



## Travis County Commissioners Court Agenda Request

**Meeting Date:** June 5, 2012

**Prepared By/Phone Number:** David Walch, 4.6663; Marvin Brice CPPB

**Elected/Appointed Official/Dept. Head:** Cyd Grimes C.P.M., CPPO

**Commissioners Court Sponsor:** Judge Biscoe

**Agenda Language:** Approve Contracts for the provision of Air Medical Response Coverage for the Circuit of Americas Race Track.

**A. Contract No. PS120222SH, Circuit of the Americas, LLC,**

**B. Contract No. PS120231SH, Texas AirLife, Inc.**

➤ **Purchasing Recommendation and Comments:** Purchasing did not participate in contract negotiations.

The Circuit of the Americas LLC., (COTA) will provide Air Medical Coverage for events held at the Circuit of Americas race track located at 12700 ½ Farm and Market Road 812 in Travis County through contracts between COTA and Travis County and between Travis County and Texas AirLife, Inc., (AirLife)

- A. Contract No. PS120222SH with COTA will use STAR Flight aircraft to provide part of the emergency response for events at the Circuit of Americas race track. STAR Flight will provide one aircraft and one team consisting of a pilot and two paramedics who will be based at the race track. COTA will pay Travis County an hourly rate of \$375.00 per aircraft and team for the hours available to provide services each day plus two additional hours for “pre-flight” check and post event activities.
- B. Contract No. PS120231SH with AirLife, will provide the remaining necessary stand-by Air Medical Coverage. AirLife will provide an additional aircraft and team who will be based not more than ten minutes response time from the race track. Travis County will pay AirLife at a rate of \$375.00 per aircraft team for stand-by services provided.

AGENDA REQUEST DEADLINE: All agenda requests and supporting materials must be submitted as a pdf to Cheryl Aker in the County Judge's office, [Cheryl.Aker@co.travis.tx.us](mailto:Cheryl.Aker@co.travis.tx.us) by Tuesdays at 5:00 p.m. for the next week's meeting.

COTA will in-turn reimburse Travis County \$375.00 per hour for Stand-by Services provided by AirLife under the above referenced contract.

Patient transport to an appropriate medical facility and the related medical expenses will be billed separately to the patient by Travis County. COTA will have no financial responsibility for these expenses.

- **Contract Expenditures:** Within the last 12 months \$0.00 has been spent against this contract/requirement.

➤ **Contract-Related Information:**

Award Amount:	Cost Reimbursement at \$375/per hour
Contract Type:	Professional Services Agreement
Contract Period:	September 1, 2012 to December 31, 2015

➤ **Funding Information:**

- ☐ Purchase Requisition in H.T.E.: N/A
- ☒ Funding Account(s): 011-5910-602-6011
- ☒ Comments: **On an as needed basis**

# EMERGENCY SERVICES

RECEIVED  
TRAVIS COUNTY  
MAY 23 AM 10:42  
DANNY HOBBY, COUNTY EXECUTIVE  
P. O. Box 1748  
AUSTIN, TEXAS 78767  
(512) 854-4416, FAX (512) 854-4786  
PURCHASING  
OFFICE



*Emergency Management  
Pete Baldwin, Emergency  
Mgmt. Coordinator*

*Fire Marshal  
Hershel Lee*

*Chief Medical Examiner  
Dr. David Dolinak*

*STAR Flight  
Casey Ping, Program  
Director*

## MEMORANDUM

**To:** Cyd V. Grimes, C.P.M., Purchasing Agent  
**From:** Danny Hobby, County Executive, Emergency Services  
**Date:** May 23, 2012  
**Subject:** Air Medical Coverage Agreement with Texas AirLife, Inc.

Please accept this written request to post for Court action an agreement regarding an Air Medical Coverage Agreement between Travis County and Texas Airlife, Inc. for County to use as a subcontractor to provide air medical response for events at the Circuit of the Americas ("COTA") race track. COTA will be using STAR Flight aircraft and another stand-by services helicopter provided by AirLife to provide part of the emergency response for events at the Circuit of Americas race track which is located at 12700 1/2 Farm and Market Road 812 in Travis County, Texas.

STAR Flight will provide one aircraft and one team of a pilot and two paramedics who will be based at the race track. AirLife will provide another aircraft and team who will be based not more than ten minutes response time from the race track.

STAR Flight plans on using the third aircraft and additional crew for this Agreement while maintaining normal scheduling of operations for the other two aircraft and crews.

The Agreement is for forty months, unless one of the parties terminates it sooner. After the term, the parties can renew the Agreement or negotiate another agreement for additional terms.

The Travis County Attorney's Office, Risk Management and your office staff have been involved to include those provisions that will protect the County regarding insurance coverage and general obligations of all parties in the Agreement.

STAR Flight staff and Emergency Services recommend approval of the Agreement. Staff feels the Agreement assists in providing the best critical care service to the patient involved in the transport.

COTA will pay County an hourly rate of \$375.00 per aircraft and team for the hours while available to provide services each day plus two additional hours for the "pre-flight" check and

*David, pls process for Shannon. Trip MB*

post event activities. This rate covers expenses in providing the service in staff (salaries and overtime) and aircraft (flight and fuel). The County will then pay AirLife for the hours AirLife provides Stand-by Services.

Patient transport to an appropriate medical facility and the related medical expenses will be billed separately to the patient by the County or AirLife as we normally do with our other transports. COTA will have no financial responsibility for these expenses.

You will find attached the Agreement.

Thank you for your assistance in this request.

Cc: Marvin Brice, Purchasing Office  
Barbara Wilson, County Attorney's Office  
Bill Derryberry, PBO  
Tracy LeBlanc, Auditor's Office



## **AIR MEDICAL COVERAGE AGREEMENT**

This Air Medical Coverage Agreement is made by the following parties: Circuit of the Americas, LLC, 301 Congress Ave., Ste. 220, Austin, TX 78701 and Travis County, a political subdivision of Texas.

### *Recitals*

COTA operates or will operate a Track in Travis County, Texas.

To facilitate the delivery of efficient, effective and quality air medical coverage at the Track, COTA desires to retain County to provide air medical coverage for the Track, and County desires to provide this air medical coverage.

### *Agreement*

In consideration of the mutual agreements set out below, the parties agree as follows:

## **ARTICLE I**

### *Definitions*

1.0 In this Agreement,

1.1 "Agreement" means this Air Medical Coverage Agreement between Circuit of the Americas, LLC, and Travis County.

1.2 "COTA" means Circuit of the Americas, LLC; 301 Congress Ave., Ste. 220; Austin, TX 78701

1.3 "County" means Travis County, a political subdivision of Texas.

1.4 "Cure Period" means ten (10) County working days from the date of the notice of breach.

1.5 "Head Team Member" means the Team Member designated by County to be responsible for management of patient care services provided by the Team at the Track.

1.6 "Initial Term" means the forty (40) months, beginning on September 1, 2012 and ending on December 31, 2015, unless sooner terminated.

1.7 "Patients" means individuals who require transport from the Track to a medical facility.

1.8 "Renewal Term" means the extension of this Agreement at the end of a term for one or more successive terms for the period of time to which the parties agree.

- 1.9 “Services” refers to the air medical coverage and means:
- 1.9.1 performing the pre-event preparation activities and post-event activities necessary to this coverage which COTA acknowledges will be one hour before and one hour after the on-site times requested by COTA,
  - 1.9.2 basing one aircraft and one Team at the Track location for the hours and dates requested by COTA, and
  - 1.9.3 the Team providing medical assistance to Patients at that location and while being transported to an appropriate medical facility.
- 1.10 “Stand-by Services” refers to the provision of a second dedicated aircraft and means County subcontracting with another air medical provider that uses helicopters for transport to do the following:
- 1.10.1 provide one aircraft and one Team that will be based at a location not more than ten minutes (10) minutes response time from the Track for the hours and dates during which COTA has requested Services, and
  - 1.10.2 move its base to the Track while the *STAR Flight* aircraft is transporting a Patient and as otherwise needed, and
  - 1.10.3 provide medical assistance to Patients while at the Track, and
  - 1.10.4 perform the pre-event preparation activities and post-event activities necessary to this coverage which COTA acknowledges will be one hour before and one hour after the stand-by times requested by COTA,
- 1.11 “Team” means one pilot and two paramedics designated to provide air medical coverage under this Agreement.
- 1.12 “Team Member” means each of the individuals who comprise the Team.”
- 1.13 “Track” means the Circuit of the Americas race track located at or near 12700½ Farm and Market Road 812 in Travis County, Texas and operated by COTA.

## ARTICLE II

### *County’s and COTA’s General Obligations*

#### 2.1 *STAR Flight’s Team.*

- 2.1.1 County. This Agreement is entered into for the purposes of securing the Services from County through *STAR Flight* at the times and in the manner provided for in this Agreement and of securing the Stand-by Services at the times and in the manner provided in this Agreement through an air medical provider that is a

subcontractor of County. COTA acknowledges that unforeseeable and unlikely circumstances might affect County's ability to provide Services through *STAR Flight* and, in this event, it is acceptable to COTA for County to provide both Services and Stand-by Services through its subcontractor for Stand-by Services. Notwithstanding any provision of this Agreement to the contrary, County shall ensure that Services and Stand-by Services are provided through either *STAR Flight*, its subcontractor or another third party subcontractor at the times and in the manner provided for in this Agreement.

- 2.1.2 County shall provide Team Members who at all times keep and maintain in good standing a valid license to provide the services for which they are responsible under this Agreement and perform the Services in accordance with standards applicable to that Team Member's field of expertise. County shall require its subcontractor to provide Team Members who at all times keep and maintain in good standing a valid license to provide the services for which they are responsible under this Agreement and perform the Stand-by Services in accordance with standards applicable to that Team Member's field of expertise.
- 2.1.3 If a scheduled event is delayed or extended due to factors beyond the control of COTA, including but not limited to inclement weather, and the event is held on days other than the scheduled event days or on additional days, County shall provide Services and Stand-by Services for each additional day of the event.
- 2.1.4 County is not required to provide any Service or Stand-by Service that would not comply with applicable Federal Aviation Administration regulations. Nothing in this Agreement requires County to provide Services or Stand-by Services in violation of any Federal Aviation Administration regulation.
- 2.2 Compliance with Applicable Laws. County shall at all times in the performance of the Services comply with all applicable federal, state and local statutes and regulations.
- 2.3 No Agency Relationship. County does not have the right or authority to enter into any contract in the name of COTA or otherwise bind COTA in any way without the express written consent of COTA.
- 2.4 Non-Discrimination. County shall not discriminate against any applicant for a position as a Team Member for sub-contractor or employment status on the basis of race, color, religion, sex, age, national origin or disability.
- 2.5 Non-Exclusive Nature of the Agreement. Notwithstanding any provision of this Agreement to the contrary, this Agreement shall be non-exclusive, and COTA reserves the right to retain third parties to provide air medical coverage at the Site during the Term of this Agreement. If COTA exercises its right to retain third parties to provide air medical coverage, COTA shall provide separate helipads or other appropriate landing areas for each air medical coverage provider. County reserves the right to provide air medical coverage to third parties at any other locations during the Term, provided

however that County's shall not obligate the aircraft and Team Members based at the Track to provide air medical coverage to third parties for missions that do not originate at the Track on the dates and during the hours that COTA has requested that County provide Services for events at the Track.

- 2.6 Removal from Service. Upon request by COTA, County shall remove, and in its subcontract, require its subcontractor to remove, from providing Services any Team Member who (1) is convicted of a felony, (2) has a guardian or trustee of his or her person appointed by a court of competent jurisdiction, (3) becomes disabled so as to be unable to perform the duties required by this Agreement, (4) has any license(s) required to perform the Services either suspended, or revoked, (5) fails to comply with any of the material terms and conditions of this Agreement after being given notice of that failure and a reasonable opportunity to comply, or (6) is disruptive or unable to work with others in performing Service. In addition to removing that Team Member, County shall obtain, and in its subcontract, require its subcontractor to obtain, at its cost and expense, a substitute for the removed Team Member or otherwise demonstrate its capabilities for continued coverage and Services required by this Agreement.

### ARTICLE III *County's Obligations*

- 3.1 Designation and Duties of Head Team Member. Subject to the approval of COTA, County agrees to designate a Team Member as Head Team Member. The parties agree that the *STAR Flight* Program Director or his/her designee shall serve as the initial Head Team Member.
- 3.2 Services and Stand-by Services. During this Agreement, County shall provide Services for the Track at all times that are requested by COTA not less than three (3) months prior to the dates Services are to be provided. County, through its subcontractor, shall provide Stand-by Services at all times that are requested by COTA not less than three (3) months prior to the dates Services are to be provided.
- 3.3 Contingent Timing. During this Agreement, County shall provide Services for the Track at times that are contiguous to times that were requested by COTA not less than three (3) months prior to the dates Services are to be provided if the additional times are required as a result of factors beyond the control of COTA. County, through its subcontractor, shall provide Stand-by Services at times that are contiguous to times that were requested by COTA not less than three (3) months prior to the dates Services are to be provided if the additional times are required as a result of factors beyond the control of COTA.
- 3.4 Names of Team Members. County will provide COTA with the names of the Team Members it and its subcontractor intend to schedule for the minimum days needed four (4) weeks before each such event. County will provide COTA with the names of the Team Members it and its subcontractor intend to schedule for the contingent days within twenty-four (24) hours after being notified of the contingent need.

**ARTICLE IV**  
*COTA's Obligations*

- 4.1 Notification of Scheduling. COTA will notify County of a request for Services six (6) months in advance of scheduled events. The notification shall be in writing and shall include the dates for which the aircraft and Team Members are required for events, noting the minimum number of days for which Services and Stand-by Services are needed and estimating the additional number of days which might be needed on a contingent basis. Not less than thirty (30) days before a scheduled event, COTA shall notify County of the dates and times Services and Stand-by Services are to be provided by County for the minimum and the times Services and Stand-by Services are to be provided by County for any contingent days. Not less than twenty-four (24) hours before additional contingent times are needed, COTA shall notify County of the dates and times Services and Stand-by Services are to be provided by County for the Services and Stand-by Services are to be provided for any contingent days.
- 4.2 Training for Team Members. At its expense, COTA shall provide training for employees who might be Team Members for both County and its subcontractor. This training shall include at least the following types of information: familiarization with the Track facilities and procedures, the Track incident command structure, safety procedures at the Track applicable to Services, the applicable division of medical roles and responsibilities, and any other Track related information needed by Team Members to perform Services.
- 4.3 Accidents and Injuries to Team Members. County will be responsible for any Track-related accidents or injuries suffered by County Team Members as a result of its negligence or willful misconduct. County will require its subcontractor to be responsible for any Track-related accidents or injuries suffered by subcontractor's Team Members as a result of its negligence or willful misconduct. COTA shall be responsible for these damages if they are caused by the negligence or willful misconduct of COTA.
- 4.4 Notice of Events. COTA shall notify County of all events at the Track at least 30 days before any event to verify whether any supplemental or alternative insurance is needed.
- 4.5 Insurance. COTA shall have, and require all temporary event promoters using the Track for which Services under this Agreement to have, the required standard insurance at least meeting the General Requirements in 4.5.1 and sufficient to cover the needs of COTA or the temporary promoter, pursuant to applicable generally accepted business standards related to risks associated with COTA's operations at the Track. Depending on activities in which COTA engages or any temporary event promoter engages, supplemental insurance requirements or alternate insurance options may apply in addition to the following:
- 4.5.1 General Requirements Applicable to All COTA's Insurance. COTA acknowledges and agrees to the following concerning insurance requirements which are applicable to COTA during event for which COTA requests Services or Stand-by services under this Agreement and

agrees that COTA shall require all temporary event promoters using the Track who are not eligible for COTA's TULIP program ("non-TULIP promoters") to agree to these insurance requirements during any event for which COTA requests Services under this Agreement:

4.5.1.1 COTA and these non-TULIP promoters shall maintain the minimum types and limits of insurance indicated in 4.5.2 throughout the duration of the Agreement. This insurance must be considered primary for all covered risks.

4.5.1.2 COTA and these non-TULIP promoters shall obtain insurance written by companies licensed in the State of Texas with an A.M. Best rating of B+ VIII or higher. If use of surplus carriers is desired, these carriers are subject to County approval.

4.5.1.3 Prior to County commencing Services, COTA and these non-TULIP promoters shall have the required insurance in force as evidenced by a Certificate of Insurance written on the state approved form and signed by the writing agent or carrier.

4.5.1.4 COTA shall not allow any insurance to be cancelled or lapse and shall not permit its minimum limits of coverage to erode or otherwise be reduced during any term of this Agreement. In its agreements with these non-TULIP promoters, COTA shall require them to agree not to allow any insurance required under their agreement to be cancelled or lapse and not to permit their minimum limits of coverage to erode or otherwise be reduced during any term of this Agreement. COTA and these non-TULIP promoters shall be responsible for all premiums, deductibles and self-insured retention.

4.5.1.5 COTA shall submit the Certificate of Insurance to the Travis County Purchasing Agent within ten (10) working days after (i) execution of this Agreement by both parties or by (ii) the effective date of this Agreement, whichever comes first. In its agreements with these non-TULIP promoters, COTA shall require them to submit the Certificate of their Insurance to the Travis County Purchasing Agent within ten (10) working days after (i) execution of their agreement with COTA or by (ii) the effective date of any agreement between COTA and such non-TULIP promoter, whichever comes first. The Certificates of Insurance for both COTA and these non-TULIP promoters must include the following:

4.5.1.5.1 the Travis County contract number

4.5.1.5.2 all deductibles and self-insured retention



- 4.5.1.5.3 an endorsement which names Travis County as Additional Insured where its interest may appear
- 4.5.1.5.4 an expanded bodily injury definition
- 4.5.1.5.5 an endorsement which makes the insurance primary for all claims
- 4.5.1.5.6 a Waiver of Subrogation (Form 420304) endorsement
- 4.5.1.5.7 a Thirty (30) day Notice of Cancellation (Form 420601) endorsement

4.5.1.6 Upon its request and without expense, County is entitled to receive certified copies of policies and endorsements.

