Part	\$ NOT COVERED
	\$
	\$
Total Policy Premium	\$ 4,725.00
TOTAL TAXES AND FEES	\$ 864.98
	\$
Policy Total	\$ 5,589.98

NO FLAT CANCELLATION ALLOWED

Form(s) and Endorsement(s) made a part of this policy at time of issue:

See Schedule of Forms and Endorsements*Samuel Carson*

THIS COMMON POLICY DECLARATION AND THE SUPPLEMENTAL DECLARATION(S), TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART(S), COVERAGE FORM(S) AND FORM(S) AND ENDORSEMENT(S), IF ANY, COMPLETE THE ABOVE-NUMBERED POLICY.



SCOTTSDALE INSURANCE COMPANY®

SCHEDULE OF TAXES, SURCHARGES OR FEES

Policy No. CPS7118636

Effective Date: 06/13/2020

12:01 A.M., Standard Time

Named Insured WAVE AQUATICS

Agent No. 15008

POLICY FEE	750.00
SURPLUS LINES TAX	109.50
STAMP FEE	5.48

TOTAL TAXES, SURCHARGES OR FEES:	864.98



SCOTTSDALE INSURANCE COMPANY®

SCHEDULE OF FORMS AND ENDORSEMENTSPolicy No. CPS7118636Effective Date 06/13/2020

12:01 A.M. Standard Time

Named Insured WAVE AQUATICSAgent No. 15008**COMMON POLICY**

NOTX0178CW	03-16	CLAIM REPORTING INFORMATION
UTS-COVPG	06-19	COVER PAGE
OPS-D-1	01-17	COMMON POLICY DECLARATIONS
UTS-126L	10-93	SCHEDULE OF TAXES, SURCHARGES OR FEES
UTS-SP-2	12-95	SCHEDULE OF FORMS AND ENDORSEMENTS
UTS-SP-3	08-96	SCHEDULE OF LOCATIONS
IL 00 17	11-98	COMMON POLICY CONDITIONS
UTS-496	06-19	MINIMUM EARNED CANCELLATION PREMIUM
UTS-9g	05-96	SERVICE OF SUIT CLAUSE
NOTX0423CW	02-19	POLICYHOLDER DISCLOSURE - NOTICE OF TERRORISM INSURANCE COVERAGE

COMMERCIAL LIABILITY

CLS-SD-1L	08-01	COMMERCIAL GENERAL LIABILITY COVERAGE PART SUPPLEMENTAL DECLARATIONS
CLS-SP-1L	10-93	COMMERCIAL GENERAL LIABILITY COVERAGE PART EXTENSION OF SUPPLEMENTAL DECLARATIONS
CG 00 01	04-13	COMMERCIAL GENERAL LIABILITY COVERAGE FORM
CG 20 12	04-13	ADDITIONAL INSURED-STATE OR GOVERNMENTAL AGENCY OR SUBDIVISION OR POLITICAL SUBDIVISION-PERMITS OR AUTHORIZATIONS
CG 21 06	05-14	EXCLUSION-ACCESS OR DISCLOSURE OF CONFIDENTIAL OR PERSONAL INFORMATION AND DATA-RELATED LIABILITY-WITH LIMITED BODILY INJURY EXCEPTION
CG 21 47	12-07	EMPLOYMENT-RELATED PRACTICES EXCLUSION
CG 21 67	12-04	FUNGI OR BACTERIA EXCLUSION
CG 21 73	01-15	EXCLUSION OF CERTIFIED ACTS OF TERRORISM
CG 22 64	04-13	PESTICIDE OR HERBICIDE APPLICATOR-LIMITED POLLUTION COVERAGE
CG 24 26	04-13	AMENDMENT OF INSURED CONTRACT DEFINITION
CG 24 45	01-19	WASHINGTON - LIMITED COVERAGE FOR BODILY INJURY, PROPERTY DAMAGE OR PERSONAL AND ADVERTISING INJURY INVOLVING EFFICIENT PROXIMATE CAUSE (DEFENSE WITHIN LIMITS)



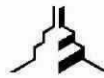
SCOTTSDALE INSURANCE COMPANY®

SCHEDULE OF FORMS AND ENDORSEMENTSPolicy No. CPS7118636Effective Date 06/13/2020

12:01 A.M. Standard Time

Named Insured WAVE AQUATICSAgent No. 15008**COMMERCIAL LIABILITY**

CG 40 12	12-19	EXCLUSION - ALL HAZARDS IN CONNECTION WITH AN ELECTRONIC SMOKING DEVICE, ITS VAPOR, COMPONENT PARTS, EQUIPMENT AND ACCESSORIES
GLS-130s	02-15	LIMITED PARTICIPANT COVERAGE-SPORTS
GLS-152s	08-16	AMENDMENT TO OTHER INSURANCE CONDITION
GLS-172s	11-19	ERRORS AND OMISSIONS COVERAGE PART
GLS-289s	11-07	KNOWN INJURY OR DAMAGE EXCLUSION-PERSONAL AND ADVERTISING INJURY
GLS-30s	01-15	CONTRACTORS SPECIAL CONDITIONS
GLS-341s	08-12	HYDRAULIC FRACTURING EXCLUSION
GLS-44s	09-16	SEXUAL AND/OR PHYSICAL ABUSE LIABILITY COVERAGE FORM
GLS-455s	05-19	MARIJUANA/CANNABIS LIABILITY EXCLUSION
GLS-457s	10-14	AIRCRAFT EXCLUSION
GLS-45s	08-04	SEXUAL AND/OR PHYSICAL ABUSE EXCLUSION
GLS-47s	10-07	MINIMUM AND ADVANCE PREMIUM ENDORSEMENT
GLS-68s	03-12	LOST KEY COVERAGE ENDORSEMENT
IL 00 21	09-08	NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT
UTS-180g	10-08	COMMUNICABLE DISEASE EXCLUSION
UTS-266g	05-98	ASBESTOS EXCLUSION
UTS-267g	05-98	LEAD CONTAMINATION EXCLUSION
UTS-303g	01-09	FUNGI OR BACTERIA EXCLUSION
UTS-365s	02-09	AMENDMENT OF NONPAYMENT CANCELLATION CONDITION
UTS-428g	11-12	PREMIUM AUDIT
UTS-74g	08-95	PUNITIVE OR EXEMPLARY DAMAGE EXCLUSION



SCOTTSDALE INSURANCE COMPANY®

SCHEDULE OF LOCATIONSPolicy No. CPS7118636 Effective Date 06/13/2020

12:01 A.M. Standard Time

Named Insured WAVE AQUATICS Agent No. 15008

Prem. No.	Bldg. No.	Designated Premises (Address, City, State, Zip Code)	Occupancy
1		17535 NE 104TH ST REDMOND WA 98052	See Liability Dec(s)
2		10601 NE 132ND ST KIRKLAND WA 98034	See Liability Dec(s)
3		7616 139TH PL NE REDMOND WA 98052	See Liability Dec(s)

COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. 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.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and
- c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.

3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

Underwritten by Scottsdale Insurance Company

**ENDORSEMENT
NO. _____**

ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.
CPS7118636	06/13/2020	WAVE AQUATICS	15008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

MINIMUM EARNED CANCELLATION PREMIUM

The following provision is added to the Cancellation Condition:

If You request cancellation of this policy, We will retain not less than 100% of the premium._____
AUTHORIZED REPRESENTATIVE_____
DATE



SCOTTSDALE INSURANCE COMPANY®

ENDORSEMENT
NO. _____

ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.
CPS7118636	06/13/2020	WAVE AQUATICS	15008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SERVICE OF SUIT CLAUSE

It is agreed that in the event of the failure of the Company to pay any amount claimed to be due under this policy, the Company at the request of the Insured (or reinsured), will submit to the jurisdiction of any court of competent jurisdiction within the United States of America and will comply with all requirements necessary to give the Court jurisdiction. All matters which arise will be determined in accordance with the law and practice of the Court. In a suit instituted against any one of them under this contract, the Company agrees to abide by the final decision of the Court or of any Appellate Court in the event of an appeal.

Pursuant to any statute of any state, territory or district of the United States of America which makes a provision, the Company will 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 reinsured) or any beneficiary arising out of this contract of insurance (or reinsurance).

The officer named below is authorized and directed to accept service of process on behalf of the Company:

COMMISSIONER OF INSURANCE

P. O. BOX 40257

OLYMPIA, WA 98504-0257

Having accepted service of process on behalf of the Company, the officer is authorized to mail the process or a true copy to:

RECIPIENT NOT REQUIRED

AUTHORIZED REPRESENTATIVE

DATE



SCOTTSDALE INSURANCE COMPANY®

COMMERCIAL GENERAL LIABILITY COVERAGE PART SUPPLEMENTAL DECLARATIONS

Policy No. CPS7118636 Effective Date 06/13/2020
12:01 A.M., Standard Time

Named Insured WAVE AQUATICS Agent No. 15008

Item 1. Limits of Insurance		
Coverage	Limit of Liability	
Aggregate Limits of Liability	\$ <u>2,000,000</u>	Products/Completed Operations Aggregate
	\$ <u>2,000,000</u>	General Aggregate (other than Products/Completed Operations)
Coverage A—Bodily Injury and Property Damage Liability	\$ <u>1,000,000</u>	any one occurrence subject to the Products/Completed Operations and General Aggregate Limits of Liability
Damage to Premises Rented to You Limit	\$ <u>100,000</u>	any one premises subject to the Coverage A occurrence and the General Aggregate Limits of Liability
Coverage B—Personal and Advertising Injury Liability	\$ <u>1,000,000</u>	any one person or organization subject to the General Aggregate Limits of Liability
Coverage C—Medical Payments		any one person subject to the Coverage A occurrence and the General Aggregate Limits \$ <u>5,000</u>
Item 2. Description of Business		
Form of Business: ☒ Individual ☐ Partnership ☐ Joint Venture ☐ Trust ☐ Limited Liability Company ☐ Organization including a corporation (other than Partnership, Joint Venture or Limited Liability Company)		
Location of All Premises You Own, Rent or Occupy: SEE SCHEDULE OF LOCATIONS		
Item 3. Forms and Endorsements		
Form(s) and Endorsement(s) made a part of this policy at time of issue: See Schedule of Forms and Endorsements		
Item 4. Premiums		
Coverage Part Premium:	\$	\$4,725
Other Premium:	\$	
Total Premium:	\$	\$4,725

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

SCOTTSDALE INSURANCE COMPANY[®]