4.5.1.7 COTA acknowledges that County has the right to review insurance requirements during any term of the Agreement and to require that COTA and these temporary event promoters make reasonable adjustments when the scope of its activities has changed or expanded.

4.5.1.8 Insurance coverage specified in this Agreement is not intended and will not be interpreted to limit the responsibility or liability of the COTA or these temporary event promoters.

4.5.2 Specific Requirements. The following requirements apply to the activities of COTA and all non-TULIP promoters using the Track for which Services under this Agreement. COTA and these non-TULIP promoters shall comply with the following insurance requirements:

4.5.2.1 Workers' Compensation and Employers' Liability Insurance

4.5.2.1.1 Coverage shall be consistent with statutory benefits outlined in the Texas Workers' Compensation Act

4.5.2.1.2 Employers' Liability limits are:  
\$250,000 bodily injury each accident  
\$250,000 bodily injury by disease

4.5.2.1.3 These policies shall be subject to the laws of the State of Texas and include the following endorsements in favor of Travis County:  
Waiver of Subrogation (Form 420304)  
Thirty (30) day Notice of Cancellation (Form 420601)

4.5.2.2 Commercial General Liability Insurance for both motorsports events and motorsports facilities with customized motorsport policy language, an expanded bodily injury definition

4.5.2.2.1 Minimum limits for Coverage Part A—Bodily Injury and Property Damage:

\$3,000,000\* per occurrence for coverage Part A

4.5.2.2.2 Minimum limits for Coverage Part B—Personal Injury or Advertisement related to slander, false arrest or similar incidents:

\$3,000,000\* per occurrence for coverage Part B

4.5.2.2.3 Minimum limits for Coverage Part C—Medical Coverage covering initial fees associated with minor injuries:

\$5,000\* per occurrence for coverage Part C

4.5.2.2.4 Policy aggregate for Coverage Parts A, B and C:

\$10,000,000 policy aggregate

4.5.2.2.5 These policies shall include the following coverages:

Premises liability for permanent motorsports event facilities;

Personal and advertising injury coverage;

Host liquor coverage;

Non-owned or hired automobile coverage;

Racing coverage for motorcross facilities;

Fireworks supplemental coverage, if applicable; and

Temporary motorsport event coverage, if applicable.

4.5.2.2.6 These policies shall be subject to the laws of the State of Texas and include the following endorsements in favor of Travis County:

Waiver of Subrogation (Form 420304)

Thirty (30) day Notice of Cancellation (Form 420601)

4.5.2.3 Excess Liability Insurance Policy that follows primary policy form

4.5.2.3.1 Minimum limits: \$20,000,000

4.5.2.3.2 These policies shall apply to State of Texas and include the following endorsements in favor of Travis County:

Waiver of Subrogation (Form 420304)

Thirty (30) day Notice of Cancellation (Form 420601)

4.5.3 County will waive compliance with the requirements in 4.5.1 and 4.5.2 for any temporary events promoters who are promoting events with an attendance of 5,000 or less if these promoters obtain coverage under the COTA Austin TULIP program as described in Exhibit C. This program

can cover additional insured, owners and managers, lessors of premises, sponsors and co-promoters.

## ARTICLE V

### *Financial Arrangements*

- 5.1 Services Cost. COTA shall pay County the amount invoiced at the rate of Three Hundred Seventy Five Dollars and No Cents (\$375.00) per hour for Services provided by the County. The number of hours invoiced include the hours that COTA requested that the aircraft be at the Track plus one (1) hour before the time COTA requested that the aircraft arrive at the Track and one (1) hour after the end of the time that COTA requested that the aircraft be at the Track or the time that COTA releases the aircraft to leave the Track, whichever is later. COTA shall pay for the hours that County provides Services, including the pre-event and preparation activities and post event activities even if no other Services are provided, on the scheduled event days and for each additional day at the hourly fees in section 5.1.
- 5.2 Stand-by Services Cost. COTA shall pay County the amount invoiced at the rate of Three Hundred Seventy Five Dollars and No Cents (\$375.00) per hour for Stand-by Services provided by the County through its subcontractor. The number of hours invoiced include the hours that COTA requested that the aircraft be available within a thirty (30) minute response time plus one (1) hour before the time COTA requested that the aircraft begin stand-by and one (1) hour after the end of the time that COTA requested that the aircraft end stand-by or the time that COTA releases the aircraft, whichever is later. COTA shall pay for the hours that County provides Stand-by Services, including the pre-event and preparation activities and post event activities even if no other Stand-by Services are provided, on the scheduled event days and for each additional day at the hourly fees in section 5.1.
- 5.3 Timing of Invoices and Payment. County will invoice COTA by the 5th business day of the month following the month in which Services were rendered and COTA will pay these invoices on a monthly basis within thirty (30) days of receiving each invoice.
- 5.4 Other Expenses. Flight expenses associated with transfer from *STAR Flight's* hanger or crew quarters shall be included in the fee provided in Section 5.1. Medical expenses related to Patient transport to an appropriate medical facility shall be billed separately by County to the Patient, and COTA shall have no financial responsibility for these expenses.

## ARTICLE VI

### *Term and Termination;*

- 6.1 Term. This Agreement shall be effective for forty (40) months, beginning on September 1, 2012 and ending on December 31, 2015, unless sooner terminated in accordance with this Agreement.

- 6.2 Renewal. At the end of the Initial Term, upon mutual agreement of COTA and County, this Agreement may be renewed for one or more successive terms. If the parties fail to agree on a renewal term, this Agreement terminates upon expiration of the then-current term.
- 6.3 Termination without Cause. Notwithstanding anything herein to the contrary, after December 31, 2012, either party may terminate this Agreement at any time, with or without cause, upon providing the other party with at least ninety (90) days written notice of its intent to terminate the Agreement.
- 6.4 Termination for Cause. Either party may terminate this Agreement at any time if the other party engages in an act or omits doing anything that results in a material breach of any material term or condition of this Agreement. In that event, the party electing to terminate this Agreement shall provide the breaching party with written notice specifying the nature of the breach. The breaching party then has the Cure Period to remedy the breach or to present a mutually agreeable plan of correction designed to conform its conduct to this Agreement. If corrective action is not taken within that time, that failure allows the aggrieved party to terminate the Agreement at the conclusion of the Cure Period.
- 6.5 Immediate Termination by COTA. Notwithstanding anything herein to the contrary, COTA may terminate this Agreement immediately upon any of the following events:
- 6.5.1 Upon COTA ceasing operations of the Track;
  - 6.5.2 Upon County's general assignment for the benefit of creditors, County's petition for relief in bankruptcy or under similar laws for the protection of debtors, or upon the initiation of such proceedings against County if the same are not dismissed within forty-five (45) days of service; or
  - 6.5.3 Upon County's failure to maintain continuous insurance coverage required to be maintained by County under Section 7.1 herein.
- 6.6 Immediate Termination by County. Notwithstanding anything herein to the contrary, County may terminate this Agreement immediately upon any of the following events:
- 6.6.1 Upon COTA ceasing operations of the Track; or
  - 6.6.2 Upon COTA's general assignment for the benefit of creditors, COTA's petition for relief in bankruptcy or under similar laws for the protection of debtors, or upon the initiation of such proceedings against COTA if the same are not dismissed within forty-five (45) days of service.
  - 6.6.3 Upon COTA's failure to comply with section 8.8.1 herein.

- 6.6.3 Upon COTA's failure to maintain continuous insurance coverage required to be maintained by COTA under Section 4.5 herein.
- 6.6.5 Upon COTA's failure, in its agreements with its temporary promoters, to require them to agree to maintain insurance coverage required to be maintained by them under section 4.5 for the duration of their agreements with COTA.
- 6.7 Reporting. County will keep COTA apprised as follows:
- 6.7.1 County shall only allow any employee to be a Team Member who provides Services at the Track if County has not received information concerning any material restriction, suspension or revocation placed upon that employee's license related to the services to be provided by that employee as a Team Member.
- 6.7.2 County will notify COTA within ten (10) working days of being served with a summons or other legal document alleging professional negligence, or other injury arising from the Services of County or a Team Member at the Track.
- 6.7.3 County shall not allow any employee about whom County has received information of any arrest, indictment or conviction for any offense other than a misdemeanor or motor vehicle license infraction not involving alcohol or a controlled substance to be a Team Member who provides Services at the Track.
- 6.8 Reporting. COTA will keep County apprised as follows:
- 6.8.1 COTA will notify County within ten (10) working days of the date it makes a decision to close the Track; and
- 6.8.2 COTA will notify County within ten (10) working days of the date it receives information concerning COTA's general assignment for the benefit of creditors, COTA's petition for relief in bankruptcy or under similar laws for the protection of debtors, or upon the initiation of such proceedings against COTA if the same are not dismissed within forty-five (45) days of service.
- 6.9 Effect of Termination. Upon any termination of this Agreement, neither party has further rights against, or obligations to, the other party except (i) with respect to any rights or obligations accruing prior to the date and time of termination, including any payments due to County hereunder, and (ii) any obligations, promises or agreements which expressly extend beyond the termination.
- 6.10 Patient Lists and Records. Notwithstanding anything to the contrary herein, to the extent permitted under applicable law and to the extent available to COTA, COTA shall provide to County and each Team Member (i) access to a list of its or his/her Patients who have been seen or treated pursuant to this Agreement by County or Team Members and (ii) copies of such Patients' medical records.

- 6.11 Proprietary Information. County agrees that upon termination of this Agreement, all proprietary information of COTA in its customers, including but not limited to customer lists, business processes, copyrighted items, software and related processes, diagnostics, methodologies, formulas, works of authorship, submissions, customer information, business plans and all business assets, tangible or intangible items which County or Team Members become aware of during this Agreement (collectively, "COTA Proprietary Information"), remain the sole and exclusive property of COTA, and County shall not acquire any interest in the COTA Proprietary Information or right to use the COTA Proprietary Information without the express written consent of COTA.

## ARTICLE VII

### *Insurance*

- 7.1 STAR Flight Insurance. Until October 1, 2012, County agrees to maintain insurance of the categories and in the amounts specified in Exhibit A attached hereto (Travis County EMS Summary of Aircraft Coverages) and represents that it has maintained similar coverage in the past and at this time expects to maintain similar coverage in the future. County shall provide COTA with a certificate or certificates of insurance certifying the existence of all coverage related to the Services and County shall name COTA as an additional insured on County's aviation insurance policy.

## ARTICLE VIII

### *Miscellaneous Provisions*

- 8.1 Notice. Any notice required to be given under this Agreement shall be deemed to be given upon the earlier of (i) actual delivery to the intended party or its agent, or (ii) upon the third business day following deposit in the United States mail, postage prepaid, certified or registered mail, return receipt requested. Any such notice shall be delivered to the respective addresses set out below or to such other address as a party shall specify in the manner required by this Section. The respective addresses are:

If to COTA:                      Circuit of the Americas  
301 Congress Ave., Ste. 220  
Austin, TX 78701  
Attn: Steve Sexton

If to County:                    Cyd Grimes, C.P.M.  
Travis County Purchasing Agent  
P.O. Box 1748  
Austin, Texas 78767-1748

With copies (certified or registered, not required) to:

Travis County  
7800 Old Manor Road



Austin, Texas 78724  
Attn: Casey Ping  
*STAR Flight* Program Director

And

David Escamilla  
Travis County Attorney  
P. O. Box 1748  
Austin, Texas 78767  
File: 260.583

- 8.2 Entire Agreement. This Agreement contains the entire agreement of the parties and supersedes all prior agreements, contracts and understandings, whether written or otherwise, between the parties relating to the subject matter of it.
- 8.3 Partial Invalidity. If any provision of this Agreement is found to be legally invalid or unenforceable for any reason, the remaining provisions of the Agreement remain in full force and effect provided the fundamental rights and obligations remain reasonably unaffected.
- 8.4 County. County is performing the Services and duties under this Agreement as an independent contractor and not as an employee, agent, partner of, or joint venture with COTA. County is responsible for determining the manner in which Services are provided and insuring that Services are rendered in a manner consistent with this Agreement. No Team Member providing Services is an employee of COTA. COTA does not have and nothing in this Agreement may be construed as giving that degree of control or direction on the part of COTA that creates an employer-employee relationship between COTA and any of the Team Members. COTA shall not control or direct the practice of medicine or transport. If a Team Member is considered to be exercising medical or aviation judgment in the performance of the Services, the Team Member will employ his or her own means and methods and exercise his or her own independent judgment in such instance; and in that regard will not be subject to the control or direction of COTA with respect to the means, methods or judgment so exercised by the Team Member.
- 8.5 Corporate Practice of Medicine. Nothing contained herein is intended to constitute the use of a medical license or other health care-related license for the practice of medicine by anyone other than a licensed physician, or other health care provider, such as nurses and paramedics, or aid COTA or any other corporation to practice medicine when, in fact, such corporation is not licensed to practice medicine.
- 8.6 Mediation. The parties firmly desire to resolve all disputes arising hereunder without resort to litigation to protect their respective business reputations. Accordingly, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall first be submitted to mediation administered by a mutually acceptable mediator or one appointed by a court of competent jurisdiction in accordance with the Texas Civil Practice and Remedies Code. Conclusions reached during such mediation shall be non-binding on the parties and shall be kept confidential by the parties to the greatest extent

possible without contravening the Texas Public Information Act. No disclosure of the mediation proceeding shall be made by the parties except as required by the law or as necessary or appropriate to effectuate the terms thereof. This Section shall not prevent either party from electing to terminate this Agreement in accordance with its termination provisions or from pursuing all available legal remedies.

- 8.7 Third Party Beneficiaries. This Agreement is entered into for the sole benefit of COTA and County. Nothing contained herein or in the parties' course of dealings may be construed as conferring any third party beneficiary status on any person or entity not a party to this Agreement.
- 8.8 Confidentiality; Disclosure of Patient Information.
- 8.8.1 COTA shall not request any exchange of protected health information (PHI), as defined by the Health Information Privacy and Accountability Act (HIPAA). If any PHI is required by COTA, before requesting the PHI, COTA shall execute and deliver the HIPAA Business Associate Agreement– in the form attached hereto as **Exhibit B** to the Travis County Attorney at 314 West 11<sup>th</sup> Street, Austin, Texas during regular County business hours.
- 8.8.2 County and COTA acknowledge that in connection with the performance of the Services, County, COTA, and their respective employees, contractors and agents may acquire and make use of certain trade secrets and confidential information of the other which may include management reports, business or financial information, internal memoranda, reports, customer lists, confidential technology, and other materials, records and/or information of a proprietary nature ("Confidential Information"). Therefore, to protect such Confidential Information, subject to the Texas Public Information Act, County and COTA agree that they and their respective employees, contractors and agents shall not after the Effective Date of this Agreement use or disclose the other party's Confidential Information except as required in connection with the performance of Services. Upon termination of this Agreement, subject to the Texas Public Information Act, neither County nor COTA will take or retain, without prior written authorization from the other, any Confidential Information of any kind belonging to the other party. Notwithstanding the foregoing, the parties may use and retain such records as are necessary for purposes of medical malpractice defense or as required by law.
- 8.9 Other Activities. It is agreed and understood by COTA that this Agreement shall not prohibit County or Team Members from engaging in the private practice of medicine and/or other personal or professional ventures.
- 8.10 Headings. The section and other headings contained in this Agreement are for convenience of reference purposes only and do not affect the meaning or interpretation of this Agreement.

- 8.12 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the state of Texas, without giving effect to its conflict of law provisions. All Services are performable in Travis County, Texas. Venue in the case of any disputes shall be in Travis County, Texas.
- 8.13 Amendment. This Agreement can be amended only by an instrument in writing signed by both parties.
- 8.14 Assignment. Neither party may assign this Agreement without the express written consent of the other party.

IN WITNESS WHEREOF, County and COTA have duly executed this Agreement as of the dates set out beneath their respective signatures.

**Travis County ("County")**

By: \_\_\_\_\_  
Samuel T. Biscoe  
County Judge

Date: \_\_\_\_\_

**CIRCUIT OF THE AMERICAS, LLC ("COTA"):**

By: \_\_\_\_\_  
Title: PRESIDENT

Date: MAY 22, 2012

**Exhibit A**

**Star Flight Insurance**

Exhibit A

**TRAVIS COUNTY EMS**

## Security in Action

[illegible]



# Travel Culture

1990

1. The first step is to identify the problem. This involves understanding the symptoms and the context in which they are occurring.

**Maximum weekly indemnity \$1,200**

Maximum Training Period: 52 consecutive

[illegible]

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

**THE**

**RESEARCH**

**Each Aircraft / Each**

**1968-1969** **1969 Occurrence**

There's always room for more in the world of advertising. And there's always room for more in the world of advertising. And there's always room for more in the world of advertising.

100-443887-100

**END**

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

... ..

**1990-1991** **2001-2002**

to the fact that the majority of the population is still in the rural areas, and the majority of the population is still in the rural areas.

**ENTER THE**

**PLEASE PRINT YOUR NAME AND HOME PHONE NUMBER**

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26



22

## LEAVE COUNTING

THE UNIVERSITY OF CHICAGO

[illegible]



[illegible]

## FRANK COOPER INC.

**THE UNIVERSITY OF CHICAGO**

<p><b>Investment in Russia</b></p> <p><b>Foreign Currency</b></p> <p><b>Investment Program to Russia</b></p>	<p>The purpose of this program is to determine the feasibility of investing in Russia and to determine the amount of investment that can be made in Russia. The program will be carried out in the form of a study by the State Department.</p> <p>The purpose of this program is to determine the feasibility of investing in Russia and to determine the amount of investment that can be made in Russia. The program will be carried out in the form of a study by the State Department.</p> <p>The purpose of this program is to determine the feasibility of investing in Russia and to determine the amount of investment that can be made in Russia. The program will be carried out in the form of a study by the State Department.</p>
<p><b>General Remarks</b></p>	<p><b>Comments</b>      <b>Local Conditions</b></p> <p><b>Particulars</b></p> <p>ability for the return of passport.</p>
<p><b>Use of Foreign Money</b></p> <p><b>Notes</b></p>	<p><b>Particulars</b></p> <p>The use of foreign money is not allowed in Russia. The use of foreign money is not allowed in Russia. The use of foreign money is not allowed in Russia.</p>
	<p>The use of foreign money is not allowed in Russia. The use of foreign money is not allowed in Russia. The use of foreign money is not allowed in Russia.</p>



DAVID COUNTY, TEXAS		
Description of Coverage		
First Automobile Liability Coverage	\$100,000	Each Person/Each Accident
This coverage provides liability protection for bodily injury and property damage caused by an insured vehicle. The policy includes coverage for damages to other vehicles, structures, and contents. It also covers medical payments for injured persons. The policy is subject to a \$100 deductible for each accident.		
First Automobile Medical Payments Coverage	\$10,000	Each Person
This coverage provides medical payments for injured persons, regardless of fault. It covers medical expenses, including hospitalization, surgery, and X-rays. The policy is subject to a \$100 deductible for each person.		
First Automobile Uninsured Motorist Coverage	\$100,000	Each Occurrence
This coverage provides liability protection for bodily injury and property damage caused by an uninsured motorist. It also covers medical payments for injured persons. The policy is subject to a \$100 deductible for each occurrence.		
First Automobile Underinsured Motorist Coverage	\$100,000	Each Occurrence
This coverage provides liability protection for bodily injury and property damage caused by an underinsured motorist. It also covers medical payments for injured persons. The policy is subject to a \$100 deductible for each occurrence.		
First Automobile Collision Coverage	\$100,000	Each Occurrence
This coverage provides liability protection for bodily injury and property damage caused by a collision with another vehicle. It also covers medical payments for injured persons. The policy is subject to a \$100 deductible for each occurrence.		
First Automobile Comprehensive Coverage	\$100,000	Each Occurrence
This coverage provides liability protection for bodily injury and property damage caused by a non-collision event, such as theft or vandalism. It also covers medical payments for injured persons. The policy is subject to a \$100 deductible for each occurrence.		

## Travel County EMS

### Emergency Liability / Physical Damage Coverage

#### ☐ Emergency Policy Limitations / Conditions

##### ☐ Approved Users

Users must be licensed EMTs, Paramedics, or Nurses. Users must be employed by the County of San Diego. Users must be employed by the County of San Diego. Users must be employed by the County of San Diego.

##### ☐ Approved Places

Users must be employed by the County of San Diego. Users must be employed by the County of San Diego. Users must be employed by the County of San Diego.

Users must be employed by the County of San Diego. Users must be employed by the County of San Diego. Users must be employed by the County of San Diego.

##### ☐ Approved Territory

Users must be employed by the County of San Diego.

##### ☐ Notice of Cancellation

(15) days, except in the event of non-payment of premium, then the standard ten (10) days notice shall apply.



## TRAVEL & ENTERTAINMENT

**THE**

1990

### Continuing Education Credit

[illegible]

**Football: Injuries arising from an accident**

## Executive Order: No Assignment, No Limitation

... ..

\_\_\_\_\_

1. The following information is for your information only. It is not to be used for any other purpose.

## **Exhibit B**

### **Business Associate Agreement**

This Business Associate Agreement is made by the following parties: Circuit of the Americas, LLC, 301 Congress Ave., Ste. 220, Austin, TX 78701 ("COTA") and Travis County, a political subdivision of Texas ("County") pursuant to an Airmedical Coverage Agreement between them.

A. **HIPAA Dominance.** The purpose of this agreement is to satisfy the standards and requirements of the Health Insurance Portability and Accountability Act ("HIPAA"), codified at 45 C.F.R. parts 160 and 164 and the federal Health Information Technology for Economic and Clinical Health Act codified at 42 U.S.C. Sections 17921-17953, as may be amended from time to time ("HITECH"). Capitalized terms which are not defined shall have the meaning set forth in HIPAA or HITECH as applicable. In the event of a conflict or inconsistency between the terms of any other agreement between the Parties and this language, this language controls. This language is required by HIPAA and HITECH. The parties acknowledge and agree that, beginning with the effective dates under HIPAA and HITECH, COTA will comply with its obligations under this agreement and with all obligations of a business associate under HIPAA, HITECH and any implementing regulations, as they exist at the time this agreement is executed and as they are amended from time to time, for so long as this agreement is in place. To the extent that COTA receives, processes or creates information which constitutes Protected Health Information ("PHI"), COTA is a "Business Associate" who is directly subject to and must independently comply with the business associate provisions of HIPAA and HITECH notwithstanding the provisions contained in this agreement.

B. **Protected Health Information.** For purposes of these obligations PHI means all PHI in COTA's possession or under its control (e.g., agents) and all PHI collected, created or received by COTA or its agents on pursuant to this agreement.

C. **Employees.** COTA agrees to instruct its employees and temporary agency employees regarding the confidentiality, privacy and security of PHI. COTA shall not disclose to its personnel or permit them to access, view, obtain, copy, review or use any PHI that is not necessary to their services to County. COTA agrees to maintain performance standards in accordance with its policies and procedures, including disciplinary actions, with respect to wrongful access to, copying, viewing, misuse or disclosure of PHI.

D. **Agents and Subcontractors.** COTA shall ensure its permitted agent(s) and subcontractor(s) (if agents or subcontractors are permitted) are advised in writing of COTA's obligations with respect to PHI. COTA shall require that the permitted agent(s) and subcontractor(s) agree in writing to the restrictions and obligations required by HIPAA. COTA also shall require its permitted agent(s) and subcontractor(s) to agree in writing to implement reasonable administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of all County PHI. COTA agrees to make a list of such agents and subcontractors available to County upon request.

E. **Permissible Uses of PHI.**

1. **Using and Disclosing PHI.** COTA may use or disclose PHI only as permitted by HIPAA including management and administration of COTA, use of PHI as required by law, and use of PHI as necessary to perform services pursuant to this Agreement.

2. **Handling PHI.** COTA further agrees to return or destroy any PHI that is erroneously shared or delivered to COTA.

3. Minimum Necessary. COTA is permitted to access and use the minimum necessary PHI to the extent required to perform its duties under this Agreement.
4. COTA's Internal Management Uses of PHI. COTA may use PHI for management and administration of COTA.
5. COTA Use for Own Purposes. COTA agrees not to use data that identifies County or PHI for its own purposes or for the benefit of its other customers, without County's prior written consent.

F. Security, Reporting and Recordkeeping.

1. Safeguards. COTA agrees to implement reasonable administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of all PHI. COTA agrees to implement reasonable electronic security practices for County PHI which is transmitted, stored, received, or used in electronic form.
2. Reporting. COTA will promptly report any actual or suspected privacy or security violations made by its employees and/or agents to County's Privacy Official and/or Security Official and will cooperate with County in the investigation of these incidents. Furthermore, COTA will (i) promptly report to County any use or disclosure of PHI not permitted by this HIPAA and/ or HITECH language; (ii) any successful security incident of which COTA becomes aware; and (iii) in summary form, upon request of County, any unsuccessful security incident of which COTA becomes aware. If the definition of "Security Incident" in the HIPAA regulation is modified to remove the requirement for reporting "unsuccessful" security incidents, section (iii) above shall no longer apply as of the effective date of such regulation modification.
3. Recordkeeping. COTA agrees to implement an appropriate record keeping process to enable it to comply with HIPAA.
4. Following the discovery of a breach as defined in HITECH or HIPAA, COTA shall notify, in writing, County's Privacy Official and/or Security Official within twenty-four (24) hours of any suspected or actual Security Incident or breach of security, intrusion or unauthorized use or disclosure of PHI or electronic PHI ("ePHI"). The notice shall include, to the best extent reasonably possible, the identification of each individual who's unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during the breach.
5. Mitigation. COTA agrees to mitigate any harmful effect that is known to COTA, including known to its employees/agents / subcontractors, of a use or disclosure of PHI by COTA in violation of the requirements of this Agreement.

G. Patient Rights With Respect To PHI.

1. COTA is advised that under HIPAA patients have the right to review their PHI; amend their health records; request an accounting of disclosures of PHI and request restrictions on the use and disclosure of PHI.
2. Notice of Patient Contact. COTA shall promptly notify the privacy officer of County if a patient contacts COTA in connection with the patient's PHI.
3. Assistance. To assist County in complying with HIPAA, COTA shall, at any time during this Agreement, make County PHI in its possession or under its control available to County within five (5) business days of a County request.
4. Electronic Health Records Related to Treatment, Payment, or Operations. In the case of a direct request for an accounting from an individual to COTA related to treatment, payment or operations disclosures through electronic health records, COTA shall provide such accounting to the individual in accordance with the applicable effective date of Section 13405(c) of HITECH. COTA shall document such disclosures and provide County notice of the disclosure.

- H. Notice of Legal Contact. If permitted by law or court order, COTA shall notify County in writing of a disclosure request prior to disclosing County PHI if such disclosure is required by law or court order.

I. Amendment. Upon enactment of any law, regulation, court decision or relevant government publication and/or interpretive policy affecting the use or disclosure of PHI, the parties will negotiate in good faith to amend this Agreement as necessary to comply with same.

J. Access for Audit. COTA shall make its internal practices, books and records relating to the use and disclosure of any PHI available to authorized government investigators for purposes of determining COTA's and County's compliance with the HIPAA.

K. Termination of Relationship for Failure to Comply.

1. Immediate Termination and Cure. If COTA has violated a material requirement related to HIPAA, County may immediately terminate its relationship with COTA upon written notice to COTA specifying in detail the alleged violation without damages or liability to COTA.

2. PHI Obligations upon Termination or Expiration. COTA shall return (and not retain any copies of) all PHI in its possession or under its control as soon as possible (in no event more than twenty (20) business days) after the termination/expiration of this Agreement. If it is not feasible for COTA to return PHI, then COTA shall notify County of the reasons for being unable to return PHI in writing and must, at a minimum, maintain PHI in confidence as required by this Agreement and HIPAA for so long as the County PHI exists in COTA's possession. COTA shall not transfer possession of County PHI without prior written approval of County. If at any time COTA determines it is unable to protect County PHI, COTA shall destroy all County PHI and all copies and maintain proof of such destruction.

**Travis County ("County")**

By: \_\_\_\_\_

Samuel T. Biscoe  
County Judge

Date: \_\_\_\_\_

**CIRCUIT OF THE AMERICAS, LLC ("COTA"):**

By: \_\_\_\_\_

Title: PRESIDENT

Date: MAY 22, 2012



**Exhibit C**

**COTA's TULIP Insurance**



## POLICYHOLDER DISCLOSURE

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### DISCLOSURE OF PREMIUM AND FEDERAL PARTICIPATION

The Terrorism Risk Insurance Act establishes a program within the Department of the Treasury, under which the federal government shares, with the insurance industry, the risk of loss from future terrorist attacks. The Act applies when the Secretary of the Treasury certifies that an event meets the definition of an act of terrorism. The Act provides that, to be certified, an act of terrorism must cause losses of at least five million dollars and must have been committed by an individual or individuals as a part of an effort to coerce the government or population of the United States.

In accordance with the Terrorism Risk Insurance Act, we are required to offer you coverage for losses resulting from an act of terrorism **that is certified under the federal program** as an act of terrorism. The policy's other provisions will still apply to such an act

#### DISCLOSURE OF PREMIUM

The premium for terrorism coverage is \$ Included.

#### DISCLOSURE OF FEDERAL PARTICIPATION IN PAYMENT OF TERRORISM LOSSES

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals 85% of that portion of the amount of such insured losses that exceeds the applicable insurer retention.



NATIONWIDE MUTUAL INSURANCE COMPANY



### Certificate of Insurance Common Declarations

**This Certificate of Insurance is issued to the Enrolled Member  
of the Sports, Leisure and Entertainment Risk Purchasing Group.**

In return for the payment of premium we agree to provide the Enrolled Member insurance, subject to all the terms and conditions of policy number MAS 51941 issued to the Sports, Leisure and Entertainment Risk Purchasing Group, except as modified by this certificate including the forms and endorsements made a part of this certificate.

Certificate Number: [REDACTED]

Enrolled Member: [REDACTED]

Mailing Address: [REDACTED]

Business Description: Tenant users of [REDACTED]

Coverage Period:  
From 12:01 am on [REDACTED] to 12:01 am on [REDACTED]

The coverages provided are indicated as follows:

	<u>Included</u>	<u>Not Included</u>
Commercial General Liability	X	
Hired Auto and Employers' Nonownership Liability		X

Total Premium

\*Premium earned at inception

As submitted

See SRPG26148

Form(s) and Endorsement(s) made a part of this certificate at time of issue\*:

SRPG17348(12/02)	IL0017(11/98)	CAS3228	SRPG0103(09/08)	SRPG26148(09/08)
SRPG0021(09/08)	IL0168(09/08)	IL0275(09/07)	IL0985(01/08)	

\*Omits applicable forms and endorsements if shown on specific Coverage Part/Coverage Form Declarations.

In return for the payment of premium and subject to all the terms of the certificate and its corresponding policy, we agree to provide the insurance as stated.

Authorized Representative

**\*\*NOTICE TO TEXAS INSURED:** The Insurer for the purchasing group may not be subject to all the insurance laws and regulations of the State of Texas.

**POLICY NUMBER:** ~~SRPG17348~~

**DECLARATIONS EXTENSION**

With respect to SRPG100, Certificate of Insurance Common Declarations, and wherever else it may appear, the enrolled member, coverage period and total premium are amended to read as follows:

**Enrolled Member:**

Those enrolled members whose names are on file with the company and for which the appropriate premium has been paid and have been endorsed.

**Coverage Period:** 3/24/12 – 4/24/13

Each enrolled member's effective date is the later of the requested effective date and the date the enrollment form and premium payment are received and approved by the program administrator and is in effect for the period of time specified for the event. If the event continues past 12:01 am, such continuation shall be considered as the event date. The event includes set up and break down that occurs no more than 24 hours prior to the event and 24 hours after the event.

**Total Premium:**

The premium rate, per single event (up to 10 consecutive days) is based on the total attendance.

**POLICY NUMBER: 05N17000000000260700.**

**INTERLINE**  
**IL 00 17 11 98**

## 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 after-ward.**

#### 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.



POLICY NUMBER: XXXXXXXXXX

Nationwide Mutual Insurance Company  
Nationwide Mutual Fire Insurance Company  
Nationwide Property and Casualty Insurance Company  
Home Office: Columbus, Ohio 43215-2220

## MANDATORY ENDORSEMENT

### POLICYHOLDER MEMBERSHIP IN THE COMPANY

(Applicable Only in the Nationwide Mutual Insurance Company or the Nationwide Mutual Fire Insurance Company in All States Except Those Specifically Provided For)

Because this policy is issued by a mutual insurance company, you are a member of the company while this or any other policy is in force. While a member you are entitled to a vote only - either in person or by proxy - at meetings of the company. You are entitled to any dividends which are declared by the Board of Directors and are applicable to coverages in your policy.

The annual meeting of the members of the company issuing your policy (the company is indicated on the Declarations Page) will be held at the Nationwide Plaza in Columbus, Ohio, on the first Thursday of April. The time of the meeting for the Nationwide Mutual Fire Insurance Company is 9:30 A.M. and the time of the meeting for the Nationwide Mutual Insurance Company is 10:00 A.M. We will mail notice of any change in meeting dates, times or place to you at your address last known to us at least ten days prior to the rescheduled meeting date.

This policy is non-assessable, meaning that you are not subject to any assessment beyond the premiums we require for each policy term.

### POLICYHOLDER MEMBERSHIP IN THE COMPANY

(Applicable Only in the Nationwide Mutual Insurance Company or the Nationwide Mutual Fire Insurance Company When This Policy is issued in The State of Texas)

**1. MUTUALITY - MEMBERSHIP AND VOTING NOTICE.** You are notified that by virtue of this policy you are a member of the Nationwide Mutual Insurance Company of Columbus, Ohio or the Nationwide Mutual Fire Insurance Company of Columbus, Ohio as shown on the Declarations Page of this Policy, and you are entitled, as is lawfully provided in the charter, constitution, or by-laws to only one vote regardless of the number of policies owned either in person or by proxy, in any or all meetings of the company. The annual meetings are held at the Home Office at Columbus, Ohio, on the first Thursday of April, in each year, at 9:30 A.M. for the Nationwide Mutual Fire Insurance Company and 10:00 A.M. of the same day for the Nationwide Mutual Insurance Company.

**2. MUTUALS - PARTICIPATION CLAUSE WITHOUT CONTINGENT LIABILITY.** No Contingent Liability: This policy is non-assessable. You are a member of the company and shall participate, to the extent and upon the conditions fixed and determined by the Board of Directors in the distribution of dividends so fixed and determined provided such determinations are in accordance with the provisions of the Texas Insurance Code and other applicable law, which includes the rules and regulations of the State Board of Insurance.

IN WITNESS WHEREOF: Nationwide Mutual Insurance Company, Nationwide Mutual Fire Insurance Company or Nationwide Property and Casualty Insurance Company, whichever is the issuing company, as designated on the Declarations, has caused this policy to be signed by its President and Secretary at Columbus, Ohio, and countersigned by a duly authorized representative of the company.

ATTEST:

Secretary

President

**POLICY NUMBER: 6BFWC0000005250700**

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

## **CHANGES**

This endorsement modifies insurance provided under the following:

### **All Liability Coverages**

The word policy is replaced with the word certificate.