COMMERCIAL GENERAL LIABILITY COVERAGE PART EXTENSION OF SUPPLEMENTAL DECLARATIONS

Policy No. CPS7118636Effective Date: 06/13/2020

12:01 A.M., Standard Time

Named Insured WAVE AQUATICSAgent No. 15008

Prem. No. 1	Bldg. No. 1	Class Code 48924	Exposure 1	Basis PER POOL/EACH
Class Description: SWIMMING POOL MANAGEMENT AND LIFEGUARD SERVICES				Premises/Operations
				Rate Premium
				\$1575.00 \$1,575
				Products/Comp Operations
				Rate Premium
Prem. No. 2	Bldg. No. 1	Class Code 48924	Exposure 1	Basis PER POOL/EACH
Class Description: SWIMMING POOL MANAGEMENT AND LIFEGUARD SERVICES				Premises/Operations
				Rate Premium
				\$1575.00 \$1,575
				Products/Comp Operations
				Rate Premium
Prem. No. 3	Bldg. No. 1	Class Code 48924	Exposure 1	Basis PER POOL/EACH
Class Description: SWIMMING POOL MANAGEMENT AND LIFEGUARD SERVICES				Premises/Operations
				Rate Premium
				\$1575.00 \$1,575
				Products/Comp Operations
				Rate Premium
Prem. No.	Bldg. No.	Class Code 44444	Exposure	Basis
Class Description: SEXUAL AND/OR PHYSICAL ABUSE SUB-LIMIT PER FORM GLS (HI) 44S				Premises/Operations
				Rate Premium
				Products/Comp Operations
				Rate Premium

SCOTTSDALE INSURANCE COMPANY[®]

COMMERCIAL GENERAL LIABILITY COVERAGE PART EXTENSION OF SUPPLEMENTAL DECLARATIONS

Policy No. CPS7118636Effective Date: 06/13/2020

12:01 A.M., Standard Time

Named Insured WAVE AQUATICSAgent No. 15008

Prem. No.	Bldg. No.	Class Code 44444	Exposure INCLUDED	Basis INCLUDED
Class Description: LOST KEY COVERAGE PER FORM GLS (HI) 68S				Premises/Operations
				Rate Premium
				INCLUDED INCLUDED
				Products/Comp Operations
				Rate Premium
Prem. No.	Bldg. No.	Class Code 73444	Exposure	Basis
Class Description: ERRORS & OMISSIONS COVERAGE PART PER FORM GLS (HI) 172S				Premises/Operations
				Rate Premium
				INCLUDED INCLUDED
				Products/Comp Operations
				Rate Premium
Prem. No.	Bldg. No.	Class Code 44444	Exposure INCLUDED	Basis INCLUDED
Class Description: LIMITED PARTICIPANT COVERAGE PER FORM GLS (HI) 130S				Premises/Operations
				Rate Premium
				INCLUDED INCLUDED
				Products/Comp Operations
				Rate Premium
Prem. No.	Bldg. No.	Class Code 44444	Exposure INCLUDED	Basis INCLUDED
Class Description: PESTICIDE OR HERBICIDE APPLICATOR COVERAGE PER APPLICABLE FORM				Premises/Operations
				Rate Premium
				INCLUDED INCLUDED
				Products/Comp Operations
				Rate Premium

SCOTTSDALE INSURANCE COMPANY[®]

COMMERCIAL GENERAL LIABILITY COVERAGE PART EXTENSION OF SUPPLEMENTAL DECLARATIONS

Policy No. CPS7118636Effective Date: 06/13/2020

12:01 A.M., Standard Time

Named Insured WAVE AQUATICSAgent No. 15008

Prem. No.	Bldg. No.	Class Code 49950	Exposure 1	Basis INCLUDED	
Class Description: ADDITIONAL INSURED - STATE OR GOVERNMENTAL AGENCY OR SUBDIVISION OR POLITICAL SUBDIVISION - PERMITS OR AUTHORIZATIONS (OCP) PER FORM CG 20 12				Premises/Operations	
				Rate	Premium
				INCLUDED	INCLUDED
				Products/Comp Operations	
				Rate	Premium
Prem. No.	Bldg. No.	Class Code	Exposure	Basis	
Class Description:				Premises/Operations	
				Rate	Premium
				Products/Comp Operations	
				Rate	Premium
Prem. No.	Bldg. No.	Class Code	Exposure	Basis	
Class Description:				Premises/Operations	
				Rate	Premium
				Products/Comp Operations	
				Rate	Premium
Prem. No.	Bldg. No.	Class Code	Exposure	Basis	
Class Description:				Premises/Operations	
				Rate	Premium
				Products/Comp Operations	
				Rate	Premium

COMMERCIAL GENERAL 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 Section II – Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section V – Definitions.

SECTION I – COVERAGES

COVERAGE A – BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section III – 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 Coverages A or B or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages A and B.

- b. This insurance applies to "bodily injury" and "property damage" only if:
- (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

- (2) The "bodily injury" or "property damage" occurs during the policy period; and

- (3) Prior to the policy period, no insured listed under Paragraph 1. of Section II – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.

- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph 1. of Section II – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured 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:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and
 - (b) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

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

- (a) The supervision, hiring, employment, training or monitoring of others by that insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises, for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

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.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
 - (a) Employment by the insured; or
 - (b) Performing duties related to the conduct of the insured's business; or
- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

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 exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

- (1)** "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (a)** At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - (i)** "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;
 - (ii)** "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
 - (iii)** "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
 - (b)** At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
 - (c)** Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - (i)** Any insured; or
 - (ii)** Any person or organization for whom you may be legally responsible; or
- (d)** At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i)** "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
 - (ii)** "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
 - (iii)** "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".
- (e)** At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising 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".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "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, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
 - (a) Less than 26 feet long; and
 - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

(5) "Bodily injury" or "property damage" arising out of:

- (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
- (b) The operation of any of the machinery or equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment".

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

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

- (1) War, including undeclared or civil war;
- (2) 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
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. 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 to you;

- (4) Personal property in the care, custody or control of the 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.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III – Limits Of Insurance.

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.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

k. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

l. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

m. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall Of Products, Work Or Impaired Property

Damages claimed for any 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";
- (2) "Your work"; or
- (3) "Impaired property";

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.

o. Personal And Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

q. Recording And Distribution Of Material Or Information In Violation Of Law

"Bodily injury" or "property damage" 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 Transactions 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.

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section **III – Limits Of Insurance**.

COVERAGE B – PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a.** We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section **III – Limits Of Insurance**; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements under Coverages **A** or **B** or medical expenses under Coverage **C**.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments – Coverages **A** and **B**.

- b.** This insurance applies to "personal and advertising injury" caused by an offense arising out of your business but only if the offense was committed in the "coverage territory" during the policy period.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation Of Rights Of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge Of Falsity

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior To Policy Period

"Personal and advertising injury" arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

f. Breach Of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality Or Performance Of Goods – Failure To Conform To Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description Of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds In Media And Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **14.a.**, **b.** and **c.** of "personal and advertising injury" under the Definitions section.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms Or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board the insured hosts, owns, or over which the insured exercises control.

l. Unauthorized Use Of Another's Name Or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Pollution

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

n. Pollution-related

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, "pollutants"; 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, "pollutants".

o. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) 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
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

p. Recording And Distribution Of Material Or Information In Violation Of Law

"Personal and advertising injury" 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 Transactions 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.

COVERAGE C – MEDICAL PAYMENTS**1. Insuring Agreement**

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
 - (2) On ways next to premises you own or rent; or
 - (3) Because of your operations;
- provided that:

- (a) The accident takes place in the "coverage territory" and during the policy period;
- (b) The expenses are incurred and reported to us within one year of the date of the accident; and
- (c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports, or athletic contests.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under Coverage A.

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

1. We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

- a. All expenses we incur.
- b. Up to \$250 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.
- c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
- e. All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
- f. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

- g.** All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

- 2.** If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- a.** The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- b.** This insurance applies to such liability assumed by the insured;
- c.** The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- d.** The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;
- e.** The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- f.** The indemnitee:

(1) Agrees in writing to:

- (a)** Cooperate with us in the investigation, settlement or defense of the "suit";
- (b)** Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
- (c)** Notify any other insurer whose coverage is available to the indemnitee; and
- (d)** Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(2) Provides us with written authorization to:

- (a)** Obtain records and other information related to the "suit"; and
- (b)** Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph **2.b.(2)** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the limits of insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when we have used up the applicable limit of insurance in the payment of judgments or settlements or the conditions set forth above, or the terms of the agreement described in Paragraph **f.** above, are no longer met.

SECTION II – WHO IS AN INSURED

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.
- e.** A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

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 insureds 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;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by;
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

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

- c. Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

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 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage **B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

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.

SECTION III – 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
- c. Persons or organizations making claims or bringing "suits".

2. The General Aggregate Limit is the most we will pay for the sum of:

- a. Medical expenses under Coverage **C**;
- b. Damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- c. Damages under Coverage **B**.

3. The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage **A** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".
4. Subject to Paragraph **2.** above, the Personal And Advertising Injury Limit is the most we will pay under Coverage **B** for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.
5. Subject to Paragraph **2.** or **3.** above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:
 - a. Damages under Coverage **A**; and
 - b. Medical expenses under Coverage **C** because of all "bodily injury" and "property damage" arising out of any one "occurrence".
6. Subject to Paragraph **5.** above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage **A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with permission of the owner.
7. Subject to Paragraph **5.** above, the Medical Expense Limit is the most we will pay under Coverage **C** for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period 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 IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

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

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. 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.

- 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 involved insured 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.

3. 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 and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages **A** or **B** of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below.

b. Excess Insurance

(1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (iii) That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner; or
 - (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I** – Coverage **A** – Bodily Injury And Property Damage Liability.
- (b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

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

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

- (a) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
 - (b) The total of all deductible and self-insured amounts under all that other insurance.
- (4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

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

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

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. 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 and retrospective premiums 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.

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.

7. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

8. Transfer Of Rights Of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. 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 V – DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:
 - a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
 - b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.
2. "Auto" means:
 - a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
 - b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
4. "Coverage territory" means:
 - a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph **a.** above; or
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in Paragraph **a.** above;
 - (2) The activities of a person whose home is in the territory described in Paragraph **a.** above, but is away for a short time on your business; or
 - (3) "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 "suit" on the merits, in the territory described in Paragraph **a.** above or in a settlement we agree to.
5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.
7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by the repair, replacement, adjustment or removal of "your product" or "your work" or your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

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

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

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

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

11. "Loading or unloading" means the handling of property:

- a.** After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b.** While it is in or on an aircraft, watercraft or "auto"; or
- c.** While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a.** Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b.** Vehicles maintained for use solely on or next to premises you own or rent;
- c.** Vehicles that travel on crawler treads;
- d.** Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1)** Power cranes, shovels, loaders, diggers or drills; or
 - (2)** Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e.** Vehicles not described in Paragraph **a., b., c.** or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1)** Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2)** Cherry pickers and similar devices used to raise or lower workers;
- f.** Vehicles not described in Paragraph **a., b., c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1)** Equipment designed primarily for:
 - (a)** Snow removal;
 - (b)** Road maintenance, but not construction or resurfacing; or
 - (c)** Street cleaning;
- (2)** Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3)** Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

- a.** False arrest, detention or imprisonment;
- b.** Malicious prosecution;
- c.** The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d.** Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e.** Oral or written publication, in any manner, of material that violates a person's right of privacy;
- f.** The use of another's advertising idea in your "advertisement"; or
- g.** Infringing upon another's copyright, trade dress or slogan in your "advertisement".

15. "Pollutants" mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

16. "Products-completed operations hazard":

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

- (1)** Products that are still in your physical possession; or
- (2)** Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a)** When all of the work called for in your contract has been completed.
 - (b)** When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
 - (c)** When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1)** The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2)** The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3)** Products or operations for which the classification, listed in the Declarations or in a policy Schedule, states that products-completed operations are subject to the General Aggregate Limit.

17. "Property damage" means:

- a.** Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b.** Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

- a.** An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
- b.** Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

a. Means:

- (1)** Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a)** You;
 - (b)** Others trading under your name; or
 - (c)** A person or organization whose business or assets you have acquired; and
- (2)** Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2)** The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

22. "Your work":

a. Means:

- (1)** Work or operations performed by you or on your behalf; and
- (2)** Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1)** Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- (2)** The providing of or failure to provide warnings or instructions.

POLICY NUMBER: CPS7118636

COMMERCIAL GENERAL LIABILITY
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – STATE OR GOVERNMENTAL
AGENCY OR SUBDIVISION OR POLITICAL
SUBDIVISION – PERMITS OR AUTHORIZATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE**State Or Governmental Agency Or Subdivision Or Political Subdivision:**
CITY OF KIRKLAND 123 5TH AVE KIRKLAND WA 98033

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured any state or governmental agency or subdivision or political subdivision shown in the Schedule, subject to the following provisions:

1. This insurance applies only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- b. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

2. This insurance does not apply to:

- a. "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or
- b. "Bodily injury" or "property damage" included within the "products-completed operations hazard".

- B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of 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:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION – ACCESS OR DISCLOSURE OF CONFIDENTIAL OR PERSONAL INFORMATION AND DATA-RELATED LIABILITY – WITH LIMITED BODILY INJURY EXCEPTION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A. Exclusion 2.p. of Section I – Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

2. Exclusions

This insurance does not apply to:

p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

- (1)** Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2)** The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph **(1)** or **(2)** above.

However, unless Paragraph **(1)** above applies, this exclusion does not apply to damages because of "bodily injury".

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

- B. The following is added to Paragraph 2. Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:**

2. Exclusions

This insurance does not apply to:

Access Or Disclosure Of Confidential Or Personal Information

"Personal and advertising injury" arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EMPLOYMENT-RELATED PRACTICES EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:

This insurance does not apply to:

"Bodily injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) 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
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

B. The following exclusion is added to Paragraph 2., Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:

This insurance does not apply to:

"Personal and advertising injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) 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
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraphs (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) 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.

FUNGI OR BACTERIA EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

- A.** The following exclusion is added to Paragraph **2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability:**

2. Exclusions

This insurance does not apply to:

Fungi Or Bacteria

- a.** "Bodily injury" or "property damage" 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 any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

- B.** The following exclusion is added to Paragraph **2. Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability:**

2. Exclusions

This insurance does not apply to:

Fungi Or Bacteria

- a.** "Personal and advertising injury" which would not have taken place, 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.
- b.** Any loss, cost or expense 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.

- C.** The following definition 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.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF CERTIFIED ACTS OF TERRORISM

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
UNDERGROUND STORAGE TANK POLICY

A. The following exclusion is added:

This insurance does not apply to:

TERRORISM

"Any injury or damage" arising, directly or indirectly, out of a "certified act of terrorism".

B. The following definitions are added:

- 1.** For the purposes of this endorsement, "any injury or damage" means any injury or damage covered under any Coverage Part to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "personal and advertising injury", "injury" or "environmental damage" as may be defined in any applicable Coverage Part.
- 2.** "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; and

- b.** 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.

- 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.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PESTICIDE OR HERBICIDE APPLICATOR –
LIMITED POLLUTION COVERAGE**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Description Of Operations:

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

With respect to the operations shown in the Schedule, Paragraph **(1)(d)** of Exclusion **f.** of **Section I – Coverage A – Bodily Injury And Property Damage Liability** does not apply if the operations meet all standards of any statute, ordinance, regulation or license requirement of any federal, state or local government which apply to those operations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF INSURED CONTRACT DEFINITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The definition of "insured contract" in the **Definitions** section is replaced by the following:

"Insured contract" means:

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

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

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

POLICY NUMBER: CPS7118636

COMMERCIAL GENERAL LIABILITY
CG 24 45 01 19**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****WASHINGTON – LIMITED COVERAGE FOR BODILY
INJURY, PROPERTY DAMAGE OR PERSONAL AND
ADVERTISING INJURY INVOLVING EFFICIENT
PROXIMATE CAUSE (DEFENSE WITHIN LIMITS)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE**Efficient Proximate Cause Aggregate Limit:****\$**

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

"Defense expense" is payable within, not in addition to, the Efficient Proximate Cause Aggregate Limit shown in the Schedule of this endorsement.**A. The following is added to Paragraph 2. Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability, Paragraph 2. Exclusions of Section I – Coverage B – Personal And Advertising Injury Liability and Paragraph 2. Exclusions of Section I – Coverage C – Medical Payments:**

1. If an exclusion under the terms of this Policy applies with respect to "bodily injury", "property damage" or "personal and advertising injury"; and
2. The efficient proximate cause, in accordance with the law of the State of Washington, of such "bodily injury", "property damage" or "personal and advertising injury" is not also excluded under the terms of this Policy;

then:

- a. The exclusion referenced in Paragraph **A.1.** above does not apply to such "bodily injury", "property damage" or "personal and advertising injury"; and
- b. Coverage provided under this Policy for such "bodily injury", "property damage" or "personal and advertising injury" is subject to the Efficient Proximate Cause Aggregate Limit as described in Paragraph **B.** of this endorsement.

B. For purposes of the coverage provided under this endorsement, the following provisions are added to Section III – Limits Of Insurance:

1. Subject to Paragraph 2. or 3. of Section III – Limits Of Insurance, whichever applies, the Efficient Proximate Cause Aggregate Limit shown in the Schedule is the most we will pay for the sum of:
 - a. Damages under Coverage **A**;
 - b. Damages under Coverage **B**;
 - c. Medical expenses under **Coverage C**; and
 - d. "Defense expense";
 because of all "bodily injury", "property damage" and "personal and advertising injury" described in Paragraph **A.** of this endorsement.
2. Paragraph 4., the Personal And Advertising Injury Limit, Paragraph 5., the Each Occurrence Limit, Paragraph 6., the Damage To Premises Rented To You Limit, and Paragraph 7., the Medical Expense Limit, of Section III – Limits Of Insurance continue to apply to "bodily injury", "property damage" and "personal and advertising injury", as applicable, described in Paragraph **A.** of this endorsement but only if, and to the extent that, a limit of insurance is available under the Efficient Proximate Cause Aggregate Limit.

C. For purposes of the coverage provided under this endorsement, Paragraphs **1.a.**, **1.d.** and **1.e.** under **Supplementary Payments – Coverage A And B** do not apply.

D. For purposes of the coverage provided under this endorsement, the following definition is added:

"Defense expense":

1. Means:

Payments allocated to a specific claim or "suit" we investigate, settle or defend, for its investigation, settlement or defense.

2. Includes payments for:

- a.** Fees and salaries of attorneys and paralegals we retain, including attorneys and paralegals who are our "employees".
- b.** Fees of attorneys the insured retains when by mutual agreement or court order the insured is given the right to retain defense counsel to defend a "suit".
- c.** All other litigation expenses.
- d.** Reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.

e. Costs taxed against the insured in the "suit".

3. Does not include:

- a.** Any payments described in Paragraph **D.1.** above allocated to that portion of a specific claim or "suit" involving "bodily injury", "property damage" or "personal and advertising injury" not described in Paragraph **A.** of this endorsement;
- b.** Salaries and expenses of our "employees" or the insured's "employees" (other than those described in Paragraphs **D.2.a.** and **D.2.d.** above) and does not include fees and expenses of independent adjusters we hire; and
- c.** Any payments described in Paragraph **D.1.** above allocated to that portion of a specific claim or "suit" involving medical expenses for "bodily injury" under Section **I – Coverage C – Medical Payments.**

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EXCLUSION – ALL HAZARDS IN CONNECTION WITH AN
ELECTRONIC SMOKING DEVICE, ITS VAPOR,
COMPONENT PARTS, EQUIPMENT AND ACCESSORIES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

A. The following exclusion is added:

This insurance does not apply to:

Electronic Smoking Device

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the following:

- 1.** The design, manufacture, distribution, sale, maintenance, use or repair of:
 - a.** An "electronic smoking device"; or
 - b.** Any component part of, or equipment or accessory designed for use with an "electronic smoking device", including, but not limited to, a mouthpiece, tube, tank, connector, atomizer, cartomizer, clearomizer, coil, battery, charger, cartridge, liquid, flavoring, solutions of any kind, or ingredients therein;
- 2.** The actual, alleged, threatened or suspected inhalation of, contact with, exposure to, existence of, or presence of, vapor delivered from an "electronic smoking device"; or

- 3.** Any component part of, or equipment or accessory designed for use with an "electronic smoking device", including, but not limited to those items listed in Paragraph **A.1.b.** of this endorsement, and in connection with the actual, alleged, threatened or suspected inhalation of, contact with, exposure to, existence of, or presence of, vapor delivered from an "electronic smoking device".

B. The following definition is added:

"Electronic smoking device" means a battery-powered device that delivers a vaporized inhalable substance through a mouthpiece. "Electronic smoking devices" include, but are not limited to, battery-powered:

- 1.** Cigarettes;
- 2.** Pipes;
- 3.** Cigars;
- 4.** Hookahs; and
- 5.** Vaporizers, other than steam or mist inhalers.