The term first Named Insured is replaced with Named Insured.

Enrolled Member is also known as Named Insured.

POLICY NUMBER: 6BFWC0000005250700

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

### EARNED PREMIUM

This endorsement modifies insurance provided under the following:

#### ALL LIABILITY COVERAGES

The following is in effect only when indicated by X

\_\_\_\_\_ Premium fully earned at inception

\_\_\_\_\_ Premium fully earned at inception

\_\_\_\_\_ (Percentage of Policy Term Premium)

\_\_\_\_\_ Premium fully earned as follows:

\_\_\_\_\_ % of total premium in the event of cancellation prior to

Total policy premium is fully earned in the event of cancellation after \_\_\_\_\_

X  Event premiums

The following premiums apply to each category of event indicated and are fully earned as of the beginning of each event:

#### EVENT

As submitted and on file with the company

#### PREMIUM PER EVENT

As quoted and on file with the company

\_\_\_\_\_

\_\_\_\_\_



POLICY NUMBER: 6BFWC0000005250700

SRPG 00 21 09 08

**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  
HIRED AUTO AND EMPLOYERS' NONOWNERSHIP 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.

**POLICY NUMBER: 6BFWC0000005250700**

**INTERLINE  
IL 01 68 09 08**

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

## **TEXAS CHANGES – DUTIES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
EMPLOYMENT-RELATED PRACTICES 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

The following is added to the **Duties** Condition.

We will notify the first Named Insured in writing of:

1. An initial offer to compromise or settle a claim made or "suit" brought against any insured under this coverage. The notice will be given not later than the 10th day after the date on which the offer is made.

2. Any settlement of a claim made or "suit" brought against the insured under this coverage. The notice will be given not later than the 30th day after the date of the settlement.

**POLICY NUMBER: 6BFWC0000005250700**

**INTERLINE  
IL 02 75 09 07**

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

**TEXAS CHANGES – CANCELLATION AND  
NONRENEWAL PROVISIONS FOR CASUALTY LINES  
AND COMMERCIAL PACKAGE POLICIES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART  
EMPLOYMENT-RELATED PRACTICES LIABILITY  
FARM COVERAGE PART – FARM LIABILITY COVERAGE FORM  
LIQUOR LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

This endorsement also modifies insurance provided under the following when written as part of a Commercial Package Policy:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL INLAND MARINE COVERAGE PART  
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE PART  
CRIME AND FIDELITY COVERAGE PART  
EMPLOYMENT-RELATED PRACTICES LIABILITY  
EQUIPMENT BREAKDOWN COVERAGE PART  
FARM COVERAGE PART – FARM LIABILITY COVERAGE FORM  
FARM COVERAGE PART – LIVESTOCK COVERAGE FORM  
FARM COVERAGE PART – MOBILE AGRICULTURAL MACHINERY AND EQUIPMENT COVERAGE FORM  
GLASS COVERAGE FORM  
LIQUOR LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

**A. Paragraph 2. of the Cancellation Common Policy Condition is replaced by the following:**

- 2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation, stating the reason for cancellation, at least 10 days before the effective date of cancellation.**

However if this policy covers a condominium association, and the condominium property contains at least one residence or the condominium declarations conform with the Texas Uniform Condominium Act, then the notice of cancellation, as described above, will be provided to the First Named Insured 30 days before the effective date of cancellation. We will also provide 30 days' written notice to each unitowner to whom we issued a certificate or memorandum of insurance, by mailing or delivering the notice to each last mailing address known to us.



The permissible reasons for cancellation are as follows:

- a. If this policy has been in effect for 60 days or less, we may cancel for any reason except, that under the provisions of the Texas Insurance Code, we may not cancel this policy solely because the policyholder is an elected official.
- b. If this policy has been in effect for more than 60 days, or if it is a renewal or continuation of a policy issued by us, we may cancel only for one or more of the following reasons:
  - (1) Fraud in obtaining coverage;
  - (2) Failure to pay premiums when due;
  - (3) An increase in hazard within the control of the insured which would produce an increase in rate;
  - (4) Loss of our reinsurance covering all or part of the risk covered by the policy; or
  - (5) If we have been placed in supervision, conservatorship or receivership and the cancellation is approved or directed by the supervisor, conservator or receiver.

B. The following condition is added and supersedes any provision to the contrary:

**NONRENEWAL**

1. We may elect not to renew this policy except, that under the provisions of the Texas Insurance Code, we may not refuse to renew this policy solely because the policyholder is an elected official.

2. This Paragraph, 2., applies unless the policy qualifies under Paragraph 3. below.

If we elect not to renew this policy, we may do so by mailing or delivering to the first Named Insured, at the last mailing address known to us, written notice of nonrenewal, stating the reason for nonrenewal, at least 60 days before the expiration date. If notice is mailed or delivered less than 60 days before the expiration date, this policy will remain in effect until the 61st day after the date on which the notice is mailed or delivered. Earned premium for any period of coverage that extends beyond the expiration date will be computed pro rata based on the previous year's premium.

3. If this policy covers a condominium association, and the condominium property contains at least one residence or the condominium declarations conform with the Texas Uniform Condominium Act, then we will mail or deliver written notice of nonrenewal, at least 30 days before the expiration or anniversary date of the policy, to:

- a. The first Named Insured; and
- b. Each unitowner to whom we issued a certificate or memorandum of insurance.

We will mail or deliver such notice to each last mailing address known to us.

4. If notice is mailed, proof of mailing will be sufficient proof of notice.
5. The transfer of a policyholder between admitted companies within the same insurance group is not considered a refusal to renew.

POLICY NUMBER: 6BFWC0000005250700

INTERLINE  
IL 09 85 01 08

**THIS ENDORSEMENT IS ATTACHED TO AND MADE PART OF YOUR POLICY IN RESPONSE TO THE DISCLOSURE REQUIREMENTS OF THE TERRORISM RISK INSURANCE ACT. THIS ENDORSEMENT DOES NOT GRANT ANY COVERAGE OR CHANGE THE TERMS AND CONDITIONS OF ANY COVERAGE UNDER THE POLICY.**

**DISCLOSURE PURSUANT TO TERRORISM RISK  
INSURANCE ACT**

**SCHEDULE**

**Terrorism Premium (Certified Acts) \$0**

**This premium is the total Certified Acts premium attributable to the following Coverage Part(s), Coverage Form(s) and/or Policy(s):**

**Additional information, if any, concerning the terrorism premium:**

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

**A. Disclosure Of Premium**

In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under the Terrorism Risk Insurance Act. The portion of your premium attributable to such coverage is shown in the Schedule of this endorsement or in the policy Declarations.

**B. Disclosure Of Federal Participation In Payment Of Terrorism Losses**

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals 85% of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31), the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

**C. Cap On Insurer Participation In Payment Of Terrorism Losses**

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case Insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.



## BLANKET PROTECTOR COMMERCIAL GENERAL LIABILITY COVERAGE PART DECLARATIONS

ISSUED BY: K & K INSURANCE GROUP, INC.

POLICY NUMBER

POLICY PERIOD: From 03/24/12 to 04/24/13 at  
12:01 A.M. Standard Time at your mailing address.

**LIMITS OF INSURANCE**

General Aggregate Limit (Other Than Products-Completed Operations)	\$4,000,000	
Products-Completed Operations Aggregate Limit	\$2,000,000	
Each Occurrence Limit	\$2,000,000	
Personal & Advertising Injury Limit	\$2,000,000	Any One Person or Organization
Medical Expense Limit	\$5,000	Any One Person
Damage To Premises Rented To You Limit	\$300,000	Any One Premises
Additional Coverages		

**RETROACTIVE DATE** (Applies to CG 00 02, Claims Made Coverage, only)

Coverage A of this insurance does not apply to "bodily injury" or "property damage" which occurs before the Retroactive Date, if any, shown below.

Retroactive Date: None  
(Enter Date or "None" if no Retroactive Date applies.)

**Retroactive Date** (Applies to CG 00 34, Claims Made Coverage, Liquor Liability)

Retroactive Date: None  
(Enter Date or "None" if no Retroactive Date applies.)

Location of All Premises You Own, Rent or Occupy:

- 210 West Market Street, San Antonio, TX 78205

Classification	Code No.	Premium Basis	Advance Premium	
			Products/ Completed Operations	All Other

SEE SRPG17486, LIABILITY SCHEDULE & PREMIUM RECAP

Commercial General Liability Advance Premium See SRPG17348

**Forms Applicable to Commercial General Liability Coverage Part:**

SRPG17486(12/02)	CG0001(12/04)	CAS3880(08/97)	CAS4487(06/93)	SRPG157(09/08)
SRPG8015(09/08)	SRPG8017(09/08)	SRPG26055(09/08)	SRPG26117(09/08)	SRPG26131(09/08)
IL1201(11/85)	SRPG26147CG(09/08)	SRPG26387(09/08)	CG0103(06/06)	CG2011(01/96)
CG2026(07/04)	CG2147(07/98)	CG2151(09/89)	CG2167(12/04)	CG2170(01/08)
CG2407(01/96)				

## LIABILITY SCHEDULE AND PREMIUM RECAP

POLICY NUMBER: 6BFWC0000005250700

LOC. NO	* DESCRIPTION SUBLINE - CLASS CODE	**PREMIUM BASE ACT. EXPOSURE	RATES	PREMIUMS
	347 48558 Social Gatherings And Meetings On Premises Not Owned Or Operated By The Insured - Not For Profit			
	347 48557 Social Gatherings And Meetings On Premises Not Owned Or Operated By The Insured - Other Than Not For Profit			
	347 48558 Private Invitation Event 48557 Class 1	U 1-200	\$203.00	As submitted
	347 48558 Private Invitation Event 48557 Class 1	U 201-750	\$248.00	As submitted
	347 48558 Private Invitation Event 48557 Class 1	U 751-1500	\$345.00	As submitted
	347 48558 Private Invitation Event 48557 Class 1	U 1501-3000	\$622.00	As submitted
	347 48558 Open To Public Event 48557 Class 2	U 1-200	\$248.00	As submitted
	347 48558 Open To Public Event 48557 Class 2	U 201-750	\$283.00	As submitted
	347 48558 Open To Public Event 48557 Class 2	U 751-1500	\$459.00	As submitted
	347 48558 Open To Public Event 48557 Class 2	U 1501-3000	\$800.00	As submitted
TOTAL PREMIUMS				As submitted

**\*SUBLINE KEY**

- 332 - Liquor Liability
- 334 - Premises/Operations
- 335 - Owners/Contractors Protective or  
Principals Protective
- 336 - Products/Completed Operations
- 350 - Pollution Liability
- 345 - Other Composite Rated/Premises/Operations ONLY
- 346 - Other Composite Rated/Product/Completed  
Operations ONLY
- 347 - Other Composite Rated - BOTH Premises/Operations  
AND Product/Completed Operations or type in subline

**\*\*PREMIUM/EXPOSURE BASE KEY**

- A - Area (per 1,000 square feet)
- C - Total Cost (per \$1,000)
- E - Admissions (per head)
- M - Admissions (per 1,000)
- P - Payroll (per \$1,000)
- R - Receipts (per \$100)
- S - Gross Sales (per \$1,000)
- U - Units (per unit) or type in base



POLICY NUMBER: 6BFWC0000005250700

COMMERCIAL GENERAL LIABILITY  
CG 00 01 12 04

## 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 attorney 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 attorney 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 only if you are in the business of manufacturing, distributing, 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:

- (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.

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 in the state 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 7 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.

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.

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 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 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.

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.

**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:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within one year of the date of the accident; and
- (3) 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 costs taxed against the insured in the "suit".
- 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:

- a. We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- b. 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 Paragraphs (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 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 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 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 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 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 c. below.

##### b. Excess Insurance

This insurance is excess over:

- (1) Any of the 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; or
  - (d) 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.
- (2) 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 by attachment of an endorsement.

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.

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

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

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

##### c. Method Of Sharing

If all 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 in the state 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 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 a. above;
  - (2) The activities of a person whose home is in the territory described in 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 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, by-laws 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:

- a. The repair, replacement, adjustment or removal of "your product" or "your work"; or



- b. 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, roadbeds, 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 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 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 in the state 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: 6BFWC0000005250700

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## ASBESTOS LIABILITY EXCLUSION

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The following exclusion is added:

"This insurance does not apply to bodily injury, property damage, personal injury or advertising injury arising out of asbestos or goods containing asbestos or real property containing asbestos. This exclusion applies whether the bodily injury, property damage, personal injury or advertising injury is caused solely by asbestos or goods containing asbestos or real property containing asbestos, or is caused by other means in conjunction or separately with asbestos or goods containing asbestos or real property containing asbestos."

**POLICY NUMBER: 6BFWC0000005250700**

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

## **LEAD EXCLUSION ENDORSEMENT**

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This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL AUTO COVERAGE PART  
BUSINESSOWNERS POLICY  
CONTRACTORS POLICY  
FARM COVERAGE PART  
SCHOOL DISTRICT LIABILITY POLICY  
COMMERCIAL UMBRELLA LIABILITY POLICY  
BUSINESS PROVIDER POLICY  
PROFESSIONAL LIABILITY POLICY  
NATIONWIDE RURAL ELECTRIC COMMERCIAL ACCOUNT POLICY

This insurance does not apply to:

1. "Bodily Injury," "property damage," "personal injury," "advertising injury" or medical payments arising out of or relating to the exposure to lead or any claims from lead; including but not limited to the ingestion, inhalation or absorption of lead in any form.
2. Any loss, cost or expense rising out of any 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
3. Any loss, cost or expenses arising out of any 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.

For purposes of this endorsement, lead means lead and lead compounds in any form.

**POLICY NUMBER: 6BFWC0000005250700**

**COMMERCIAL GENERAL LIABILITY**

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

**ADDITIONAL INSURED  
OWNERS, MANAGERS AND/OR LESSORS OF PREMISES,  
SPONSORS OR CO-PROMOTERS**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

Is amended to include as an additional Insured any person or organization of the types designated below, but only with respect to liability caused in whole or in part by your operations:

1. Owners, managers and/or lessors of the premises leased, rented, or loaned to you, subject to the following additional exclusions:
  - A. This insurance applies only to an occurrence which takes place while you are a tenant in the premises;
  - B. This insurance does not apply to Bodily Injury or Property Damage resulting from structural alterations, new construction or demolition operations performed by or on behalf of the owner, manager and/or lessor of the premises;
  - C. This insurance does not apply to any design defect or structural maintenance of the premises by or on behalf of the owner, manager and/or lessor.
2. Sponsors.
3. Co-Promoters.

With respect to any additional insured included under this policy, this insurance does not apply to the sole negligence of such additional insured. Further, we will have no duty to defend such additional insured against any suit to which this insurance does not apply.



**POLICY NUMBER: 6BFWC0000005250700**

**COMMERCIAL GENERAL LIABILITY**

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

**ABUSE, MOLESTATION, HARASSMENT OR SEXUAL  
CONDUCT EXCLUSION**

This insurance does not apply to:

- (a) the actual, threatened or alleged abuse, molestation, harassment or sexual conduct by anyone of any person in your care, custody and control; or
- (b) the negligent:
  - (i) employment,
  - (ii) investigation;
  - (iii) supervision, hiring or training;
  - (iv) reporting to the proper authorities, or failure to so report;
  - (v) retention; or
  - (vi) referral

of a person for whom any insured is or ever was legally responsible and whose conduct would be excluded by (a) above.

This endorsement does not change any other provision of the policy.

**POLICY NUMBER: 6BFWC0000005250700**

**COMMERCIAL GENERAL LIABILITY**

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

## **EVENT PROVISIONS**

This endorsement modifies insurance provided under the following:

**All Liability Coverages**

('X' applicable box below)

- ☒ This insurance applies only to the event(s) reported to, approved by, and on file with us. Notwithstanding the specific event date(s) reported, approved and on file, activities that are part of the setup and teardown required for the event are considered part of the insured event.
- ☐ This insurance applies to the event(s) that have been reported, approved and are on file with the company and the ongoing business and administrative operations related to the reported and approved event(s) on file. Notwithstanding the specific event date(s) reported, approved and on file, activities that are part of the setup and teardown required for the event are considered part of the insured event.

If any event reported, approved and on file is postponed, we will revise the event date(s) to the date(s) you tell us, provided that you notify us in writing of the postponement on or prior to the originally reported event start date(s).

If any event reported to us is cancelled, we will refund the premium for the cancelled event if you notify us in writing of the cancellation prior to the originally reported start date(s).

**POLICY NUMBER: 6BFWC0000005250700**

**COMMERCIAL GENERAL LIABILITY**

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

## **EXCLUSION - DESIGNATED OPERATIONS**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

### **SCHEDULE**

#### **Description of Designated Operation(s):**

1. E-commerce consulting;
2. Events held at multiple locations;
3. Operations of concessionaires, exhibitors, and/or vendors at your event;
4. Room and board liability;
5. Serving, furnishing or sales of alcoholic beverages by the named insured if they are required to hold a liquor license or permit;
6. Activist rallies, marches or literature distribution;
7. Athletic events and competitions;
8. Cinematography and photography for commercial use;
9. Concerts (rock, rap or hip-hop) – unless prior reported and approved by company;
10. Events with over 3,000 in total attendance;
11. Events held on an airport premises;
12. Guns and/or knife shows;
13. Health fairs or shows;
14. Historical battle reenactments;
15. In or on water activities;
16. Mazes (corn, hay or fence);
17. Motorized vehicle, motorcycle or watercraft/powerboat practicing for, qualifying for, or testing for any racing speed, demolition or stunting activity;
18. Overnight retreats;
19. Parades;
20. Petting zoos;
21. Air shows

#### **Specified Location (If Applicable):**

This Insurance does not apply to the operations described in the Schedule of this endorsement, regardless of whether such operations are conducted by you or on your behalf or whether the operations are conducted for yourself or for others.

Unless a "location" is specified in the Schedule, this exclusion applies regardless of where such operations are conducted by you or on your behalf. If a specific "location" is designated in the Schedule of this endorsement, this exclusion applies only to the described operations conducted at that "location".

For the purpose of this endorsement, "location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, water way or right-of-way of a railroad.

**POLICY NUMBER: 6BFWC0000005250700**

**COMMERCIAL GENERAL LIABILITY**

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

**FIREWORKS EXCLUSION**

This endorsement modifies the insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

This insurance does not apply to any loss, claim or "suit" arising out of fireworks.

For purposes of this endorsement, fireworks means any display of explosive or burning devices, material, or pyrotechnics.

**POLICY NUMBER:** 6BFWC0000005250700

**GENERAL LIABILITY**

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

**EXCLUSION -- SPORTS/LEISURE/ENTERTAINMENT**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

This insurance does not apply to:

**Aircraft/Hot Air Balloon**

The ownership, operation, maintenance, use, loading, or unloading of any flying craft or vehicle, including, but not limited to, any aircraft, hot air balloon, glider, parachute, helicopter, missile or spacecraft.

**Airport**

The ownership, operation, maintenance or use of any airfield or airport facility or premises.

**Amusement Devices**

The ownership, operation, maintenance or use of: any mechanical or non-mechanical ride, slide, or water slide, any inflatable recreational device, any bungee operation or equipment, any vertical device or equipment used for climbing- either permanently affixed or temporarily erected, or dunk tank.

Amusement devices do not include any video or computer games.

**Animals**

1. Injury or death to any animal.
2. Injury, death or property damage caused by any animal owned, rented or hired by you.

**Haunted Attractions**

The ownership, operation, maintenance or use of any haunted attractions.

**Performer**

Injury or death to any performer or entertainer during any activity, event or exhibition including but not limited to any stunt, concert, show or theatrical event.

**Rodeo**

Any rodeo activity, including, but not limited to, bronco or bull riding, steer roping, team roping, barrel racing or horseback riding.

**Saddle Animal**

The ownership, operation, maintenance, use, loading or unloading of any saddle animal, including, but not limited to, riding on any saddle animal or riding on any vehicle which is drawn or powered by any animal.

**Snowmobile**

The ownership, operation, maintenance, use, loading or unloading of any snowmobile.



POLICY NUMBER: 6BFWC0000005250700

INTERLINE  
IL 12 01 11 85

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

## POLICY CHANGES

Policy Change  
Number 1

POLICY NUMBER 6BFWC0000005250700	POLICY CHANGES EFFECTIVE 03/24/12	COMPANY Nationwide Mutual Insurance Company
NAMED INSURED Tenant Users, as endorsed, of National Western Art Foundation DBA: Briscoe Western Art Museum		AUTHORIZED REPRESENTATIVE K&K Insurance Group, Inc.
COVERAGE PARTS AFFECTED COMMERCIAL GENERAL LIABILITY COVERAGE		
CHANGES  Form SRPG26131, Exclusion – Sports/Leisure/Entertainment, Amusement Devices, is amended as follows:  <b>Amusement Devices</b> The ownership, operation, maintenance or use of: any mechanical or non-mechanical ride, slide or water slide, any inflatable recreational device, any bungee operation or equipment, any vertical device of equipment used for climbing – either permanently affixed or temporarily erected, or dunk tank.  Amusement Devices do not include any video or computer games or structures that are not designed to bounce on, slide on, ride on or tunnel through.		

\_\_\_\_\_  
Authorized Representative Signature

**POLICY NUMBER: 6BFWC0000005250700**

**COMMERCIAL GENERAL LIABILITY**

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

**AMENDMENT OF LIMITS**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

The Limits of Insurance shown in the Declarations Page, or wherever they may appear, apply separately to each enrolled member.

The Limits of Insurance do not apply separately to the following:

The individual persons, subsidiaries, affiliates or other entities that are a part of the enrolled member.

If more than one policy or certificate, issued to the same enrolled member, could apply to the same occurrence the most we will pay for that occurrence is the highest limit of liability and aggregate limit of liability on any one policy or certificate issued to that enrolled member.

POLICY NUMBER: 6BFWC0000005250700

COMMERCIAL GENERAL LIABILITY

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

**COMMERCIAL GENERAL LIABILITY BROADENED COVERAGE**

This endorsement modifies coverage provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

- A. The following replaces **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, a.:**
- a. "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.
- B. The following replaces **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, g. (2):**
- (2) A watercraft you do not own that is:
- (a) Less than 51 feet long; and
- (b) Not being used to carry persons or property for a charge;
- C. The following replaces **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B, 1. b. and d.:**
- b. Up to \$1,000 for the 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.
- 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 \$500 a day because of time off from work.
- D. The following are added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**
- 11. Waiver of Right of Recovery**
- We waive rights of recovery when you have agreed to waive your rights of recovery by a written contract. However, this provision only applies if the written contract was executed prior to the date of the "occurrence."
- E. The following replaces **SECTION V – DEFINITIONS, 3.**
3. "Bodily injury" means bodily injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright, humiliation, emotional distress or death resulting from bodily injury, sickness or disease.

**POLICY NUMBER: 6BFWC0000005250700**

**COMMERCIAL GENERAL LIABILITY  
CG 01 03 06 06**

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

**TEXAS CHANGES**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

- A.** With regard to liability for Bodily Injury, Property Damage and Personal And Advertising Injury, unless we are prejudiced by the insured's or your failure to comply with the requirement, no provision of this Coverage Part requiring you or any insured to give notice of "occurrence", claim or "suit", or forward demands, notices, summonses or legal papers in connection with a claim or "suit" will bar coverage under this Coverage Part.

POLICY NUMBER: 6BFWC0000005250700

COMMERCIAL GENERAL LIABILITY  
CG 20 11 01 96

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

**ADDITIONAL INSURED – MANAGERS OR LESSORS OF  
PREMISES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

**1. Designation of Premises (Part Leased to You):**

[REDACTED]  
[REDACTED]  
[REDACTED]

**2. Name of Person or Organization (Additional Insured):**

[REDACTED]  
[REDACTED]  
[REDACTED]

**3. Additional Premium: None**

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

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Schedule and subject to the following additional exclusions:

This insurance does not apply to:

1. Any "occurrence" which takes place after you cease to be a tenant in that premises.
2. Structural alterations, new construction or demolition operations performed by or on behalf of the person or organization shown in the Schedule.



**POLICY NUMBER: 6BFWC0000005250700**

**COMMERCIAL GENERAL LIABILITY**  
**CG 20 26 07 04**

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

**ADDITIONAL INSURED – DESIGNATED  
PERSON OR ORGANIZATION**

**This endorsement modifies insurance provided under the following:**

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

## SCHEDULE

<b>Name Of Additional Insured Person(s) Or Organization(s)</b>
As Requested and Endorsed.
<b>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</b>

**Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your

**acts or omissions or the acts or omissions of those acting on your behalf:**

- A. In the performance of your ongoing operations; or**
- B. In connection with your premises owned by or rented to you.**

POLICY NUMBER: 6BFWC0000005250700

COMMERCIAL GENERAL LIABILITY  
CG 21 47 07 98

**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 or discrimination 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 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.

**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 or discrimination 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 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.

POLICY NUMBER: 6BFWC0000005250700

COMMERCIAL GENERAL LIABILITY  
CG 21 51 09 89

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

**AMENDMENT OF LIQUOR LIABILITY EXCLUSION –  
EXCEPTION FOR SCHEDULED ACTIVITIES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Description of Activity(ies):

Hosted event(s) where the Named Insured is not required to obtain a license/permit to serve or furnish alcoholic beverages (with or without a charge). However, coverage does not extend to any insured or additional insured who is in the business of manufacturing, selling or distributing alcoholic beverages.

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

Exclusion c. of COVERAGE A (Section I) is replaced by the following:

c. "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 only if you:

- (1) Manufacture, sell or distribute alcoholic beverages;
- (2) Serve or furnish alcoholic beverages for a charge whether or not such activity:
  - (a) Requires a license;
  - (b) Is for the purpose of financial gain or livelihood; or
- (3) Serve or furnish alcoholic beverages without a charge, if a license is required for such activity.

However, this exclusion does not apply to "bodily injury" or "property damage" arising out of the selling, serving or furnishing of alcoholic beverages at the specific activity(ies) described above.

POLICY NUMBER: 6BFWC0000005250700

COMMERCIAL GENERAL LIABILITY  
CG 21 67 12 04

**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.

POLICY NUMBER: 6BFWC0000005250700

COMMERCIAL GENERAL LIABILITY  
CG 21 70 01 08

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

**CAP ON LOSSES FROM 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

If aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

1. 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
2. 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.



POLICY NUMBER: 6BFWC0000005250700

COMMERCIAL GENERAL LIABILITY  
CG 24 07 01 96

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

**PRODUCTS/COMPLETED OPERATIONS HAZARD  
REDEFINED**

This endorsement modifies insurance provided under the following:

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

**SCHEDULE**

**Description of Premises and Operations:**

Food and beverage distribution

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

With respect to "bodily injury" or "property damage" arising out of "your products" manufactured, sold, handled or distributed:

1. On, from or in connection with the use of any premises described in the Schedule, or
2. In connection with the conduct of any operation described in the Schedule, when conducted by you or on your behalf,

Paragraph a. of the definition of "Products-completed operations hazard" in the DEFINITIONS Section is replaced by the following:

"Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" that arises out of "your products" if the "bodily injury" or "property damage" occurs after you have relinquished possession of those products.

## **AIR MEDICAL COVERAGE AGREEMENT**

This Air Medical Coverage Agreement is made by the following parties: Travis County, a political subdivision of Texas and Texas AirLife, Inc. a Texas corporation, doing business as AirLife.

### *Recitals*

Circuit of the Americas, LLP, (COTA) is developing and will operate an event center that includes a race track in southwest Travis County. COTA intends to host Formula 1 races each year as well as providing the center for other events throughout the year. For events attracting large numbers of spectators or participants, COTA anticipates needing to have air medical coverage available during the events. In particular, for Formula 1 races, COTA must provide both continuous coverage by one appropriately staffed aircraft at the Track and another aircraft on stand-by not more than 10 minutes response time from the Track. COTA has entered into an agreement with Travis County to provide these aircraft through a combination of its own aircraft and those of a subcontractor.

Due to the nature of the event center and the events being produced, unforeseen factors, like inclement weather, may result in the need to delay or extend the period of services originally requested. Therefore, some flexibility is needed in providing these services.

At this time, Travis County's primary mission does not allow *STAR Flight*, its air medical program, to provide more than one aircraft for this type of coverage. Therefore, Travis County is seeking another air medical provider with which to contract to provide the services required under its agreement with COTA. AirLife understands the relationship and contingent nature of the needs of the relationship and is willing to provide the stand-by aircraft and staff as a subcontractor.

### *Agreement*

In consideration of the mutual agreements set out below, the parties agree as follows:

## **ARTICLE I**

### *Definitions*

- 1.0 In this Agreement,
  - 1.1 "Agreement" means this Air Medical Coverage Agreement between Travis County and AirLife.
  - 1.2 "AirLife" means Texas AirLife, Inc., a Texas corporation.
  - 1.3 "CAMTS" means the Commission on Accreditation of Medical Transport Systems.

- 1.4 "Commissioners Court" means the Travis County Commissioners Court.
- 1.5 "COTA" means Circuit of the Americas, LLC; whose primary office is at 301 Congress Ave., Ste. 220; Austin, TX 78701.
- 1.6 "County" means Travis County, a political subdivision of Texas.
- 1.7 "FAA" means the Federal Aviation Administration.
- 1.8 "Patients" means individuals who require first response medical care and may require transport from the Track to an appropriate medical facility.
- 1.9 "Purchasing Agent" means the Travis County Purchasing Agent.
- 1.10 "Stand-by Services" means the services of an appropriately staffed dedicated aircraft to function as the second aircraft that is available when County is requested to provide services for events at the Track under its agreement with COTA and includes the following:
  - 1.10.1 provide one aircraft and one Team based at a location not more than ten minutes (10) minutes response time from the Track for the hours and dates during which COTA has requested Stand-by Services,
  - 1.10.2 move this aircraft to the Track when requested so that there is an aircraft at the Track while the *STAR Flight* aircraft is transporting a Patient and as otherwise needed,
  - 1.10.3 provide medical assistance to Patients while at the Track, and
  - 1.10.4 perform the pre-event preparation activities and post-event activities necessary to this coverage which COTA has acknowledged require one hour before and one hour after the stand-by times requested by COTA,
- 1.11 "Team" means one pilot and two paramedics designated to provide air medical coverage under this Agreement.
- 1.12 "Team Member" means each of the individuals who comprise the Team."
- 1.13 "Track" means the Circuit of the Americas race track located at or near 12700½ Farm and Market Road 812 in Travis County, Texas and operated by COTA.

## **ARTICLE II**

### *County's and AirLife's General Obligations*

- 2.1 **Purpose.** This Agreement is to secure the Stand-by Services at the times and in the manner provided in this Agreement for services to be provided in compliance with the

Air Medical Coverage Agreement between Circuit of the Americas LLP and Travis County.

- 2.2 Compliance with Applicable Laws. County and AirLife shall at all times in the performance of the Stand-by Services comply with all applicable federal, state and local statutes and regulations. AirLife is not required to provide any Stand-by Service that would not comply with applicable Federal Aviation Administration regulations. Nothing in this Agreement requires AirLife to provide Stand-by Services in violation of any Federal Aviation Administration regulation.
- 2.3 No Agency Relationship. AirLife does not have the right or authority to enter into any contract in the name of County or COTA or otherwise bind County or COTA in any way without the express written consent of County or COTA. County does not have the right or authority to enter into any contract in the name of AirLife or COTA or otherwise bind AirLife or COTA in any way without the express written consent of AirLife or COTA.
- 2.4 Non-Discrimination. AirLife shall not discriminate against any applicant for a position as a Team Member on the basis of race, color, religion, sex, age, national origin or disability.
- 2.5 Non-Exclusive Nature of the Agreement. Notwithstanding any provision of this Agreement to the contrary, this Agreement shall be non-exclusive, and County and COTA reserve the right to retain third parties to provide air medical coverage at the Track during this Agreement. If COTA exercises its right to retain third parties to provide air medical coverage, COTA has agreed to provide separate helipads or other appropriate landing areas for each air medical coverage provider.

### ARTICLE III

#### *AirLife's Obligations*

- 3.1 Accreditation At all times during this Agreement, AirLife shall maintain accreditation from CAMTS. AirLife shall provide evidence of accreditation annually upon each renewal and upon request.
- 3.2 Aircraft For Stand-by Services, AirLife shall provide one helicopter, suitable for emergency medical services, with medical stretcher package in place which complies with applicable federal and state statutes and regulations. AirLife shall maintain the helicopter in accordance with the manufacturer's guidelines and applicable rules and regulations established by the FAA. AirLife shall operate the helicopter in accordance with applicable FAA rules and regulations that may be in effect at the time. In addition, AirLife acknowledges that unforeseeable and unlikely circumstances might affect County's ability to provide its Services under its agreement with COTA through **STAR Flight** and, in this event, if requested by County, AirLife will provide both Services and Stand-by Services at the rates provided for Stand-by Services in this Agreement.
- 3.3 Staffing Qualifications At all times on the dates and during the hours when Stand-by Services are requested, AirLife shall provide a Team composed of one pilot and two



paramedics. For Stand-by Services, AirLife shall staff one (1) AirLife helicopter with a pilot in accordance with all applicable FAA regulations. AirLife shall provide two flight paramedics with one acting as a flight safety officer. Flight paramedics and safety officers providing services under this Agreement shall meet the training and competency standards that pertain to their qualifications as paramedics or safety officers set forth by CAMTS. AirLife pilots providing services under this Agreement shall meet the training and competency standards that pertain to pilots set forth by CAMTS and the FAA. AirLife shall require the Team Members that it provides to perform the Stand-By Services in accordance with standards applicable to that Team Member's field of expertise. AirLife shall not allow any employee about whom AirLife has received information of any arrest, indictment or conviction for any offense other than a misdemeanor or motor vehicle license infraction not involving alcohol or a controlled substance to be an AirLife Team Member who provides Stand-by Services.

- 3.4 Removal from Service. AirLife shall only allow any employee to be a Team Member who provides Stand-by Services if AirLife has not received information concerning any material restriction, suspension or revocation placed upon that employee's license related to the services to be provided by that employee as a Team Member. Upon request by County or COTA, AirLife shall remove from providing Stand-by Services any Team Member who (1) is convicted of a felony, (2) has a guardian or trustee of his or her person appointed by a court of competent jurisdiction, (3) becomes disabled so as to be unable to perform the duties required by this Agreement, (4) has any license(s) required to perform the Stand-by Services either suspended, or revoked, (5) fails to comply with any of the material terms and conditions of this Agreement after being given notice of that failure and a reasonable opportunity to comply, or (6) is disruptive or unable to work with others in performing the Stand-by Services. In addition to removing that Team Member, AirLife shall obtain, at its own cost and expense, a substitute for the removed Team Member or otherwise demonstrate its capabilities for continued coverage and Stand-by Services required by this Agreement.
- 3.5 Clinical Protocols and Medical Direction. AirLife understands and acknowledges that AirLife must provide the clinical protocols and medical direction for the paramedics that staff its aircraft and provide first response medical services under this Agreement. AirLife further understands and acknowledges that COTA intends to employ physicians to be at the Track and these physicians may be transported with Patients.
- 3.6 Stand-by Services. During this Agreement, AirLife shall provide Stand-by Services at all times that are requested by County not less than two (2) months prior to the dates Stand-by Services are to be provided.
- 3.7 Contingent Stand-by Services Timing. During this Agreement, AirLife shall provide Stand-by Services at times that are contiguous to times that were requested by County not less than two (2) months before the dates on which Stand-by Services were to be provided if County is requested to provide Stand-by Services during the additional times by COTA and these services are required as a result of factors beyond the control of COTA.