SCOTTSDALE INSURANCE COMPANY®

ENDORSEMENT
NO. _____

ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.
CPS7118636	06/13/2020	WAVE AQUATICS	15008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

LIMITED PARTICIPANT COVERAGE—SPORTS

This endorsement modified insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART**A. The following is added to subsection 2. Exclusions of SECTION I—COVERAGES COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

This insurance does not apply to "bodily injury" to "participant(s)."

We will have no duty to defend any "suit" against you seeking damages on account of any such injury unless coverage is provided by this endorsement.

B. The following is added to subsection 2. Exclusions of COVERAGE C. MEDICAL PAYMENTS of SECTION I—COVERAGES:

We will not pay expenses for "bodily injury" to "participant(s)."

C. The coverage provided is described below:The following is added to **SECTION I—COVERAGES:****COVERAGE—LIABILITY TO "PARTICIPANT(S)"****1. Insuring Agreement**

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" to any "participant(s)" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section D. of this endorsement;
- (2) Our right and duty to defend ends when we have used the applicable limit of insurance in payment of judgments or settlements; and
- (3) No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under **SUPPLEMENTARY PAYMENTS—COVERAGES A. AND B.**

b. This insurance applies to "bodily injury" only if:

- (1) The "bodily injury" is caused by an "occurrence" that takes place in the "coverage territory."
- (2) The "bodily injury" occurs during the policy period.
- (3) Prior to the policy period, no insured listed under paragraph 1. of **SECTION II—WHO IS AN INSURED** and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" occurred, then any continuation, change or resumption of such "bodily injury" during or after the policy period will be deemed to have been known prior to the policy period.

c. "Bodily injury" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under paragraph 1. of **SECTION II—WHO IS AN INSURED** or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of that "bodily injury" after the end of the policy period.

d. "Bodily injury" will be deemed to have been known to have occurred at the earliest time when any insured listed under paragraph 1. of **SECTION II—WHO IS AN INSURED** or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury";
or
- (3) Becomes aware by any other means that "bodily injury" has occurred or has begun to occur.

e. Damage because of "bodily injury" includes damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury."

2. Exclusions

This insurance does not apply to:

- a.** "Bodily injury" that is excluded under **SECTION I—COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, subsection **2. Exclusions**, paragraphs **a., b., c., d., e., f., g., h., i., and o.**
- b.** "Bodily injury" arising from "brain injuries" sustained by any "participant" while practicing for or participating in any sports or athletic contest, event, or exhibition that you sponsor.

D. With respect to this endorsement, the following is added to **SECTION III—LIMITS OF INSURANCE:**

The Limits of Insurance are \$25,000 Each "Occurrence" and \$50,000 Aggregate per policy period, unless otherwise stated below:

\$ 25,000 Each "Occurrence"

\$ 50,000 Aggregate per policy period

The aggregate limit shown above is part of, and not in addition to, the General Aggregate limit shown on the Declarations.

This insurance does not apply to any claim for damages because of “bodily injury” or “property damage” brought by one “participant” against another “participant(s).”

E. With respect to this endorsement, the following definitions are added to **SECTION V—DEFINITIONS:**

The term “brain injuries” includes concussions, Chronic Traumatic Encephalopathy (CTE) or any other injury to the brain as well as any symptoms, conditions, disorders or diseases resulting there from including, but not limited to amnesia and motor neuron disease.

“Participant(s)” means any person, including players, coaches, managers, staff members, team workers, officials, cheerleaders, students, customers and volunteers, who is instructing, supervising, training or practicing for, participating in or otherwise involved in any games, sports or athletic activity, contest or exhibition that you manage, operate or sponsor.

AUTHORIZED REPRESENTATIVE

DATE


**ENDORSEMENT
NO. _____**

ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.
CPS7118636	06/13/2020	WAVE AQUATICS	15008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT TO OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Condition **4. Other Insurance** of **SECTION IV—COMMERCIAL GENERAL LIABILITY CONDITIONS** is deleted in its entirety and is replaced by the following:

4. Other Insurance

a. Primary Insurance

This insurance is primary except when **b.** below applies.

b. Excess Insurance

- (1)** This insurance is excess over any other insurance, whether primary, excess, contingent or on any other basis:
 - (a)** That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";
 - (b)** That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (c)** That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;
 - (d)** If the loss arises out of the maintenance or use of aircraft, "auto" or watercraft to the extent not subject to Exclusion **g.** of Coverage **A (SECTION I)**; or
 - (e)** That is valid and collectible insurance available to any insured under any other policy.
- (2)** When this insurance is excess, we will have no duty under Coverages **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit." If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.
- (3)** When this insurance is excess over other insurance, we will pay only the amount of the loss, if any, that exceeds the sum of:
 - (a)** The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

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

If a loss occurs involving two or more policies, each of which states that its insurance will be excess, then our policy will contribute on a pro rata basis.

AUTHORIZED REPRESENTATIVE

DATE

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Underwritten by: Scottsdale Insurance Company
 Home Office: One Nationwide Plaza • Columbus, Ohio 43215
 Administrative Office: 8877 North Gainey Center Drive • Scottsdale, Arizona 85258
 1-800-423-7675 • A Stock Company

ERRORS AND OMISSIONS COVERAGE PART

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

Throughout this Coverage Part 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 Coverage Part. 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 **WHO IS AN INSURED (SECTION II)**.

Other words and phrases that appear in quotation marks have special meaning. Refer to **DEFINITIONS (SECTION VI)**.

SCHEDULE

Description of Services:

Coverage	Limits of Insurance	
Errors or Omissions	\$ 1,000,000	Each Claim
	\$ 2,000,000	Aggregate
Premium Basis	Rate	Premium
	INCLUDED	\$ INCLUDED
	INCLUDED	\$ INCLUDED
Total Premium:		\$ INCLUDED

SECTION I—COVERAGE

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as "damages" as a result of an "error or omission" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those "damages." However, we will have no duty to defend the insured against any "suit" seeking "damages" for an "error or omission" to which this insurance does not apply. We may, at our discretion, investigate any "error or omission" and settle any "claim" or "suit" that may result. But:

- (1) The amount we will pay for "damages" is limited as described in **LIMITS OF INSURANCE (SECTION III)**; 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.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under **SUPPLEMENTARY PAYMENTS**.

- b. This insurance applies to "errors or omissions" only if:
- (1) The "error or omission" takes place in the coverage territory;
 - (2) The "error or omission" occurs during the policy period; and
 - (3) Prior to the policy period, no insured listed under paragraph 1. of **SECTION II—WHO IS AN INSURED** and no employee authorized by you to give or receive notice of an occurrence or claim, knew that the "damages" had occurred, in whole or in part. If such a listed insured knew, prior to the policy period, that the "damages" occurred, then any continuation, change or resumption of such "damages" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Damages" which occurred during the policy period and were not, prior to the policy period, known to have occurred by any insured listed under paragraph 1. of **SECTION II—WHO IS AN INSURED** or any employee authorized by you to give or receive notice of an occurrence or claim, includes any continuation, change or resumption of "damages" after the end of the policy period.
- d. "Damages" will be deemed to have been known to have occurred at the earliest time when any insured listed under paragraph 1. of **SECTION II—WHO IS AN INSURED** or any employee authorized by you to give or receive notice of an occurrence or claim:
- (1) Reports all, or any part, of the "damages" to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for "damages"; or
 - (3) Becomes aware by any other means that "damages" have occurred or have begun to occur.
- e. "Damages" because of "errors or omissions" include "damages" claimed by any person or organization for care, loss of services or death resulting at any time from the "error or omission."

2. Exclusions

This insurance does not apply to:

- a. "Errors or omissions" for which the insured 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 insured would have in the absence of the contract or agreement.
- b. Any obligation of any insured under any workers' compensation, unemployment compensation, disability benefits law, Federal Securities Act of 1933, Employee Retirement Income Security Act of 1974 (ERISA) or under any similar law.
- c. Injury arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto," or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading."
- d. Injury arising out of a dishonest, fraudulent, malicious or criminal act by any insured.
- e. (1) Injury arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of pollutants:
 - (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured;
 - (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
 - (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any insured or any person or organization for whom you may be legally responsible; or

- (d) At or from any premises, site or location on which any insured or any contractors or sub-contractors working directly or indirectly on any insured's behalf are performing operations:
 - (i) If the pollutants are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor; or
 - (ii) If the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of pollutants.
- (2) Any loss, cost, or expense arising out of any:
 - (a) Request, demand, order, 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 government 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.

Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

f. "Damages" caused or arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) 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
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

g. 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 damage arises out of any part of those premises;
- (3) Property loaned to you, except property loaned to you and held as evidence;
- (4) Personal property in the care, custody or control of the insured, except when the property is being held as evidence;
- (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 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.

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.

h. Damage to “your work” arising out of it or any part of it.

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

i. Damage to “impaired property” or property that has not been physically injured, arising out of:

- (1)** A defect, deficiency, inadequacy or dangerous condition in “your product” or “your work”; or
- (2)** A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to “your product” or “your work” after it has been put to its intended use.

j. “Damages” claimed for any 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”;
- (2)** “Your work”; or
- (3)** “Impaired property”;

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.

k. Injury to:

- (1)** An employee of the insured arising out of and in the course of employment by the insured, including wrongful termination; or
- (2)** The spouse, child, parent, brother, sister of that employee as a consequence of **k.(1)** above;

This exclusion applies:

- (1)** Whether the insured may be liable as an employer or in any other capacity; and
- (2)** To any obligation to share “damages” with or repay someone else who must pay “damages” because of the injury.

l. Injury to:

- (1)** A person arising out of any:

- (a)** Refusal to employ that person;
- (b)** Termination of that person’s employment; or
- (c)** Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or

- (2)** The spouse, child, parent, brother or sister of that person as a consequence of injury to that person at whom any of the employment-related practices described in paragraphs **(a)**, **(b)**, or **(c)** above is directed.

This exclusion applies:

- (1)** Whether the insured may be liable as an employer or in any other capacity; and
- (2)** To any obligation to share “damages” with or repay someone else who must pay “damages” because of the injury.

- m. Any injury arising out of any circumstances due to nuclear reaction, radiation, or contamination regardless of cause.
- n. Injury arising out of:
 - (1) Inhaling, ingesting or prolonged physical exposure to asbestos or goods or products containing asbestos;
 - (2) The use of asbestos in construction or manufacturing any good, product or structure;
 - (3) The removal of asbestos from any good, product or structure; or
 - (4) The manufacture, sale, transportation, storage or disposal of asbestos or goods or products containing asbestos.
- o. Any "error or omission" arising out of the rendering or failure to render any service provided by any architect, engineer, accountant, land surveyor, actuary, insurance agent or broker, financial management consultant, physician or attorney.
- p. Any claims covered under the Commercial General Liability Coverage Part, Liquor Liability Coverage Part or any other coverages included in this policy.
- q. "Damages" arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data. As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
- r. Damages arising out of:
 - (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
 - (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in paragraph (1) or (2) above.