- 3.8 Designation and Duties of Head Team Member. Subject to the approval of County and COTA, AirLife agrees to designate a Team Member as Head Team Member to be responsible for management of patient care services provided by the Team while based at the Track. AirLife shall provide County with the names of the Team Members AirLife intends to schedule for the minimum days needed thirty (30) days before each such event so that County can provide COTA with these names four (4) weeks before each event pursuant to its Agreement with COTA. AirLife shall will provide County with the names of the Team Members AirLife intends to schedule for the contingent days within twenty-two (22) hours after being notified of the contingent need so that County can provide COTA with these names within twenty-four (24) hours after being notified.
- 3.9 Insurance. AirLife shall have the required standard insurance at least meeting the General Requirements in 3.9.1 and sufficient to cover the needs of AirLife, pursuant to applicable generally accepted business standards related to risks associated with AirLife's operations at the Track. Depending on activities in which AirLife engages supplemental insurance requirements or alternate insurance options may apply in addition to the following:
- 3.9.1 General Requirements Applicable to All AirLife's Insurance. AirLife acknowledges and agrees to the following concerning insurance requirements which are applicable to AirLife while providing Stand-by Services under this Agreement:
- 3.9.1.1 AirLife shall maintain the minimum types and limits of insurance indicated in 3.9.2 throughout the duration of the Agreement. This insurance must be considered primary for all covered risks.
- 3.9.1.2 AirLife shall obtain insurance written by companies licensed in the State of Texas with an A.M. Best rating of B+ VIII or higher. If use of surplus carriers is desired, these carriers are subject to County approval.
- 3.9.1.3 Prior to AirLife commencing Stand-by Services, AirLife shall have the required insurance in force as evidenced by a Certificate of Insurance written on the state approved form and signed by the writing agent or carrier.
- 3.9.1.4 AirLife shall not allow any insurance to be cancelled or lapse and shall not permit its minimum limits of coverage to erode or otherwise be reduced during any term of this Agreement. AirLife shall be responsible for all premiums, deductibles and self-insured retention.
- 3.9.1.5 AirLife shall submit the Certificate of Insurance to the Travis County Purchasing Agent within ten (10) working days after (i) execution of this Agreement by both parties or by (ii) the effective

date of this Agreement, whichever comes first. The Certificates of Insurance for AirLife must include the following:

- 3.9.1.5.1 the Travis County contract number
- 3.9.1.5.2 all deductibles and self-insured retention
- 3.9.1.5.3 an endorsement which names Travis County as Additional Insured where its interest may appear
- 3.9.1.5.4 an endorsement which makes the insurance primary for all claims
- 3.9.1.5.6 a Waiver of Subrogation (Form 420304) endorsement
- 3.9.1.5.7 a Thirty (30) day Notice of Cancellation (Form 420601) endorsement

3.9.1.6 Upon its request and without expense, County is entitled to receive certified copies of policies and endorsements.

3.9.1.7 AirLife acknowledges that County has the right to review insurance requirements during any term of the Agreement and to require that AirLife make reasonable adjustments when the scope of its activities has changed or expanded.

3.9.1.8 Insurance coverage specified in this Agreement is not intended and will not be interpreted to limit the responsibility or liability of the AirLife.

3.9.2 Specific Requirements. The following requirements apply to the activities of AirLife under this Agreement. AirLife shall comply with the following aviation and non-aviation insurance requirements:

3.9.2.1 Workers' Compensation and Employers' Liability Insurance

3.9.2.1.1 Coverage shall be consistent with statutory benefits outlined in the Texas Workers' Compensation Act

3.9.2.1.2 Employers' Liability limits are:  
\$250,000 bodily injury each accident  
\$250,000 bodily injury by disease

3.9.2.1.3 These policies shall be subject to the laws of the State of Texas and include the following endorsements in favor of Travis County:  
Waiver of Subrogation (Form 420304)  
Thirty (30) day Notice of Cancellation (Form 420601)

3.9.2.2 Commercial General Liability Insurance with air ambulance professional healthcare liability clause for non-aviation related coverage:

3.9.2.2.1 Minimum limits for Coverage per occurrence:

Bodily Injury and Property Damage:	\$1,000,000
Damage to Rented Premises:	\$1,000,000
Medical expense (any one person)	\$5,000
Personal Injury or Advertisement	\$1,000,000

3.9.2.2.2 Policy aggregates:

General aggregate	\$3,000,000
Products Completed Operations aggregate	\$3,000,000

3.9.2.2.3 These policies shall be subject to the laws of the State of Texas and include the following endorsements in favor of Travis County:

Waiver of Subrogation (Form 420304)

Thirty (30) day Notice of Cancellation (Form 420601)

3.9.2.3 Automobile Liability Insurance Policy, any owned automobile:

3.9.2.3.1 Combined single limit each accident: \$1,000,000

3.9.2.3.2 These policies shall apply to State of Texas and include the following endorsements in favor of Travis County:

Waiver of Subrogation (Form 420304)

Thirty (30) day Notice of Cancellation (Form 420601)

3.9.2.4 Aircraft Physical Damage and Liability Insurance as required by FAA regulations:

3.9.2.4.1 Minimum limits for Coverage per occurrence:

Physical Damage:	per monthly report
Aircraft Liability	\$50,000,000
Medical payments per person	\$50,000
Personal Injury or Advertisement	\$1,000,000

3.9.2.4.2 Policy aggregates:

General aggregate	\$3,000,000
Products Completed Operations aggregate	\$3,000,000

3.9.2.4.3 These policies shall be subject to the laws of the State of Texas and include the following endorsements in favor of Travis County:

Waiver of Subrogation (Form 420304)

Thirty (30) day Notice of Cancellation (Form 420601)

3.9.2.5 Professional Liability Insurance:

3.9.2.5.1 Minimum limits for Coverage per paramedic:

Professional Liability: \$1,000,000

3.9.2.5.2 Policy aggregates:

General aggregate \$1,000,000

3.9.2.5.3 These policies shall be subject to the laws of the State of Texas and include the following endorsements in favor of Travis County:

Waiver of Subrogation (Form 420304)

- 3.10 Accidents and Injuries to Team Members. AirLife will be responsible for any Track-related accidents or injuries suffered by AirLife Team Members as a result of its negligence or willful misconduct. COTA shall be responsible for these damages suffered at the Track if they are caused by COTA's negligence or willful misconduct. AirLife will be responsible for any accidents or injuries suffered by AirLife Team Members as a result of its negligence or willful misconduct or that of its Team Members while en route to or from Travis County and while in Travis County to provide Stand-by Services.
- 3.11 HIPAA Business Associate Agreement. AirLife shall execute and deliver the HIPAA AirLife Business Associate Agreement in the form attached hereto as Exhibit B to County simultaneously with this Agreement.
- 3.12 Return of County Equipment and Access Keys. At the end of each event for which Stand-by Services are requested and before leaving County property, AirLife shall return, and require that its Team Members return, all keys, access cards and other means of access to county property that is provided to AirLife or its Team Members pursuant to section 4.3 of this Agreement. AirLife shall not permit its Team Members to take or retain any County property or any property of County employees from the hanger or the crew quarters or the hanger. At the end of each event for which Stand-by Services are requested and before leaving County property, AirLife shall return, and require that its Team Members return, all emergency communications equipment provided by County pursuant to section 4.4.

**ARTICLE IV**

*County's Obligations*

- 4.1 Notification of Scheduling. County will notify AirLife of a request for Stand-by Services within two weeks after receipt of notice of the request from COTA. The notification shall be in writing and shall include the dates for which the aircraft and Team Members



are required for events, noting the minimum number of days for which Stand-by Services are needed and estimating the additional number of days which might be needed on a contingent basis. Not less than twenty (20) days before a scheduled event, County shall notify AirLife of the dates and times Stand-by Services are to be provided by AirLife for the minimum number of days and for the times Stand-by Services might be needed for any contingent days. Not less than twenty (20) hours before additional contingent times are needed, COTA shall notify County of the dates and times the Stand-by Services are to be provided by AirLife for any contingent days.

- 4.2 Training for Team Members. County, through COTA, at COTA's expense, shall provide training for AirLife employees who might be Team Members. This training shall include at least the following types of information: familiarization with the Track facilities and procedures, the Track incident command structure, safety procedures at the Track applicable to Stand-by Services, the applicable division of medical roles and responsibilities, and any other Track related information needed by AirLife Team Members to perform Stand-by Services.
- 4.3 Base Location for AirLife Aircraft. County shall provide AirLife with a secure location with a helipad to land and keep its aircraft while providing Stand-by Services and for up to twenty four (24) hours before the date and time for the first day on which the Stand-by Services have been requested for an event and for up to two hours after the Stand-by Services are completed on the final day on which Stand-by Services have been requested. County shall also provide AirLife with access to its crew quarters at the Travis County hanger, including allowing AirLife Team Members to stay overnight in the crew quarters, while the AirLife aircraft is located at the secure location provided by County.
- 4.4 Emergency Communications Equipment. While AirLife is providing Stand-by Services, County shall provide AirLife with appropriate wireless communications equipment, such as portable radios used for emergency communications in Travis County for use by AirLife Team Members.

## ARTICLE V

### *Financial Arrangements*

- 5.1 Stand-by Services Cost. County shall pay AirLife the amount invoiced at the rate of Three Hundred Seventy Five Dollars and No Cents (\$375.00) per hour for Stand-by Services provided by AirLife. The number of hours invoiced include the hours that County requested that the aircraft be available within a ten (10) minute response time plus one (1) hour before the time County requested that the aircraft begin stand-by and one (1) hour after the end of the time that County requested that the aircraft end stand-by or the time that COTA releases the aircraft, whichever is later. County shall pay for the hours that AirLife provides Stand-by Services, including the pre-event and preparation activities and post event activities even if no other Stand-by Services are provided, on the scheduled event days and for each additional day at the hourly fees in section 5.1.
- 5.2 IRS Pre-payment Requirement. AirLife shall provide County with an Internal Revenue Form W-9, Request For Taxpayer Identification Number and Certification, that is



completed in compliance with the Internal Revenue Code, its rules and regulations, before any agreement funds are payable.

- 5.3 Invoicing. AirLife shall invoice County by the 10<sup>th</sup> business day of the month following the month in which Stand-by Services are rendered. AirLife shall submit the invoice to the address to the STAR Flight Program Manager at the address in the address for notice. Invoices shall include:
- 5.3.1 Name, address, and telephone number of AirLife and similar information in the event payment is to be made to a different address;
  - 5.3.2 County Contract or Purchase Order number;
  - 5.3.3 Identification of services by dates and hours of service as outlined in the agreement;
  - 5.3.4 Number of hours, applicable hourly rates, and total amount; and
  - 5.3.5 Any additional payment information which may be called for by the agreement.
- 5.4 Payment. County will pay these invoices by check or warrant within thirty (30) days of receipt of a complete and accurate invoice by Travis County Auditor, or upon satisfactory performance, whichever is later. For any invoice not paid within thirty (30) calendar days of receipt, County shall pay AirLife, in compliance with the Prompt Payment Act, TEX. GOV'T CODE ANN. ch. 2251 and that invoice bears interest in compliance with the Prompt Payment Act.
- 5.5 Offset. Despite anything to the contrary in this agreement, if the AirLife is delinquent in payment of property taxes at the time of providing Stand-by Services, AirLife hereby assigns an amount of the equal to the amount AirLife is delinquent in property tax payments to the Travis County Tax Assessor-Collector for the payment of the delinquent taxes.
- 5.6 Other Expenses. Flight expenses associated with transfer from AirLife's hanger or crew quarters are included in the fee in Section 5.1.
- 5.7 Patient Expenses and Transport. AirLife shall bill medical expenses and transport fees related to Patient transport to an appropriate medical facility to the Patient, and County and COTA shall have no financial responsibility for these expenses and fees. AirLife may bill transport fees at its normal rates. Medical expenses and transport fees are the responsibility of the Patient.

## ARTICLE VI

### *Term and Termination;*

- 6.1 Term. This Agreement shall begin on September 1, 2012 and end on December 31, 2015, unless sooner terminated in accordance with this Agreement.

- 6.2 Renewal. At the end of December, 2015, if COTA and County extend the agreement between them related to the services provided under this Agreement, AirLife and County, upon mutual agreement, may renew this Agreement for one or more successive terms.
- 6.3 Termination without Cause. Notwithstanding anything herein to the contrary, after December 31, 2012, either party may terminate this Agreement at any time, with or without cause, upon providing the other party with at least ninety (90) days written notice of its intent to terminate the Agreement.
- 6.4 Termination for Cause. Either party may terminate this Agreement at any time if the other party engages in an act or omits doing anything that results in a material breach of any material term or condition of this Agreement. In that circumstance, the party electing to terminate this Agreement shall provide the breaching party with written notice specifying the nature of the breach. The breaching party then has ten (10) County working days from the date of the notice of breach to remedy the breach or to present a mutually agreeable plan of correction designed to conform its conduct to this Agreement. If corrective action is not taken within that time, that failure allows the aggrieved party to terminate the Agreement at the conclusion of the ten (10) County working days from the date of the notice of breach.
- 6.5 Immediate Termination by AirLife. Notwithstanding anything herein to the contrary, AirLife may terminate this Agreement immediately upon any of the following events:
- 6.5.1 Upon County's general assignment for the benefit of creditors, County's petition for relief in bankruptcy or under similar laws for the protection of debtors, or upon the initiation of such proceedings against County if the same are not dismissed within forty-five (45) days of service; or
- 6.5.2 Upon COTA's failure to comply with section 8.8.1 in this Agreement.
- 6.6 Immediate Termination by County. Notwithstanding anything herein to the contrary, County may terminate this Agreement immediately upon any of the following events:
- 6.6.1 Upon AirLife's general assignment for the benefit of creditors, AirLife's petition for relief in bankruptcy or under similar laws for the protection of debtors, or upon the initiation of such proceedings against AirLife if the same are not dismissed within forty-five (45) days of service.
- 6.6.2 Upon AirLife's failure to comply with the HIPAA Business Associate Agreement it has executed in compliance with section 3.13.
- 6.6.3 Upon AirLife's failure to maintain continuous insurance coverage required to be maintained by AirLife under section 3.9.
- 6.6.4 Upon COTA ceasing operations of the Track; or

- 6.6.5 Upon COTA's general assignment for the benefit of creditors, COTA's petition for relief in bankruptcy or under similar laws for the protection of debtors, or upon the initiation of such proceedings against COTA if the same are not dismissed within forty-five (45) days of service.
- 6.7 Funding Out. Despite anything else to the contrary in this agreement, if, during the budget planning and adoption process, Commissioners Court fails to provide funding for this agreement for the following fiscal year of County, County may terminate this agreement after giving AirLife at least thirty (30) calendar days written notice that this agreement is terminated due to failure to fund it.
- 6.8 Reporting. AirLife shall notify County within ten (10) working days of being served with a summons or other legal document alleging professional negligence, or other injury arising from the Stand-by Services of AirLife or an AirLife Team Member.
- 6.9 Reporting. County will notify AirLife within ten (10) working days of the date it receives information concerning County's general assignment for the benefit of creditors, County's petition for relief in bankruptcy or under similar laws for the protection of debtors, or upon the initiation of such proceedings against County if these are not dismissed within forty-five (45) days of service.
- 6.10 Effect of Termination. Upon any termination of this Agreement, neither party has further rights against, or obligations to, the other party except (i) with respect to any rights or obligations accruing prior to the date and time of termination, including any payments due to AirLife hereunder, and (ii) any obligations, promises or agreements which expressly extend beyond the termination.
- 6.11 Proprietary Information. AirLife agrees that upon termination of this Agreement, all of COTA's proprietary information in its customers, including but not limited to customer lists, business processes, copyrighted items, software and related processes, diagnostics, methodologies, formulas, works of authorship, submissions, customer information, business plans and all business assets, tangible or intangible items which AirLife or AirLife Team Members become aware of during this Agreement (collectively, "COTA Proprietary Information"), remains the sole and exclusive property of COTA, and AirLife shall not acquire any interest in COTA Proprietary Information or right to use COTA Proprietary Information without the express written consent of COTA.

## **ARTICLE VII**

### *Miscellaneous Provisions*

- 7.1 Notice. Any notice required to be given under this Agreement shall be deemed to be given upon the earlier of (i) actual delivery to the intended party or its agent, or (ii) upon the third business day following deposit in the United States mail, postage prepaid, certified or registered mail, return receipt requested. Any such notice shall be delivered to the respective addresses set out below or to such other address as a party shall specify in the manner required by this Section. The respective addresses are:

If to AirLife                      Texas AirLife, Inc.  
Shawn Salter, President/CEO  
7500 Highway 90 West  
AT&T Bldg, Suite 220  
San Antonio, TX 78227

If to County:                      Cyd Grimes, C.P.M.  
Travis County Purchasing Agent  
P.O. Box 1748  
Austin, Texas 78767-1748

With copies (certified or registered, not required) to:

Travis County  
7800 Old Manor Road  
Austin, Texas 78724  
Attn: Casey Ping  
***STAR Flight*** Program Director

And to:                              David Escamilla  
Travis County Attorney  
P. O. Box 1748  
Austin, Texas 78767  
File: 260.583

- 7.2    Entire Agreement. This Agreement, including Exhibits A, B, and C, contains the entire agreement of the parties and supersedes all prior agreements, contracts and understandings, whether written or otherwise, between the parties relating to the subject matter of it.
- 7.3    Partial Invalidity. If any provision of this Agreement is found to be legally invalid or unenforceable for any reason, the remaining provisions of the Agreement remain in full force and effect provided the fundamental rights and obligations remain reasonably unaffected.
- 7.4    AirLife. AirLife is performing the Stand-by Services and duties under this Agreement as an independent contractor and not as an employee, agent, partner of, or joint venture with County or COTA. AirLife is responsible for determining the manner in which Stand-by Services are provided and insuring that Stand-by Services are rendered in a manner consistent with this Agreement. No Team Member providing Stand-by Services is an employee of County or COTA. County and COTA do not have and nothing in this Agreement may be construed as giving that degree of control or direction on the part of County or COTA that creates an employer-employee relationship between County or COTA and any of the AirLife Team Members. County and COTA shall not control or direct the practice of medicine or transport by AirLife. If an AirLife Team Member is considered to be exercising medical or aviation judgment in the performance of the Stand-by Services, the AirLife Team Member will employ his or her own means and



methods and exercise his or her own independent judgment in such instance; and in that regard will not be subject to the control or direction of County or COTA with respect to the means, methods or judgment so exercised by the AirLife Team Member.