However, unless paragraph (1) above applies, this exclusion does not apply to damages because of "bodily injury."

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

SUPPLEMENTARY PAYMENTS

We will pay, with respect to any "claim" we investigate or settle, or any "suit" against an insured we defend:

- 1. All expenses we incur.
- 2. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

3. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the "claim" or "suit," including actual loss of earnings up to two hundred fifty dollars (\$250) a day because of time off from work.
4. All costs taxed against the insured in the "suit."
5. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
6. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

SECTION II—WHO IS AN INSURED

If you are designated in the Declarations as:

1. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are sole owner.
2. 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.
3. 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.
4. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
5. An organization other than a partnership, joint venture, limited liability company or trust 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.
6. Your employees are insureds, but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.
7. Your "volunteer workers" and your employees are insureds, but only for acts within the scope of their employment for you or while performing duties related to the conduct of your business.

SECTION III—LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Schedule of this Coverage Part and the rules below fix the most we will pay regardless of the number of:
 - a. Insureds;
 - b. "Claims" made or "suits" brought; or
 - c. Persons or organizations making "claims" or bringing "suits."

2. The Aggregate Limit is the most we will pay for all “damages” because of an “error or omission” under this insurance regardless of the number of “claims.”
3. Subject to the Aggregate Limit, the Each Claim Limit is the most we will pay for all “damages” arising out of any one “claim.”

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than twelve (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 twelve (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 IV—COVERAGE PART CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties in the event of an “Error or Omission,” “Claim” or “Suit”

- a. You must see to it that we are notified as soon as practicable of an “error or omission” which may result in a “claim.” To the extent possible, notice should include:

- (1) How, when and where the “error or omission” 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 “error or omission.”

- 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 involved insured 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, settlement or defense of the “claim” or “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 their own cost, voluntarily make a payment, assume any obligation, or incur any expense, without our consent.

3. 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 obtained after an actual trial; 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 and the claimant or the claimant's legal representative.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described below.

b. Excess Insurance

This insurance is excess over any other insurance, whether primary, excess, contingent or on any other basis that is valid and collectible insurance available to you under any other policy.

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

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

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all other insurance.

If a loss occurs involving two or more policies, each of which states that its insurance will be excess, then our policy will contribute on a pro rata basis.

c. Method of Sharing

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

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

5. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. 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. Audit premiums are due and payable on notice to the first Named Insured. 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.

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.

7. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in the Coverage Part to the first Named Insured, the insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom "claim" is made or "suit" is brought.

8. Transfer of Rights of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under the Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

9. 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 thirty (30) days before the expiration date.

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

SECTION V—COVERAGE TERRITORY

This insurance applies to "damages" for injury caused by an "error or omission" anywhere in the world, so long as the original "claim" or "suit" for such "damages" is brought in the United States of America (including its territories and possessions), Puerto Rico and Canada.

SECTION VI—DEFINITIONS

- 1. "Auto" means a land motor vehicle, trailer or semi-trailer designated for travel on public roads, including any attached machinery or equipment.
- 2. "Claim" means an oral or written notice from any party that it is their intention to hold you responsible for any "error or omission."
- 3. "Damages" means monetary judgments, awards or settlements the insured is legally obligated to pay as a result of an "error or omission" to which this insurance applies.

"Damages" shall not include:

- a. Amounts paid to you as fees or expenses for services performed which are to be reimbursed or discharged as a part of the judgment or settlement; or
 - b. Judgments or awards arising from acts deemed uninsurable by law.
- 4. "Error or omission" means any negligent act, error or omission while performing those services described in the Schedule of this Coverage Part under the Description of Services.

5. "Impaired property" means tangible property, other than "your product" or "your work," that cannot be used or is less useful because:
 - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;
 if such property can be restored to use by:
 - a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
 - b. Your fulfilling the terms of the contract or agreement.
6. "Loading or unloading" means the handling of persons or property:
 - a. After being moved from the place where accepted for movement into or onto an aircraft, watercraft, or "auto";
 - b. While in or on an aircraft, watercraft, or "auto"; or
 - c. While being moved from an aircraft, watercraft or "auto" to the place of final delivery;
 but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto."
7. "Suit" means a civil proceeding in which "damages" for injury to which this insurance applies are alleged. "Suit" includes:
 - a. An arbitration proceeding in which such "damages" are claimed and to which the insured must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such "damages" are claimed and to which the insured submits with our consent.
8. "Volunteer worker" means a person who is not your employee, and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
9. "Your product" means:
 - a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (1) You;
 - (2) Others trading under your name; or
 - (3) A person or organization whose business or assets you have acquired; and
 - b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
10. "Your work" means:
 - a. Work or operations performed by you or on your behalf; and
 - b. Materials, parts or equipment furnished in connection with such work or operations.
11. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.


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CPS7118636	06/13/2020	WAVE AQUATICS	15008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

KNOWN INJURY OR DAMAGE EXCLUSION— PERSONAL AND ADVERTISING INJURY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

The following exclusion is added to Paragraph **2. Exclusions** of **SECTION I—COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**:

Known Injury Or Damage

This insurance does not apply to "personal and advertising injury" arising from an offense:

- a. That occurs during the policy period and, prior to the policy period, an insured listed under Paragraph **1. of SECTION II—WHO IS AN INSURED** or an "employee" authorized by you to give or receive notice of an offense or claim, knew that the "personal and advertising injury" had occurred prior to the policy period, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "personal and advertising injury" occurred, then any continuation, change or resumption of such offense during or after the policy period will be deemed to have been known prior to the policy period; or
- b. That occurs during the policy period and was, prior to the policy period, known to have

occurred by any insured listed under Paragraph **1. of SECTION II—WHO IS AN INSURED** or an "employee" authorized by you to give or receive notice of an offense or claim, includes any continuation, change or resumption of that "personal and advertising injury" after the end of the policy period.

A "personal and advertising injury" arising from an offense will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph **1. of SECTION II—WHO IS AN INSURED** or an "employee" authorized by you to give or receive notice of an offense or claim:

- (1) Reports all, or any part, of the "personal and advertising injury" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "personal and advertising injury"; or
- (3) Becomes aware by any other means that "personal and advertising injury" has occurred or has begun to occur.

AUTHORIZED REPRESENTATIVE

DATE

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTORS SPECIAL CONDITIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

The following is added to **SECTION IV—COMMERCIAL GENERAL LIABILITY CONDITIONS**:

Contractors Special Conditions

You will obtain current certificates of insurance from all independent contractors providing evidence of:

1. "Bodily injury" and "property damage" liability Limits of Insurance equal to or greater than the limits provided by this policy;
2. Coverage equal to or greater than the coverage provided by this policy; and
3. Effective dates of coverage that "coincide" with the effective dates of coverage on this policy.

Failure to comply with this condition does not alter the coverage provided by this policy, but will result in an additional premium charge.

The following is added to **SECTION IV—COMMERCIAL GENERAL LIABILITY CONDITIONS**, paragraph **5. Premium Audit**:

Should you fail to provide current certificates of insurance from all independent contractors at such times as we request to complete a premium audit, a premium charge will be made. The premium charge will be computed by multiplying the "total cost" of all work sublet that fails to meet the above condition, by the rate per \$1,000 payroll for the applicable classification of the work performed. The premium charge will be computed by multiplying our usual and customary rate per \$1,000 payroll for that classification.

For purposes of this endorsement the following definitions apply:

"Total cost" means the cost of all labor, materials and equipment furnished, used or delivered for use in the execution of the work and all fees, bonuses or commissions paid.

"Coincide" means that the effective dates of coverage for all policies of all independent contractors covers that period of time during which work was performed for you within the effective dates covered by this policy.

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HYDRAULIC FRACTURING EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART ERRORS AND OMISSIONS COVERAGE PART

- A.** The following is added to Paragraph **2. Exclusions of Section I—Coverage A. Bodily Injury And Property Damage Liability** of the Commercial General Liability Coverage Part and Paragraph **2. Exclusions of SECTION I—COVERAGE** of the Errors And Omissions Coverage Part:

This insurance does not apply to:

Hydraulic Fracturing

- 1.** "Bodily injury," "property damage" or "error or omission":
 - a.** Arising, in whole or in part, out of any operation involving substances under pressure being pumped underground with the objective of creating fractures in geologic formations to facilitate the release and extraction of hydrocarbons, including, but not limited to, oil or natural gas. Such operations include, but are not limited to, "hydraulic fracturing," "gas fracking" and/or the actual, alleged, threatened or suspected contact with, exposure to, existence of or presence of any "flowback" or the handling, transporting, storage, release or disposal of any "flowback" by any insured or by any other person or entity; or
 - b.** Caused, directly or indirectly or in whole or in part, by the movement, in any direction, of earth or land arising, in whole or in part, out of any operation involving substances under pressure being pumped underground with the objective of creating fractures in underground

geologic formations to facilitate the release and extraction of hydrocarbons, including, but not limited to, oil or natural gas. Such operations include, but are not limited to, "hydraulic fracturing" or "gas fracking."

- 2.** Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, remediating or disposing of, or in any way responding to or assessing the effects of "hydraulic fracturing," "gas fracking" or "flowback," by any insured or by any other person or entity.

We will have no duty to settle any claim or defend any "suit" against the insured arising out of or in any way related to items **1.** or **2.** above.

- B.** The following is added to Paragraph **2. Exclusions of Section I—Coverage B. Personal And Advertising Injury Liability** of the Commercial General Liability Coverage Part:

This insurance does not apply to:

Hydraulic Fracturing

- 1.** "Personal and advertising injury":
 - a.** Arising, in whole or in part, out of any operation involving substances under pressure being pumped underground with the objective of creating fractures in underground geologic formations to facilitate the release and extraction of hydrocarbons, including, but not limited to, oil or natural gas. Such operations include,

but are not limited to, "hydraulic fracturing," "gas fracking" and/or the actual, alleged, threatened or suspected contact with, exposure to, existence of or presence of any "flowback" or the handling, transporting, storage, release or disposal of any "flowback" by any "insured" or by any other person or entity; or

- b. Caused, directly or indirectly or in whole or in part, by the movement, in any direction, of earth or land arising, in whole or in part, out of any operation involving substances under pressure being pumped underground with the objective of creating fractures in underground geologic formations to facilitate the release and extraction of hydrocarbons, including, but not limited to, oil or natural gas. Such operations include, but are not limited to, "hydraulic fracturing" or "gas fracking."
2. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, remediating or disposing of, or in any way responding to or assessing the effects of "hydraulic fracturing," "gas fracking" or "flowback," by any insured or by any other person or entity.

We will have no duty to settle any claim or defend any "suit" against the insured arising out of or in any way related to items **1.** or **2.** above.

For purposes of this endorsement, the following definitions apply:

1. "Hydraulic fracturing," or hydrofracking means the process by which water, "proppants," chemicals and/or other fluid additives are injected at high pressure into underground geologic formations to create fractures, to facilitate the extraction of any hydrocarbons including but not limited to natural gas and/or oil.
2. "Flowback" means any substance containing returned "hydraulic fracturing" fluid, including but not limited to water, "proppants," "hydraulic fracturing" fluid additives; and, any hydrocarbon compounds, salts, conventional pollutants, organics, metals, and naturally occurring radioactive material brought to the surface with the water.
3. "Gas fracking" or liquefied propane/butane gas fracturing means the waterless process by which propane gel and "proppants" are injected at high pressure into underground geologic formations to create fractures, to facilitate the release and extraction of natural gas.
4. "Proppant" means particles that are used to keep fractures open after a hydraulic fracturing treatment.

AUTHORIZED REPRESENTATIVE

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SCOTTSDALE INSURANCE COMPANY®

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

SEXUAL AND/OR PHYSICAL ABUSE LIABILITY COVERAGE FORM**Designated Premises:**

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

INSURING AGREEMENT

Sexual and/or Physical Abuse Liability is covered up to the limits of liability shown below. Coverage is subject to this coverage form and the exclusions, conditions and other terms of this policy.

Limits of Liability	Coverage
\$ 25,000 each claim	Sexual and/or Physical Abuse Liability
\$ 50,000 aggregate	

Advance Premium	Premium Bases	Rates	Description of Hazards
\$			
\$ TOTAL ADVANCE PREMIUM			

I. COVERAGES—SEXUAL AND/OR PHYSICAL ABUSE LIABILITY

- A.** We will pay on your behalf all sums which you shall become legally obligated to pay as **DAMAGES** because of injury manifesting during the policy period to any person, and arising out of **SEXUAL AND/OR PHYSICAL ABUSE**, caused by one of your **EMPLOYEES**, or arising out of your failure to properly supervise. We shall have the right and duty to defend any suit against you seeking such **DAMAGES**, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and such settlement of any claim or suit as we deem expedient, but we shall not be obligated to pay any claim or judgment or to defend any suit after the applicable limit of our liability has been exhausted.
- B.** This insurance applies to **DAMAGES** from **SEXUAL AND/OR PHYSICAL ABUSE** only if the **SEXUAL AND/OR PHYSICAL ABUSE** takes place in the "coverage territory."

II. EXCLUSIONS

This policy does not apply:

- A. To any actual or alleged **SEXUAL AND/OR PHYSICAL ABUSE** by you or **PERSONS INSURED** (see Section III. below);
- B. To liability of others assumed by you under any contract or agreement, either oral or in writing, unless specifically endorsed hereon;
- C. To any obligation for which you or any carrier as your insurer may be held liable under any workers' compensation, unemployment compensation or disability benefits law, or under any similar law;
- D. To bodily injury to, or **SEXUAL AND/OR PHYSICAL ABUSE**, sickness, disease or death sustained by any of your **EMPLOYEES** arising out of, and in the course of employment by you;
- E. To any loss or claim either directly or indirectly arising from your activities as an officer or director of any corporation, company or business other than that of the Named Insured;
- F. To any claim for punitive or exemplary damages; or
- G. To any loss or claim arising from corporal punishment.

III. PERSONS INSURED

Each of the following is an insured under this insurance to the extent set forth below:

- A. If the Named Insured is designated in the DECLARATIONS as an individual, the person so designated, but only with respect to the conduct of a business of which he is the sole proprietor, and the spouse of the Named Insured with respect to the conduct of such a business;
- B. If the Named Insured is designated in the DECLARATIONS as a partnership or joint venture, the partnership or joint venture so designated and any partner or member thereof but only with respect to his liability as such; or
- C. If the Named Insured is designated in the DECLARATIONS as other than an individual, partnership or joint venture, the organization so designated and any executive officer, director or stockholder thereof while acting within the scope of his duties as such.

IV. LIMITS OF LIABILITY

Regardless of the number of insureds under this policy, our liability is limited as follows:

The limit of liability stated in the schedule as applicable to each claim is the limit of our liability for all **DAMAGES** because of each claim or suit covered hereby. The limit of liability stated in the schedule as aggregate, subject to the above provision regarding each claim, is the total limit of our liability under this Coverage for all **DAMAGES**.

V. SUPPLEMENTARY PAYMENTS

We will pay, in addition to the applicable limit of liability for **DAMAGES**, all interest on that amount of any judgment payable by us that accrues after entry of the judgment and before we have paid, offered to pay or deposited in court the amount available for the judgment.

VI. DEFINITIONS

- A. **SEXUAL AND/OR PHYSICAL ABUSE** means sexual or physical injury or abuse, including assault and battery, negligent or deliberate touching. Any multiple, continuous, or related acts of **SEXUAL AND/OR PHYSICAL ABUSE** against a single claimant or victim shall be treated as a single **SEXUAL AND/OR PHYSICAL ABUSE** claim for determining the Each Claim limits of insurance available under this coverage form regardless of the number of acts, events, conditions, injuries,

perpetrators, claims, causes of action, theories of liability, lawsuits, or insurance policies in effect at any point during exposure to the **SEXUAL AND/OR PHYSICAL ABUSE**.

The **SEXUAL AND/OR PHYSICAL ABUSE** must have been manifested within the policy period. The **SEXUAL AND/OR PHYSICAL ABUSE** shall be deemed to have been manifested as of the earliest date that any element of the **SEXUAL AND/OR PHYSICAL ABUSE** took place, regardless of whether such **SEXUAL AND/OR PHYSICAL ABUSE** was continuous or progressive.

- B. EMPLOYEE** means any person, other than a **PERSON INSURED**, in your employment, including, but not limited to persons with child caring responsibilities, attendants, janitors, bus drivers and volunteer workers.
- C. DAMAGES** means all damages, including damages for death, which are payable because of injury to which this insurance applies.

AUTHORIZED REPRESENTATIVE

DATE

Underwritten by Scottsdale Insurance Company

**ENDORSEMENT
NO. _____**

ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.
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MARIJUANA/CANNABIS LIABILITY EXCLUSION

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART
ERRORS AND OMISSIONS COVERAGE PART
LIQUOR LIABILITY COVERAGE PART**

SCHEDULE**State(s):**

AK, CA, CO, DC, MA, ME, NV, OR, VT & WA

(If no entry appears above, this endorsement will be applicable in all states.)

1. This insurance does not apply to "injury," "bodily injury," "property damage," "damages" or "personal and advertising injury" arising out of the sale, consumption, use or the exposure to the consumption or use of:
 - a. "Marijuana";
 - b. "Edible marijuana-infused product";
 - c. "Marijuana-infused product";
 - d. "Cannabis";
 - e. "Cannabis containing product"; or
 - f. Any material, substance or item containing tetrahydrocannabinol (THC).
2. This exclusion applies only if you are in the business of:
 - a. Growing or cultivating;
 - b. Acquiring;
 - c. Processing;
 - d. Dispensing;
 - e. Manufacturing;
 - f. Distributing;

- g.** Delivering;
- h.** Selling;
- i.** Serving; or
- j.** Furnishing;

"marijuana," "edible marijuana-infused products," "marijuana-infused products," "cannabis" or "cannabis containing products" or any material, substance or item containing tetrahydrocannabinol (THC).

3. This exclusion does not apply to:

- a.** Hemp, hemp containing products or products derived from hemp; or
- b.** Cannabidiol (CBD) oils or extracts;

that contain trace amounts of 0.3% or less of tetrahydrocannabinol (THC).

4. For the purposes of this exclusion, permitting, authorizing or otherwise condoning a person to bring "marijuana" or "cannabis containing products" on your premises for consumption on your premises is not by itself considered to be in the business of serving or furnishing "marijuana" or "cannabis containing products."

5. For purposes of this endorsement, the following definitions apply:

- a.** "Cannabis" means the following substances under whatever names they may be designated: the resin extracted from any part of a plant of the genus cannabis, and every compound, manufacture, salt, derivative, mixture or preparation of such plant, its seeds or its resin.
- b.** "Cannabis containing product" means a product containing "cannabis" that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils and tinctures.
- c.** "Edible marijuana-infused product" means a "marijuana-infused product" that is to be consumed by eating or drinking.
- d.** "Marijuana" means all parts of the plant Cannabis sativa L., Cannabis indica or Cannabis ruderalis whether growing or not, including its seeds and resin extracted from any part of a plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. The term also includes "marijuana-infused product(s)."
- e.** "Marijuana-infused product" means a product infused with marijuana, including, but not limited to ointments, aerosols, oils, tinctures and edible products.

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AIRCRAFT EXCLUSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

The following is added to paragraph **2. Exclusions** of **SECTION I—COVERAGES, COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY**:

This insurance does not apply to:

“Personal and advertising injury” arising out of the ownership, maintenance, use or entrustment to others of any aircraft. Use includes operation and “loading and unloading.”

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 any insured.

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SEXUAL AND/OR PHYSICAL ABUSE EXCLUSION

This endorsement modifies insurance provided under:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PROFESSIONAL LIABILITY COVERAGE PART
ERRORS AND OMISSIONS COVERAGE PART

This policy does not apply to any injury sustained by any person arising out of or resulting from "Sexual and/or Physical abuse" by:

1. any insured;
2. any of your "Employees";
3. any person performing volunteer services for you or on your behalf; or
4. any other person.

We shall not have any duty to defend any suit against you seeking "damages" on account of any such injury.

The intent of this endorsement is to exclude all injury sustained by any person, including emotional distress, arising out of "Sexual and/or Physical abuse" including but not limited to "Sexual and/or Physical abuse" caused by negligent employment, investigation, supervision, or reporting to the proper authorities, or failure to so report, or retention of a person for whom any insured is or ever was legally responsible.

The following Definitions are added to the policy:

1. "Sexual and/or Physical abuse" means sexual or physical injury or abuse, including but not limited to assault and battery, negligent or deliberate touching, corporal punishment and mental abuse.
2. "Employee" means any person, other than a person insured, in your employment, including, but not limited to:
 - a. persons with child caring responsibilities;
 - b. attendants;
 - c. janitors;
 - d. bus drivers; and
 - e. volunteer workers.
3. "Damages" means all damages, including damages for death, which are payable because of injury to which this insurance applies.