7.5 Corporate Practice of Medicine. Nothing contained herein is intended to constitute the use of a medical license or other health care-related license for the practice of medicine by anyone other than a licensed physician, or other health care provider, such as nurses and paramedics, or aid County or COTA or any other entity to practice medicine when, in fact, such entity is not licensed to practice medicine.

7.6 Mediation. The parties firmly desire to resolve all disputes arising hereunder without resort to litigation to protect their respective business reputations. Accordingly, any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall first be submitted to mediation administered by a mutually acceptable mediator or one appointed by a court of competent jurisdiction in accordance with the Texas Civil Practice and Remedies Code. Conclusions reached during such mediation shall be non-binding on the parties and shall be kept confidential by the parties to the greatest extent possible without contravening the Texas Public Information Act. No disclosure of the mediation proceeding shall be made by the parties except as required by the law or as necessary or appropriate to effectuate the terms thereof. This section shall not prevent either party from electing to terminate this Agreement in accordance with its termination provisions or from pursuing all available legal remedies.

7.7 Third Party Beneficiaries. This Agreement is entered into for the sole benefit of AirLife and County. Nothing contained herein or in the parties' course of dealings may be construed as conferring any third party beneficiary status on any person or entity not a party to this Agreement.

7.8 Confidentiality; Disclosure of Patient Information.

7.8.1 COTA is not permitted to request any exchange of protected health information (PHI), as defined by the Health Information Privacy and Accountability Act (HIPAA). If any PHI is required by COTA, before requesting the PHI, COTA is required by its Agreement with County to execute and deliver the HIPAA Business Associate Agreement in the form attached hereto as Exhibit A to the Travis County Attorney at 314 West 11<sup>th</sup> Street, Austin, Texas during regular County business hours.

7.8.2 AirLife and County acknowledge that in connection with the performance of the Stand-by Services; AirLife, County, COTA, and their respective employees, contractors and agents may acquire and make use of certain trade secrets and confidential information of the other which may include management reports, business or financial information, internal memoranda, reports, customer lists, confidential technology, and other materials, records and/or information of a proprietary nature ("COTA's Confidential Information"). Therefore, to protect such Confidential Information, AirLife agrees that it and its employees, contractors and agents shall not after the Effective Date of this Agreement use or



disclose COTA's Confidential Information except as required in connection with the performance of Stand-by Services. Upon termination of this Agreement, AirLife shall not take or retain, without prior written authorization of COTA, any of COTA's Confidential Information of any kind. Notwithstanding the foregoing, AirLife may use and retain such records as are necessary for purposes of medical malpractice defense or as required by law.

- 7.9 Other Activities. It is agreed and understood by County that this Agreement shall not prohibit AirLife or Team Members from engaging in the private practice of medicine and/or other personal or professional ventures.
- 7.10 Headings. The section and other headings contained in this Agreement are for convenience of reference purposes only and do not affect the meaning or interpretation of this Agreement.
- 7.11 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the state of Texas, without giving effect to its conflict of law provisions. All Stand-by Services are performable in Travis County, Texas. Venue in the case of any disputes shall be in Travis County, Texas.
- 7.12 Computation of Time. When any period of time is stated in this agreement, the time shall be computed to exclude the first day and include the last day of the period. If the last day of any period falls on a Saturday, Sunday, or a day that Travis County has declared a holiday for its employees, these days shall be omitted from the computation. All hours stated in this agreement are stated in Central Standard Time or in Central Daylight Savings Time, as applicable.
- 7.13 Gender and Number. Words of any gender in this agreement shall be construed to include any other gender and words in either number shall be construed to include the other unless the context in the agreement clearly requires otherwise.
- 7.12 Amendment. This Agreement can be amended only by an instrument in writing signed by both parties. Any change to the terms of this Agreement or any attachments to it shall be made in writing and signed by both parties. The Purchasing Agent may at any time, by written document, make changes within the general scope of this Agreement in any one of the following:
- 7.12.1 Description of services;
  - 7.12.2 Place of delivery; or
  - 7.12.3 Any aspect of agreement to correct errors of a general administrative nature or other mistakes, the correction of which does not affect the scope of the Agreement and does not result in expense to AirLife.

If any change under subsection 7.12.3 causes an increase or decrease in the cost, or time required for performance under this Agreement, the Commissioners Court shall make an equitable adjustment in the fees and modify the Agreement. AirLife must submit any "proposal for adjustment" to the Purchasing Agent within thirty (30) calendar days after

the date of receipt of the written order. The Purchasing Agent shall present AirLife's requests to Commissioners Court for consideration.

It is acknowledged by AirLife that no officer, agent, employee or representative of County has any authority to change the scope of this agreement or any attachments or exhibits to it, unless expressly granted that specific authority by the Commissioners Court.

- 7.13 Assignment and Change of Name. Neither party may assign this Agreement without the express written consent of the other party.

If a change of name is required due to any action initiated by AirLife, AirLife shall notify the Purchasing Agent immediately. No change in the obligation of AirLife will be recognized unless such change is approved by Commissioners Court.

## ARTICLE VII

### *County General Terms and Conditions*

8.1 AirLife Certifications.

8.1.1 AirLife certifies that it is a duly qualified, capable, and otherwise bondable business entity that it is not in Receivership and does not contemplate same, and has not filed for bankruptcy and does not contemplate same. AirLife further certifies that it is not currently delinquent with respect to payment of property taxes within County.

8.1.2 AirLife warrants that all applicable copyrights and licenses which may exist, before or after this Agreement, exist on products or materials used in this agreement have been and will be adhered to and further warrants that County is not liable for any infringement or misappropriation of those rights. Any rights granted to County shall apply for the duration of the Agreement. AirLife, at its own expense, shall indemnify, defend and hold harmless County, its officers, agents and employees from and against any and all claims, demands, losses, damages, causes of action and liability of every kind including expenses of litigation, other associated expenses, court costs and attorneys' fees for damages to any person or property arising in connection with any alleged or actual infringement or misappropriation of existing licenses or copyrights applicable to products or materials used in this agreement. However, nothing in this subsection may be construed as a waiver of county's sovereign immunity and County retains all of its affirmative defenses.

- 8.2 Monitoring. County reserves the right to perform periodic on-site monitoring of AirLife's compliance with the terms of this agreement, and of the adequacy and timeliness of AirLife's performance under this agreement. After each monitoring visit, County shall provide AirLife with a written report of the monitor's findings. If the report notes deficiencies in AirLife's performances under the terms of this agreement, it shall include requirements and deadlines for the correction of those deficiencies by AirLife. AirLife

shall take the action(s) specified in the monitoring report prior to the deadlines specified by County.

- 8.3 Disputes and Appeals. The Purchasing Agent acts as the County representative in the issuance and administration of this Agreement. Any document, notice, or correspondence not issued by or to the Purchasing Agent or other authorized County representative is null and void, unless otherwise stated in this agreement. If AirLife does not agree with any document issued by the Purchasing Agent, or other authorized County representative, AirLife must submit a written notice to the Purchasing Agent within ten (10) calendar days after receipt of the document and outline the exact points of disagreement in detail. If the matter is not resolved to AirLife's satisfaction, AirLife may submit a Notice of Appeal to the Commissioners Court, through the Purchasing Agent, within ten (10) calendar days after receipt of the unsatisfactory reply. AirLife then may be heard by Commissioners Court. However, nothing in this section may be construed as a waiver of County's sovereign immunity and County hereby retains all of its affirmative defenses.

8.4 Non-Waiver Of Default.

8.4.1 No payment, act or omission by County may constitute or be construed as a waiver of any breach or default of AirLife which then exists or may subsequently exist.

8.4.2 The rights and remedies of County under this agreement are cumulative. All rights of County under this agreement are specifically reserved and any payment, act or omission shall not impair or prejudice any remedy or right to County under it. The exercise by County, in whole or in part, of any right or remedy under this agreement shall not preclude the exercise of any other right or remedy under this agreement or under any law, nor shall any right or remedy be deemed a waiver of any other rights or remedies.

8.5 Subcontracts:

8.5.1 In 8.5.1, "Historically Underutilized Business" or "HUB" means any entity or association formed for the purpose of making a profit in which one (1) or more persons who are educationally or economically disadvantaged because of their identification as members of one of the following groups: African Americans, Hispanic Americans, Asian Pacific Americans, Native Americans or Women of any ethnicity have the following rights:

8.5.1.1 Own at least fifty-one percent (51%) of all classes of the shares of stock or other equitable securities and have incidents of ownership, including an interest in profit and loss, equivalent to the percentage of capital, equipment or expertise contributed to the business where ownership is measured as though the community property interest of a spouse is the separate property of that spouse, if both spouses certify in writing that the non-participating spouse relinquishes control over his or her spouse, and his or her community property, and not as if it is subject to the community property interest of the other spouse; and



8.5.1.2 Have a proportionate interest and demonstrated active participation in the control, operation and management of the business's affairs; where control means having recognized ultimate control over all day-to-day decisions affecting the business, and is be known to, and at least tacitly acknowledged in day-to-day operations by employees of the business and by those with whom business is conducted, and holding a title commensurate with that control.

8.5.2....AirLife shall not enter into any subcontracts for any service relating to the performance of this agreement without the prior written approval or the prior written waiver of this right of approval from County. It is acknowledged by AirLife that no officer, agent, employee or representative of County has the authority to grant such approval or waiver unless expressly granted that specific authority by the Commissioners Court.

8.5.3 If a subcontract is approved, AirLife must make a "good faith" effort to take all necessary and reasonable steps to insure HUBs maximum opportunity to be subcontractors under this Agreement. AirLife must obtain County approval of all proposed HUB subcontractors through the Purchasing Agent. Failure by AirLife to make a good faith effort to employ HUBs as subcontractors constitutes a breach of this Agreement and may result in termination of this Agreement.

8.6 Force Majeure. If the performance by County of any of its obligations under this agreement is interrupted or delayed by any occurrence not occasioned by its own conduct, whether such occurrence be an act of God or the result of war, riot, civil commotion, sovereign conduct, or the act or conduct of any person or persons not a party to this agreement, then County is excused from performance for the time reasonably necessary to remedy the effects of that occurrence.

8.7 Forfeiture Of Agreement:

8.7.1 In 8.7, "Is doing business" and "has done business" mean:

8.7.1.1 Paying or receiving in any calendar year any money or other valuable thing which is worth more than \$250 in the aggregate in exchange for personal services or for purchase or use of any property interest, either real or personal, either legal or equitable; or

8.7.1.2 Loaning or receiving a loan of money, services, or goods or otherwise creating or having in existence any legal obligation or debt with a value of more than \$250 in the aggregate in a calendar year;

but does not include:

8.7.1.3 Any retail transaction for goods or services sold to a Key Contracting Person at a posted, published, or marked price available to the general public; or

- 8.7.1.4 Any financial services product sold to a Key Contracting Person for personal, family or household purposes in accordance with pricing guidelines applicable to similarly situated individuals with similar risks as determined by Contractor in the ordinary course of its business; or
- 8.7.1.5 A transaction for a financial service or insurance coverage made on behalf of AirLife which is a national or multinational corporation by an agent, employee or other AirLife representative who does not know and is not in a position that he or she should have known about this Agreement.
- 8.7.2 In 8.7, "Key Contracting Person" means any person or business listed in Ethics Affidavit attached as Exhibit C.
- 8.7.3 AirLife shall forfeit all benefits of the agreement and County shall retain all performance by AirLife and recover all consideration or the value of all consideration, paid to AirLife pursuant to this agreement if:
- 8.7.3.1 AirLife was doing business with any Key Contracting Person at the time of submitting its proposal or had done business during the 365-day period immediately prior to the date of which its proposal was due; or
- 8.7.3.2 AirLife does business with a Key Contracting Person at any time after the date on which the proposal that resulted in this agreement and prior to full performance of the agreement.
- 8.8 Conflict Of Interest Questionnaire. If required, AirLife shall file and update the Conflict of Interest Questionnaire in compliance with Chapter 176 of the Local Government Code. AirLife acknowledges that the law requires the County to provide access to this questionnaire on the official Travis County Internet Website.
- 8.9 Certification Of Eligibility: AirLife certifies that at the time of execution of this Agreement, it was not on the federal government's list of suspended, ineligible, or debarred contractors. If AirLife is placed on the list during this Agreement, AirLife shall notify the Purchasing Agent. False certification or failure to notify may result in termination of this agreement for default.
- 8.10 Exemption From County Purchasing Act. Pursuant to the Texas :Local Government Code section 262 et seq., Commissioners Court hereby orders that this Agreement be exempt from the requirements of the County Purchasing Act because it is a contract for the purchase of professional services.



IN WITNESS WHEREOF, County and TEXAS AIRLIFE, INC. have duly executed this Agreement as of the dates set out beneath their respective signatures.

**Travis County ("County")**

By: \_\_\_\_\_  
Samuel T. Biscoe  
County Judge

Date: \_\_\_\_\_

**TEXAS AIRLIFE, INC.**

By: Shawn Salter  
Shawn Salter  
President/CEO

Date: 05/22/12

Approved as to Legal Form By:

\_\_\_\_\_  
Assistant County Attorney

Funds Verified By:

\_\_\_\_\_  
Travis County Auditor

Approved by Purchasing:

\_\_\_\_\_  
Travis County Purchasing Agent

## **Exhibit A**

### **COTA Business Associate Agreement**

This Business Associate Agreement is made by the following parties: Circuit of the Americas, LLC, 301 Congress Ave., Ste. 220, Austin, TX 78701 ("COTA") and Travis County, a political subdivision of Texas ("County") pursuant to an Air Medical Coverage Agreement between them.

- A. **HIPAA Dominance.** The purpose of this agreement is to satisfy the standards and requirements of the Health Insurance Portability and Accountability Act ("HIPAA"), codified at 45 C.F.R. parts 160 and 164 and the federal Health Information Technology for Economic and Clinical Health Act codified at 42 U.S.C. Sections 17921-17953, as may be amended from time to time ("HITECH"). Capitalized terms which are not defined shall have the meaning set forth in HIPAA or HITECH as applicable. In the event of a conflict or inconsistency between the terms of any other agreement between the Parties and this language, this language controls. This language is required by HIPAA and HITECH. The parties acknowledge and agree that, beginning with the effective dates under HIPAA and HITECH, COTA will comply with its obligations under this agreement and with all obligations of a business associate under HIPAA, HITECH and any implementing regulations, as they exist at the time this agreement is executed and as they are amended from time to time, for so long as this agreement is in place. To the extent that COTA receives, processes or creates information which constitutes Protected Health Information ("PHI"), COTA is a "Business Associate" who is directly subject to and must independently comply with the business associate provisions of HIPAA and HITECH notwithstanding the provisions contained in this agreement.
- B. **Protected Health Information.** For purposes of these obligations PHI means all PHI in COTA's possession or under its control (e.g., agents) and all PHI collected, created or received by COTA or its agents on pursuant to this agreement.
- C. **Employees.** COTA agrees to instruct its employees and temporary agency employees regarding the confidentiality, privacy and security of PHI. COTA shall not disclose to its personnel or permit them to access, view, obtain, copy, review or use any PHI that is not necessary to their services to County. COTA agrees to maintain performance standards in accordance with its policies and procedures, including disciplinary actions, with respect to wrongful access to, copying, viewing, misuse or disclosure of PHI.
- D. **Agents and Subcontractors.** COTA shall ensure its permitted agent(s) and subcontractor(s) (if agents or subcontractors are permitted) are advised in writing of COTA's obligations with respect to PHI. COTA shall require that the permitted agent(s) and subcontractor(s) agree in writing to the restrictions and obligations required by HIPAA. COTA also shall require its permitted agent(s) and subcontractor(s) to agree in writing to implement reasonable administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of all County PHI. COTA agrees to make a list of such agents and subcontractors available to County upon request.
- E. **Permissible Uses of PHI.**
1. **Using and Disclosing PHI.** COTA may use or disclose PHI only as permitted by HIPAA including management and administration of COTA, use of PHI as required by law, and use of PHI as necessary to perform services pursuant to this Agreement.
  2. **Handling PHI.** COTA further agrees to return or destroy any PHI that is erroneously shared or delivered to COTA.
  3. **Minimum Necessary.** COTA is permitted to access and use the minimum necessary PHI to the extent required to perform its duties under this Agreement.

4. COTA's Internal Management Uses of PHI. COTA may use PHI for management and administration of COTA.

5. COTA Use for Own Purposes. COTA agrees not to use data that identifies County or PHI for its own purposes or for the benefit of its other customers, without County's prior written consent.

F. Security, Reporting and Recordkeeping.

1. Safeguards. COTA agrees to implement reasonable administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of all PHI. COTA agrees to implement reasonable electronic security practices for County PHI which is transmitted, stored, received, or used in electronic form.