All other terms and conditions remain unchanged.

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MINIMUM AND ADVANCE PREMIUM ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE**MINIMUM PREMIUM** 100 %

Item **5.b.** of the **Premium Audit** condition under **SECTION IV—COMMERCIAL GENERAL LIABILITY CONDITIONS, SECTION IV—LIQUOR LIABILITY CONDITIONS** and **SECTION IV—PRODUCTS/COMPLETED OPERATIONS LIABILITY CONDITIONS** is amended to read:

- b.** The advance premium for this Coverage Part is a deposit premium only. The final premium shall be subject to audit. At the close of each audit period we will compute the earned premium for that period. Any audit premiums are due and payable to us on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the first Named Insured, subject to the minimum premium as defined below. In the event the first Named Insured fails or refuses to allow our representative to audit your books and records, we may unilaterally charge a final premium for the Policy Period at double the minimum or advance premium, whichever is greater, and such final premium shall be immediately due and payable on notice to the first Named Insured.

For purposes of this endorsement, the terms advance premium, earned premium, and minimum premium are defined as follows:

Advance Premium—the premium that is stated in the applicable initial policy Declarations or Renewal Certificate and payable in full by the first Named Insured at the inception of each Policy Period.

Earned Premium—the premium that is developed by applying the rate(s) scheduled in the policy to the actual premium basis for the audit period.

Minimum Premium—the lowest premium for which this insurance will be written for the Policy Period stated in **Item 2.** of the Declarations of the applicable initial policy or subsequent Renewal Certificate. This minimum premium is equal to 100% (unless a different percentage [%] is shown in the Schedule above) of the advance premium including any premium adjustments made by endorsement to this policy during the Policy Period. Premium adjustments do not include the audit premium developed for the Policy Period stated in **Item 2.** of the Declarations.

AUTHORIZED REPRESENTATIVE_____
DATE



SCOTTSDALE INSURANCE COMPANY®

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LOST KEY COVERAGE ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Lost Key Coverage		
Limits of Insurance	Deductible	Additional Premium
\$25,000 Each Occurrence \$25,000 Aggregate, unless otherwise stated below: \$ <u>25,000</u> Each Occurrence \$ <u>25,000</u> Aggregate	\$ _____ Each Occurrence	\$ Included

"Property damage" coverage provided under Coverage A (Section I—Coverages) also applies to the loss of keys which are in your possession or the possession of your "employees," agents or anyone acting on your behalf, subject to the following provisions:

1. Exclusion j.(4) of Coverage A (Section I—Coverages) relating to "property damage" to personal property in your care, custody or control does not apply.
2. Coverage does not apply to "property damage" caused by misappropriation, secretion, infidelity or dishonest acts by you or anyone acting on your behalf.
3. Our liability for all damages because of "property damage" to which this endorsement applies is limited

to the actual cost of keys, re-keying locks or, if required, replacement locks with like kind and quality, including cost of their installation, subject to the Each Occurrence and Aggregate Limits of Insurance shown in the Schedule of this endorsement for Lost Key Coverage.

4. Our obligation to pay damages on your behalf applies only to the amount of damages in excess of the deductible amount as stated in the Schedule of this endorsement. The stated deductible amount shall apply to all damages sustained as the result of paragraph 3. above.
5. The Lost Key Coverage Aggregate limit of insurance is part of, and not in addition to, the General Aggregate Limit of Insurance shown on the Declarations.

AUTHORIZED REPRESENTATIVE_____
DATE

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 AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
MEDICAL PROFESSIONAL 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
UNDERGROUND STORAGE TANK POLICY

1. The insurance does not apply:

A. Under any Liability Coverage, to "bodily injury" or "property 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 Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.

C. Under any Liability Coverage, to "bodily injury" or "property 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 "bodily injury" or "property 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.

2. 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.

"Property damage" includes all forms of radioactive contamination of property.


**ENDORSEMENT
NO. _____**

ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.
CPS7118636	06/13/2020	WAVE AQUATICS	15008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMUNICABLE DISEASE EXCLUSION

This insurance does not apply to "bodily injury," "property damage," "personal and advertising injury," error or omission, or other damages arising out of the actual or alleged transmission of or exposure to a "communicable disease," illness or condition related to any "communicable disease."

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

- a. Act or failure to act by any insured;
- b. Supervising, hiring, employing, training or monitoring of others or care of animals that may be infected with and spread a "communicable disease";
- c. Testing for a "communicable disease";
- d. Failure to prevent the spread of the disease; or
- e. Failure to report the disease to authorities as required by local, state or federal law, statute or regulation.

For purposes of this endorsement, the following definition applies:

"Communicable disease" means any infectious and/or contagious disease, including but not limited to, diseases caused by bacteria, fungi, protozoa, viruses, or any combination of the foregoing.

AUTHORIZED REPRESENTATIVE

DATE

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**ENDORSEMENT
NO. _____**

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ASBESTOS EXCLUSION

This policy does not apply to:

- (1) Damages in any way or to any extent arising out of or involving asbestos, asbestos fibers, or any product containing asbestos or asbestos fibers.
- (2) Any economic loss, diminution of property value, abatement costs, or any other loss, cost or expense including equitable relief, in any way or to any extent

arising out of or involving asbestos, asbestos fibers or any product containing asbestos or asbestos fibers.

- (3) Any fees, fines, costs, or expenses of any nature whatsoever in the investigation or defense of any claim or suit arising out of or involving asbestos, asbestos fibers, or any product containing asbestos or asbestos fibers.

AUTHORIZED REPRESENTATIVE

DATE


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LEAD CONTAMINATION EXCLUSION

This policy does not apply to:

1. Any damages arising out of the ingestion, inhalation or absorption of lead in any form.
2. Any loss, cost or expense arising out of any:
 - (a) Request, demand or order 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 lead; 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 lead.

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FUNGI OR BACTERIA EXCLUSION

This endorsement modifies insurance provided under the following:

**PROFESSIONAL LIABILITY INSURANCE COVERAGE PART
DIRECTORS AND OFFICERS LIABILITY INCLUDING ENTITY REIMBURSEMENT AND
ENTITY LIABILITY COVERAGE PART
ERRORS AND OMISSIONS COVERAGE PART**

A. The following exclusion is added to the coverage parts as indicated below. For those coverage parts only, this exclusion supercedes and replaces any conflicting policy provisions:

1. The following applies to the **PROFESSIONAL LIABILITY INSURANCE COVERAGE PART**:

SECTION III—EXCLUSIONS

This insurance does not apply to:

"Damages" due to any claim or loss based upon or arising out of any negligent act, error or omission in rendering or failing to render professional services 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; or

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 any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for consumption.

2. The following applies to the **DIRECTORS AND OFFICERS LIABILITY INCLUDING ENTITY REIMBURSEMENT AND ENTITY LIABILITY COVERAGE PART**:

IV. EXCLUSIONS

This insurance does not apply to:

DAMAGES due to any **CLAIM** or loss based upon or arising out of any **WRONGFUL ACT** 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; or

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 any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for consumption.

3. The following applies to the **ERRORS AND OMISSIONS COVERAGE PART:**

2. **Exclusions**

This insurance does not apply to:

"Damages" due to any "claim" or loss based upon or arising out of an "error or omission" 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; or

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 any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for consumption.

B. For the purposes of this endorsement, the following definition is added to the **DEFINITIONS** Section of each Coverage Part:

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

AUTHORIZED REPRESENTATIVE

DATE


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CPS7118636	06/13/2020	WAVE AQUATICS	15008

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AMENDMENT OF NONPAYMENT CANCELLATION CONDITION

Wherever a Cancellation Condition for nonpayment of premium is found in the policy, the following is added:

If the insured failed to pay premium charged on a prior policy we issued and payment was due during the current renewal policy term, we may cancel this policy by mailing or delivering to the first Named Insured and mortgagee, if any, written notice of cancellation at least ten (10) days before the effective date of cancellation.

 AUTHORIZED REPRESENTATIVE

DATE



SCOTTSDALE INSURANCE COMPANY®

**ENDORSEMENT
NO. _____**

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PREMIUM AUDIT

The following is added to the Premium Audit provision:

If the first Named Insured fails or refuses to provide documentation adequate to determine the apportionment of exposures by class code, we may unilaterally apply all exposures to the class code with the highest rate stated in the policy including any class code adjustments made by endorsement.

 AUTHORIZED REPRESENTATIVE

DATE



SCOTTSDALE INSURANCE COMPANY®

**ENDORSEMENT
NO. _____**

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CPS7118636	06/13/2020	WAVE AQUATICS	15008

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PUNITIVE OR EXEMPLARY DAMAGE EXCLUSION

In consideration of the premium charged, it is agreed that this policy does not apply to a claim of or indemnification for punitive or exemplary damages.

Punitive or exemplary damages also include any damages awarded pursuant to statute in the form of double, treble or other multiple damages in excess of compensatory damages.

If suit is brought against any insured for a claim falling within coverage provided under the policy, seeking both compensatory and punitive or exemplary damages, then the Company will afford a defense to such action; however, the Company will have no obligation to pay for any costs, interest or damages attributable to punitive or exemplary damages.

 AUTHORIZED REPRESENTATIVE

 DATE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/19/2019

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

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

PRODUCER Snyder Insurance Services Inc 7450 W. 130th Street - Ste 230 Overland Park, KS 66213 House	800-874-6704 CONTACT NAME: Snyder Insurance Services, Inc PHONE (A/C, No, Ext): 800-874-6704 FAX (A/C, No): 913-498-0212 E-MAIL ADDRESS: info@insureasset.com														
INSURED Wave Aquatics P.O. Box 2953 Kirkland, WA 98083	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A : SCOTTSDALE INSURANCE COMPANY</td> <td></td> </tr> <tr> <td>INSURER B :</td> <td></td> </tr> <tr> <td>INSURER C :</td> <td></td> </tr> <tr> <td>INSURER D :</td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : SCOTTSDALE INSURANCE COMPANY		INSURER B :		INSURER C :		INSURER D :		INSURER E :		INSURER F :	
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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	X		CPS7118636	06/13/2020	06/13/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ Excluded PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y / ☒ N / A If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

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

The Certificate Holder is listed as Additional Insured with respect to liability at leased premises 17535 NE 104th St, Redmond, WA, 98052.

CERTIFICATE HOLDER**CANCELLATION**

City of Redmond 15670 NE 85th St. Redmond, WA 98052	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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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/19/2019

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PRODUCER Snyder Insurance Services Inc 7450 W. 130th Street - Ste 230 Overland Park, KS 66213 House	800-874-6704 CONTACT NAME: Snyder Insurance Services, Inc PHONE (A/C, No, Ext): 800-874-6704 FAX (A/C, No): 913-498-0212 E-MAIL: info@insureasset.com ADDRESS:														
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INSR	LTR	TYPE OF INSURANCE	ADDL	SUBR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	X	COMMERCIAL GENERAL LIABILITY			CPS7118636	06/13/2020	06/13/2021	EACH OCCURRENCE		
		CLAIMS-MADE ☒ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$	1,000,000
								MED EXP (Any one person)	\$	100,000
								PERSONAL & ADV INJURY	\$	Excluded
								GENERAL AGGREGATE	\$	1,000,000
								PRODUCTS - COMP/OP AGG	\$	2,000,000
									\$	2,000,000
		AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)		
		ANY AUTO OWNED AUTOS ONLY						BODILY INJURY (Per person)		
		HIRED AUTOS ONLY						BODILY INJURY (Per accident)		
								PROPERTY DAMAGE (Per accident)		
								\$		
		UMBRELLA LIAB						EACH OCCURRENCE		
		EXCESS LIAB						AGGREGATE		
		DED						\$		
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE		
		ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y / N					E.L. EACH ACCIDENT		
		If yes, describe under DESCRIPTION OF OPERATIONS below	N / A					E.L. DISEASE - EA EMPLOYEE		
								E.L. DISEASE - POLICY LIMIT		
								\$		

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

*****Proof of Coverage Only*****
Locations:
 17535 NE 104th St, Redmond, WA, 98052
 10601 NE 132nd St, Kirkland, WA, 98034
 7616 139th PI NE, Redmond, WA, 98052

CERTIFICATE HOLDER**CANCELLATION**

*****Proof of Coverage Only*****

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



CERTIFICATE OF LIABILITY INSURANCE

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

The Certificate Holder is listed as Additional Insured.

Location:
10601 NE 132nd St, Kirkland, WA, 98034

CERTIFICATE HOLDER**CANCELLATION**

Juanita Aquatic Center 10601 NE 132nd St. Kirkland, WA 98034	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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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

06/19/2019

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PRODUCER Snyder Insurance Services Inc 7450 W. 130th Street - Ste 230 Overland Park, KS 66213 House	800-874-6704 CONTACT NAME: Snyder Insurance Services, Inc PHONE (A/C, No, Ext): 800-874-6704 FAX (A/C, No): 913-498-0212 E-MAIL ADDRESS: info@insureasset.com														
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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Certificate Holder is listed as Additional Insured.

Location:
 17535 NE 104th St, Redmond, WA, 98052

CERTIFICATE HOLDER**CANCELLATION**

Redmond Aquatic Center 17353 NE 104th St. Redmond, WA 98052	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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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
07/14/2020

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PRODUCER Snyder Insurance Services Inc 7450 W. 130th Street - Ste 230 Overland Park, KS 66213 House	800-874-6704 CONTACT NAME: Snyder Insurance Services, Inc PHONE (A/C, No, Ext): 800-874-6704 FAX (A/C, No): 913-498-0212 E-MAIL ADDRESS: info@insureasset.com														
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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Certificate Holder is listed as Additional Insured.

Location: 10601 NE 132nd St, Kirkland, WA, 98034.

CERTIFICATE HOLDER

CANCELLATION

Northshore School District 3330 Monte Villa Parkway Bothell, WA 98021	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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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
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PRODUCTS - COMP/OP AGG	\$ 2,000,000																				
	\$																				
	AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td style="text-align: right;">\$</td></tr> <tr><td>BODILY INJURY (Per person)</td><td style="text-align: right;">\$</td></tr> <tr><td>BODILY INJURY (Per accident)</td><td style="text-align: right;">\$</td></tr> <tr><td>PROPERTY DAMAGE (Per accident)</td><td style="text-align: right;">\$</td></tr> <tr><td></td><td style="text-align: right;">\$</td></tr> </table>	COMBINED SINGLE LIMIT (Ea accident)	\$	BODILY INJURY (Per person)	\$	BODILY INJURY (Per accident)	\$	PROPERTY DAMAGE (Per accident)	\$		\$				
COMBINED SINGLE LIMIT (Ea accident)	\$																				
BODILY INJURY (Per person)	\$																				
BODILY INJURY (Per accident)	\$																				
PROPERTY DAMAGE (Per accident)	\$																				
	\$																				
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td>EACH OCCURRENCE</td><td style="text-align: right;">\$</td></tr> <tr><td>AGGREGATE</td><td style="text-align: right;">\$</td></tr> <tr><td></td><td style="text-align: right;">\$</td></tr> </table>	EACH OCCURRENCE	\$	AGGREGATE	\$		\$								
EACH OCCURRENCE	\$																				
AGGREGATE	\$																				
	\$																				
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">PER STATUTE</td> <td style="width: 50%;">OTH-ER</td> <td></td> </tr> <tr><td>E.L. EACH ACCIDENT</td><td></td><td style="text-align: right;">\$</td></tr> <tr><td>E.L. DISEASE - EA EMPLOYEE</td><td></td><td style="text-align: right;">\$</td></tr> <tr><td>E.L. DISEASE - POLICY LIMIT</td><td></td><td style="text-align: right;">\$</td></tr> </table>	PER STATUTE	OTH-ER		E.L. EACH ACCIDENT		\$	E.L. DISEASE - EA EMPLOYEE		\$	E.L. DISEASE - POLICY LIMIT		\$		
PER STATUTE	OTH-ER																				
E.L. EACH ACCIDENT		\$																			
E.L. DISEASE - EA EMPLOYEE		\$																			
E.L. DISEASE - POLICY LIMIT		\$																			

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

The Certificate Holder is listed as Additional Insured with respect to liability per pool management operations of the Named Insured at 10601 NE 132nd St, Kirkland, WA, 98052.

CERTIFICATE HOLDER**CANCELLATION**

Lake WA School District 10601 NE 132nd Kirkland, WA 98052	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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Certificate of Completion

Envelope Id: 071C7F252DF44EFC9540D6FC6440E6A7	Status: Completed
Subject: City of Redmond Contract - Fill Out City Contract Routing Form and Upload Contract Documents	
Source Envelope:	
Document Pages: 95	Signatures: 9
Certificate Pages: 3	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	HOLMES, JULIE MARIE
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	15670 Ne 85th St
	Redmond, WA 98052
	JMHOLMES@redmond.gov
	IP Address: 73.225.194.26

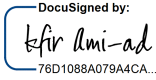
Record Tracking

Status: Original	Holder: HOLMES, JULIE MARIE	Location: DocuSign
8/25/2020 3:32:52 PM	JMHOLMES@redmond.gov	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: City of Redmond, WA	Location: DocuSign

Signer Events

Signer Events	Signature	Timestamp
HOLMES, JULIE MARIE	Completed	Sent: 8/25/2020 3:35:05 PM
jmhomes@redmond.gov		Viewed: 8/25/2020 3:45:27 PM
City of Redmond		Signed: 8/25/2020 4:01:57 PM
Security Level: Email, Account Authentication (None)	Using IP Address: 73.225.194.26	

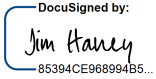
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Kfir Ami-ad	DocuSigned by:  76D1088A079A4CA...	Sent: 8/25/2020 4:06:54 PM
Kfir.Ami-ad@waveaquaticsboard.org		Viewed: 8/25/2020 8:41:51 PM
Security Level: Email, Account Authentication (None)		Signed: 8/25/2020 8:47:05 PM
	Signature Adoption: Pre-selected Style	
	Using IP Address: 73.157.44.233	

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Carrie Hite	DocuSigned by:  168C48B12F7E41D...	Sent: 8/25/2020 8:47:09 PM
chite@redmond.gov		Viewed: 8/25/2020 8:50:06 PM
Security Level: Email, Account Authentication (None)		Signed: 8/25/2020 8:50:38 PM
	Signature Adoption: Pre-selected Style	
	Using IP Address: 24.113.148.23	

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Jim Haney	DocuSigned by:  85394CE968994B5...	Sent: 8/25/2020 8:50:47 PM
jhaney@omwlaw.com		Viewed: 8/31/2020 8:07:23 AM
Security Level: Email, Account Authentication (None)		Signed: 8/31/2020 8:19:42 AM
	Signature Adoption: Pre-selected Style	
	Using IP Address: 40.78.46.168	

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Signer Events	Signature	Timestamp
Malisa Files RiskContracts@redmond.gov Security Level: Email, Account Authentication (None)	DocuSigned by: <i>Malisa Files</i> 581CDD1AF985491... Signature Adoption: Pre-selected Style Using IP Address: 204.152.61.20	Sent: 8/31/2020 8:19:52 AM Viewed: 9/1/2020 11:17:50 AM Signed: 9/1/2020 11:20:45 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Malisa Files (Mayor Designee) MayorContracts@redmond.gov Finance Director Security Level: Email, Account Authentication (None)	DocuSigned by: <i>Malisa Files (Mayor Designee)</i> 5D9FC672714C4E1... Signature Adoption: Pre-selected Style Using IP Address: 204.152.61.20	Sent: 9/1/2020 11:20:54 AM Viewed: 9/1/2020 12:55:52 PM Signed: 9/1/2020 12:56:14 PM
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Cheryl Xanthos ClerksContracts@redmond.gov Security Level: Email, Account Authentication (None)	DocuSigned by: <i>Cheryl Xanthos</i> E725E689816E4E1... Signature Adoption: Pre-selected Style Using IP Address: 71.81.166.86	Sent: 9/1/2020 12:56:20 PM Viewed: 9/2/2020 3:07:21 PM Signed: 9/2/2020 3:38:35 PM
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
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Editor Delivery Events	Status	Timestamp
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Julie Holmes jmholfmes@redmond.gov City of Redmond Security Level: Email, Account Authentication (None)	VIEWED Using IP Address: 73.225.194.26	Sent: 8/25/2020 4:02:01 PM Viewed: 8/25/2020 4:02:46 PM Completed: 8/25/2020 4:06:53 PM
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Purchasing purchasing@redmond.gov My Title Security Level: Email, Account Authentication (None)	COPIED	Sent: 9/2/2020 3:38:46 PM
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Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	9/2/2020 3:38:46 PM
Certified Delivered	Security Checked	9/2/2020 3:38:46 PM
Signing Complete	Security Checked	9/2/2020 3:38:46 PM
Completed	Security Checked	9/2/2020 3:38:46 PM
Payment Events	Status	Timestamps