2. Reporting. COTA will promptly report any actual or suspected privacy or security violations made by its employees and/or agents to County's Privacy Official and/or Security Official and will cooperate with County in the investigation of these incidents. Furthermore, COTA will (i) promptly report to County any use or disclosure of PHI not permitted by this HIPAA and/ or HITECH language; (ii) any successful security incident of which COTA becomes aware; and (iii) in summary form, upon request of County, any unsuccessful security incident of which COTA becomes aware. If the definition of "Security Incident" in the HIPAA regulation is modified to remove the requirement for reporting "unsuccessful" security incidents, section (iii) above shall no longer apply as of the effective date of such regulation modification.

3. Recordkeeping. COTA agrees to implement an appropriate record keeping process to enable it to comply with HIPAA.

4. Following the discovery of a breach as defined in HITECH or HIPAA, COTA shall notify, in writing, County's Privacy Official and/or Security Official within twenty-four (24) hours of any suspected or actual Security Incident or breach of security, intrusion or unauthorized use or disclosure of PHI or electronic PHI ("ePHI"). The notice shall include, to the best extent reasonably possible, the identification of each individual who's unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during the breach.

5. Mitigation. COTA agrees to mitigate any harmful effect that is known to COTA, including known to its employees/agents / subcontractors, of a use or disclosure of PHI by COTA in violation of the requirements of this Agreement.

G. Patient Rights With Respect To PHI.

1. COTA is advised that under HIPAA patients have the right to review their PHI; amend their health records; request an accounting of disclosures of PHI and request restrictions on the use and disclosure of PHI.

2. Notice of Patient Contact. COTA shall promptly notify the privacy officer of County if a patient contacts COTA in connection with the patient's PHI.

3. Assistance. To assist County in complying with HIPAA, COTA shall, at any time during this Agreement, make County PHI in its possession or under its control available to County within five (5) business days of a County request.

4. Electronic Health Records Related to Treatment, Payment, or Operations. In the case of a direct request for an accounting from an individual to COTA related to treatment, payment or operations disclosures through electronic health records, COTA shall provide such accounting to the individual in accordance with the applicable effective date of Section 13405(c) of HITECH. COTA shall document such disclosures and provide County notice of the disclosure.

H. Notice of Legal Contact. If permitted by law or court order, COTA shall notify County in writing of a disclosure request prior to disclosing County PHI if such disclosure is required by law or court order.

I. Amendment. Upon enactment of any law, regulation, court decision or relevant government publication and/or interpretive policy affecting the use or disclosure of PHI, the parties will negotiate in good faith to amend this Agreement as necessary to comply with same.

J. Access for Audit. COTA shall make its internal practices, books and records relating to the use and disclosure of any PHI available to authorized government investigators for purposes of determining COTA's and County's compliance with the HIPAA.

K. Termination of Relationship for Failure to Comply.

1. Immediate Termination and Cure. If COTA has violated a material requirement related to HIPAA, County may immediately terminate its relationship with COTA upon written notice to COTA specifying in detail the alleged violation without damages or liability to COTA.

2. PHI Obligations upon Termination or Expiration. COTA shall return (and not retain any copies of) all PHI in its possession or under its control as soon as possible (in no event more than twenty (20) business days) after the termination/expiration of this Agreement. If it is not feasible for COTA to return PHI, then COTA shall notify County of the reasons for being unable to return PHI in writing and must, at a minimum, maintain PHI in confidence as required by this Agreement and HIPAA for so long as the County PHI exists in COTA's possession. COTA shall not transfer possession of County PHI without prior written approval of County. If at any time COTA determines it is unable to protect County PHI, COTA shall destroy all County PHI and all copies and maintain proof of such destruction.

**Travis County ("County")**

By: \_\_\_\_\_  
Samuel T. Biscoe  
County Judge

Date: \_\_\_\_\_

**CIRCUIT OF THE AMERICAS, LLC ("COTA"):**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_



## **Exhibit B**

### **AirLife Business Associate Agreement**

This Business Associate Agreement is made by the following parties: Texas AirLife, Inc., Shawn Salter, President/CEO, 7500 Highway 90 West, AT&T Bldg, Suite 220, San Antonio, TX 78227 ("AirLife") and Travis County, a political subdivision of Texas ("County") pursuant to an Air Medical Coverage Agreement between them.

- A. **HIPAA Dominance.** The purpose of this agreement is to satisfy the standards and requirements of the Health Insurance Portability and Accountability Act ("HIPAA"), codified at 45 C.F.R. parts 160 and 164 and the federal Health Information Technology for Economic and Clinical Health Act codified at 42 U.S.C. Sections 17921-17953, as may be amended from time to time ("HITECH"). Capitalized terms which are not defined shall have the meaning set forth in HIPAA or HITECH as applicable. In the event of a conflict or inconsistency between the terms of any other agreement between the Parties and this language, this language controls. This language is required by HIPAA and HITECH. The parties acknowledge and agree that, beginning with the effective dates under HIPAA and HITECH, AirLife will comply with its obligations under this agreement and with all obligations of a business associate under HIPAA, HITECH and any implementing regulations, as they exist at the time this agreement is executed and as they are amended from time to time, for so long as this agreement is in place. To the extent that AirLife receives, processes or creates information which constitutes Protected Health Information ("PHI"), COTA is a "Business Associate" who is directly subject to and must independently comply with the business associate provisions of HIPAA and HITECH notwithstanding the provisions contained in this agreement.
- B. **Protected Health Information.** For purposes of these obligations PHI means all PHI in AirLife's possession or under its control (e.g., agents) and all PHI collected, created or received by AirLife or its agents on pursuant to this agreement.
- C. **Employees.** AirLife agrees to instruct its employees and temporary agency employees regarding the confidentiality, privacy and security of PHI. AirLife shall not disclose to its personnel or permit them to access, view, obtain, copy, review or use any PHI that is not necessary to their services to County. AirLife agrees to maintain performance standards in accordance with its policies and procedures, including disciplinary actions, with respect to wrongful access to, copying, viewing, misuse or disclosure of PHI.
- D. **Agents and Subcontractors.** AirLife shall ensure its permitted agent(s) and subcontractor(s) (if agents or subcontractors are permitted) are advised in writing of COTA's obligations with respect to PHI. AirLife shall require that the permitted agent(s) and subcontractor(s) agree in writing to the restrictions and obligations required by HIPAA. AirLife also shall require its permitted agent(s) and subcontractor(s) to agree in writing to implement reasonable administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of all County PHI. AirLife agrees to make a list of such agents and subcontractors available to County upon request.
- E. **Permissible Uses of PHI.**
1. **Using and Disclosing PHI.** AirLife may use or disclose PHI only as permitted by HIPAA including management and administration of AirLife, use of PHI as required by law, and use of PHI as necessary to perform services pursuant to this Agreement.
  2. **Handling PHI.** AirLife further agrees to return or destroy any PHI that is erroneously shared or delivered to AirLife.



3. Minimum Necessary. AirLife is permitted to access and use the minimum necessary PHI to the extent required to perform its duties under this Agreement.
4. AirLife's Internal Management Uses of PHI. AirLife may use PHI for management and administration of AirLife.
5. AirLife Use for Own Purposes. AirLife agrees not to use data that identifies County or PHI for its own purposes or for the benefit of its other customers, without County's prior written consent.

F. Security, Reporting and Recordkeeping.

1. Safeguards. AirLife agrees to implement reasonable administrative, physical and technical safeguards to protect the confidentiality, integrity and availability of all PHI. AirLife agrees to implement reasonable electronic security practices for County PHI which is transmitted, stored, received, or used in electronic form.
2. Reporting. AirLife will promptly report any actual or suspected privacy or security violations made by its employees and/or agents to County's Privacy Official and/or Security Official and will cooperate with County in the investigation of these incidents. Furthermore, AirLife will (i) promptly report to County any use or disclosure of PHI not permitted by this HIPAA and/ or HITECH language; (ii) any successful security incident of which AirLife becomes aware; and (iii) in summary form, upon request of County, any unsuccessful security incident of which AirLife becomes aware. If the definition of "Security Incident" in the HIPAA regulation is modified to remove the requirement for reporting "unsuccessful" security incidents, section (iii) above shall no longer apply as of the effective date of such regulation modification.
3. Recordkeeping. AirLife agrees to implement an appropriate record keeping process to enable it to comply with HIPAA.
4. Following the discovery of a breach as defined in HITECH or HIPAA, AirLife shall notify, in writing, County's Privacy Official and/or Security Official within twenty-four (24) hours of any suspected or actual Security Incident or breach of security, intrusion or unauthorized use or disclosure of PHI or electronic PHI ("ePHI"). The notice shall include, to the best extent reasonably possible, the identification of each individual who's unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during the breach.
5. Mitigation. AirLife agrees to mitigate any harmful effect that is known to AirLife, including known to its employees/agents / subcontractors, of a use or disclosure of PHI by AirLife in violation of the requirements of this Agreement.

G. Patient Rights With Respect To PHI.

1. AirLife is advised that under HIPAA patients have the right to review their PHI; amend their health records; request an accounting of disclosures of PHI and request restrictions on the use and disclosure of PHI.
2. Notice of Patient Contact. AirLife shall promptly notify the privacy officer of County if a patient contacts AirLife in connection with the patient's PHI.
3. Assistance. To assist County in complying with HIPAA, AirLife shall, at any time during this Agreement, make County PHI in its possession or under its control available to County within five (5) business days of a County request.
4. Electronic Health Records Related to Treatment, Payment, or Operations. In the case of a direct request for an accounting from an individual to AirLife related to treatment, payment or operations disclosures through electronic health records, AirLife shall provide such accounting to the individual in accordance with the applicable effective date of Section 13405(c) of HITECH. AirLife shall document such disclosures and provide County notice of the disclosure.

H. Notice of Legal Contact. If permitted by law or court order, AirLife shall notify County in writing of a disclosure request prior to disclosing County PHI if such disclosure is required by law or court order.

I. Amendment. Upon enactment of any law, regulation, court decision or relevant government publication and/or interpretive policy affecting the use or disclosure of PHI, the parties will negotiate in good faith to amend this Agreement as necessary to comply with same.

J. Access for Audit. AirLife shall make its internal practices, books and records relating to the use and disclosure of any PHI available to authorized government investigators for purposes of determining COTA's and County's compliance with the HIPAA.

K. Termination of Relationship for Failure to Comply.

1. Immediate Termination and Cure. If AirLife has violated a material requirement related to HIPAA, County may immediately terminate its relationship with AirLife upon written notice to AirLife specifying in detail the alleged violation without damages or liability to AirLife.

2. PHI Obligations upon Termination or Expiration. AirLife shall return (and not retain any copies of) all PHI in its possession or under its control as soon as possible (in no event more than twenty (20) business days) after the termination/expiration of this Agreement. If it is not feasible for AirLife to return PHI, then AirLife shall notify County of the reasons for being unable to return PHI in writing and must, at a minimum, maintain PHI in confidence as required by this Agreement and HIPAA for so long as the County PHI exists in COTA's possession. AirLife shall not transfer possession of County PHI without prior written approval of County. If at any time AirLife determines it is unable to protect County PHI, AirLife shall destroy all County PHI and all copies and maintain proof of such destruction.

**Travis County ("County")**

By: \_\_\_\_\_  
Samuel T. Biscoe  
County Judge

Date: \_\_\_\_\_

**TEXAS AIRLIFE, INC. ("AirLife"):**

By: Shawn Salter  
Shawn Salter  
President/CEO

Date: 05/22/12

**Exhibit C**

**ETHICS AFFIDAVIT**

STATE OF TEXAS §

COUNTY OF TRAVIS §

Date: 05/22/12

Name of Affiant: Shawn Jerry Salter

Title of Affiant: President & C.E.O.

Business Name: Texas AirLife, Inc.

County of AirLife: BEXAR

Affiant on oath swears that the following statements are true:

1. Affiant is authorized by AirLife to make this affidavit for AirLife.
2. Affiant is fully aware of the facts stated in this affidavit.
3. Affiant can read the English language.
4. AirLife has received the list of Key Contracting Persons which is attached to this affidavit as Exhibit 1.
5. Affiant has personally read Exhibit 1 to this Affidavit.
6. Affiant has no knowledge of any Key Contracting Person on Exhibit A with whom AirLife is doing business or has done business during the 365-day period immediately before the date of this affidavit.

Shawn Salter  
Signature of Affiant

Shawn Salter  
Printed name

16419 Drum Oak  
Address of Affiant

San Antonio, TX 78232

SUBSCRIBED AND SWORN TO before me by Mary on 22, 2012

Notary Public, State of Texas

Mary Ellen Roel Mary Ellen Roel  
Typed or printed name of notary



My commission expires: 11/23/15



**EXHIBIT 1**  
**LIST OF KEY CONTRACTING PERSONS**  
**March 27, 2012**

**CURRENT**

Position Held	Name of Individual Holding Office/Position	Name of Business Individual is Associated
County Judge .....	Samuel T. Biscoe	
County Judge (Spouse) .....	Donalyn Thompson-Biscoe	
Executive Assistant .....	Cheryl Brown	
Executive Assistant .....	Melissa Velasquez	
Executive Assistant .....	Josie Z. Zavala	
Executive Assistant .....	Cheryl Aker	
Commissioner, Precinct 1 .....	Ron Davis	
Commissioner, Precinct 1 (Spouse) .....	Annie Davis	Seton Hospital
Executive Assistant .....	Deone Wilhite	
Executive Assistant .....	Felicitas Chavez	
Commissioner, Precinct 2 .....	Sarah Eckhardt	
Commissioner, Precinct 2 (Spouse) .....	Kurt Sauer	Daffer McDaniel, LLP
Executive Assistant .....	Loretta Farb	
Executive Assistant .....	Joe Hon	
Executive Assistant .....	Peter Einhorn	
Commissioner, Precinct 3 .....	Karen Huber	
Commissioner, Precinct 3 (Spouse) .....	Leonard Huber	Retired
Executive Assistant .....	Garry Brown	
Executive Assistant .....	Lori Duarte	
Executive Assistant .....	Jacob Cottingham	
Commissioner, Precinct 4 .....	Margaret Gomez	
Executive Assistant .....	Edith Moreida	
Executive Assistant .....	Norma Guerra	
County Treasurer .....	Dolores Ortega-Carter	
County Auditor .....	Susan Spataro, CPA	
County Executive, Administrative .....	Vacant	
County Executive, Planning & Budget .....	Leslie Browder*	
County Executive, Emergency Services .....	Danny Hobby	
County Executive, Health/Human Services .....	Sherri E. Fleming	
County Executive, TNR .....	Steven M. Manilla, P.E.*	
County Executive, Justice & Public Safety .....	Roger Jefferies	
Director, Facilities Management .....	Roger El Khoury, M.S., P.E.	
Chief Information Officer .....	Joe Harlow	
Director, Records Mgmt & Communications .....	Steven Broberg	
Travis County Attorney .....	David Escamilla	
First Assistant County Attorney .....	Steve Capelle	
Executive Assistant, County Attorney .....	James Collins	
Director, Land Use Division .....	Tom Nuckols	
Attorney, Land Use Division .....	Julie Joe	
Attorney, Land Use Division .....	Christopher Gilmore	
Director, Transactions Division .....	John Hille	
Attorney, Transactions Division .....	Tamara Armstrong	
Attorney, Transactions Division .....	Daniel Bradford	
Attorney, Transactions Division .....	Mary Etta Gerhardt	
Attorney, Transactions Division .....	Barbara Wilson	
Attorney, Transactions Division .....	Jim Connolly	
Attorney, Transactions Division .....	Tenley Aldredge	
Director, Health Services Division .....	Vacant	
Attorney, Health Services Division .....	Prema Gregerson	
Purchasing Agent .....	Cyd Grimes, C.P.M., CPPO	
Assistant Purchasing Agent .....	Marvin Brice, CPPB	
Assistant Purchasing Agent .....	Bonnie Floyd, CPPO, CPPB, CTPM	



Purchasing Agent Assistant IV .....	Vacant
Purchasing Agent Assistant IV .....	Lee Perry
Purchasing Agent Assistant IV .....	Jason Walker
Purchasing Agent Assistant IV .....	Richard Villareal
Purchasing Agent Assistant IV .....	Patrick Strittmatter*
Purchasing Agent Assistant IV .....	Lori Clyde, CPPO, CPPB
Purchasing Agent Assistant IV .....	Scott Wilson, CPPB
Purchasing Agent Assistant IV .....	Jorge Talavera, CPPO, CPPB
Purchasing Agent Assistant IV .....	George R. Monnat, C.P.M., A.P.P.
Purchasing Agent Assistant IV .....	John E. Pena, CTPM
Purchasing Agent Assistant IV .....	Rosalinda Garcia
Purchasing Agent Assistant III.....	Shannon Pleasant, CTPM*
Purchasing Agent Assistant III.....	David Walch
Purchasing Agent Assistant III.....	Michael Long, CPPB
Purchasing Agent Assistant III.....	Vacant
Purchasing Agent Assistant III.....	Loren Breland, CPPB
Purchasing Agent Assistant III.....	Nancy Barchus, CPPB
Purchasing Agent Assistant III.....	Jesse Herrera, CTP, CTPM, CTCM*
Purchasing Agent Assistant III.....	C.W. Bruner, CTP
HUB Coordinator .....	Sylvia Lopez
HUB Specialist .....	Betty Chapa
HUB Specialist .....	Jerome Guerrero
Purchasing Business Analyst .....	Scott Worthington
Purchasing Business Analyst .....	Jennifer Francis
Star Flight Program Director.....	Casey Ping

#### FORMER EMPLOYEES

Position Held	Name of Individual Holding Office/Position	Date of Expiration
Purchasing Agent Assistant IV .....	Oralia Jones, CPPB.....	07/31/12
County Executive, Planning & Budget .....	Rodney Rhoades .....	08/19/12
Purchasing Agent Assistant IV .....	Diana Gonzalez.. .....	12/16/12
Director, Health Services Division . .....	Beth Devery .....	03/09/13
Purchasing Agent Assistant III.....	Elizabeth Corey, C.P.M. ....	03/14/13

\* - Identifies employees who have been in that position less than a year.