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**SUBJECT: Piggyback Sourcewell-RFP#112420 – ARC for Beach and Peach Urban Bike Park**

**BID #: PSC-0377-24** **OPEN DATE: 12/21/2020**

**GENERAL GOVERNMENT AWARDS COMMITTEE**

**KIND AND BASIS OF CONTRACT: PIGGYBACK CONTRACT – TERM OF AGREEMENT SHALL BE FROM DECEMBER 21, 2020 THROUGH DECEMBER 28, 2024 WITH ONE (1) ONE (1) YEAR RENEWAL OPTION.**

**AGENCY: PARKS, RECREATION AND COMMUNITY SERVICES DEPARTMENT**

**BASIS OF AWARD: Piggyback Sourcewell-RFP#112420 – ARC for Beach and Peach Urban Bike Park**

**NUMBER OF BIDS INVITED: ( ) NUMBER RECEIVED: ( ) OTHER ( )**

**SUMMARY OF BIDS AND RECOMMENDED ACTIONS:**
Recommend approval to Piggyback the Sourcewell, Contract 112420-ARC with American Ramp Company, Inc. for the equipment at the project for Beach and Peach Urban Bike Park Project. The period of service will be from the date of executed contract through December 28, 2024 with one (1) one year renewal option. The total award expenditure not-to-exceed $500,000.00.

Funding Source: 32124.167101.565051.002527.00000000.00000.0000000
To be executed by formal contract through the Office of General Counsel and processed by purchase order.

**ATTACHMENTS:** Recommendation Memo; Vendor Quote; Risk Approval; Contract

**ANALYST:** _____ **RESPECTFULLY SUBMITTED** _____
RENATA BARNETT DUSTIN FREEMAN, CHIEF PROCUREMENT DIVISION

**CONCURRENCE BY:** JILL ENZ, CHIEF OF NATURAL AND MARINE RESOURCES

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**(ALL AWARD ACTIONS SUBJECT TO LAWFULLY APPROPRIATED FUNDS)**
ACTION OF GGAC COMMITTEE ON RECOMMENDATIONS ABOVE
MEMBERS APPROVING _____ MEMBERS DISAPPROVING _____ DATE: _____

_____ _____ OTHER: _____

_____ _____

_____ _____

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**ACTION OF AWARDING AUTHORITY** DATE _____

APPROVED _____ DISAPPROVED _____

OTHER _____

SIGNATURE OF AUTHENTICATION _____

A NEW DAY.

# City of Jacksonville, Florida

*Donna Deegan, Mayor*

Parks, Recreation & Community Services Department
214 N. Hogan Street, 4th Floor
Jacksonville, FL 32202
(904) 630-CITY
www.coj.net

March 15, 2024

**MEMORANDUM**

**TO:** Dustin Freeman, Chief
Procurement Division

**FROM:** Jill Enz, Chief of Natural and Marine Resources

**RE:** Piggyback Soucewell-RFP#112420 – ARC for Beach and Peach Urban Bike Park

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The Sourcewell, Contract 112420-ARC list American Ramp Company, Inc as a supplier for equipment, products, and services. The Parks, Recreation and Community Services Department respectfully request approval to piggyback service under the Sourcewell Contract 112420-ARC with American Ramp Company.

The total not to exceed amount is $500,000.00.

Total funding for this project will be encumbered by:

32124.167101.565051.002527.00000000.00000.0000000

The Parks, Recreation and Community Services Department has reviewed for compliance the reference project. We respectfully request to recommend awarding to American Ramp Company, Inc for equipment for the project for Beach and Peach Urban Bike Park Project.

If you have any questions or if further information is required, please contact Sharon Covart 255-8765.

JE/sc

Attachment: Quote
Image Renderings
Job Scope and Funding Source
COI's
Sourcewell Piggyback-RFP#11420

# Parks, Recreation & Community Services
## Job Scope / Specifications

| | | | |
|---|---|---|---|
| | Admin Award Request | | Informal Quote Request ITQ |
| | Agreement Amendment Request | | New Low Bid Request ITB |
| | CIP Construction Services | | Request for Proposal RFP |
| | Contract Purchase Agreement | X | Piggyback Request |
| | Direct Material Purchase | | Single Source |
| | Emergency Request | | Federal Funded [i.e. CDBG] |
| | Close a PO/BO | | Change Order on PO listed |

**POA:**

| | |
|---|---|
| Date: | 10/10/23 |
| Recommended Vendor: | American Ramp Company |
| Address: | 601 S McKinley Ave |
| City/State/Zip: | Joplin, MO 64801 |
| Quote Attached | Yes |

**FY23 SCPQL - Beach & Peach Pump Track**

| POETA | Project# | Task# | Expenditure Type | Expenditure Organization | Contract# | Funding Source | |
|---|---|---|---|---|---|---|---|
| | 002527 | 1 | 565051 | PRSC | 32124-384020 | Parks & Rec Capital Projects - Parks and Recreation | |
| **1Cloud Funding** | **Fund** | **Center** | **Account** | **Project** | **Activity** | **Interfund** | **Future** |
| | 32124 | 167101 | 565051 | 002527 | 00000000 | 00000 | 0000000 |

| Description of Item / Or Invoice # | QTY | UNIT | UNIT $ | AMOUNT |
|---|---|---|---|---|
| Project is located at: **Beach & Peach Urban Park** | | | $ - | $ - |
| **Contractor to provide material / labor / equipment / transportation / taxes to:** construct asphalt pumptrack and bicycle playground | | | | $ - |
| Construct asphalt pump track and bicycle playground | 1 | job | $500,000.00 | $ 500,000.00 |
| | | | | |
| | | | | |

**Note: Please submit any questions regarding the scope of work 2 days prior to the close of bid to allow for response to questions. Contractor will be responsible for all site clean-up and removal of all debris everyday while installation/work is being completed. Contractor will not be allowed to store any materials/supplies or equipment on site during this project completion. Contractor is responsible for all broken walkways, irrigation, water or electrical lines that they may damage during the installation of the project. Any spoil piles shall not be left on site. Project completion shall be verified by the project manager prior to payment. All projects and work shall be compliant with local building codes and with the Americans with Disabilities Act compliance regulations. This project shall be completed within 30 days after receiving the official PO notification from the City of Jacksonville. All projects will be reviewed by COJ Project Manager(s) to ensure adherence to scope. All measurements shall be field verified by the Contractor before bidding on the project.**

| | | | | |
|---|---|---|---|---|
| Contact: **Lauren Chappell** upon receipt of purchase order at lchappell@coj.net or 904-255-7902 | | | | |
| **Total Amount of Order** | | | | **$ 500,000.00** |
| **Ship to: N/A** | | | | |

Requested By: Lauren Chappell

Requested For: Daryl Joseph

Approved: Daryl Joseph, Director, PRCS

Date: 10/3/23

601 McKinley
Joplin, MO 64801
Toll-free 877-RAMP-778
Local 417-206-6816
Fax 417-206-6888
sales@americanrampcompany.com

WWW.AMERICANRAMPCOMPANY.COM

| Quote # | Design # | FOB |
|---|---|---|
| Q28310 | n/a | Jacksonville, FL |

| Items |
|---|
| Mobilization |
| Asphalt Pumptrack Construction |
| Progression Jump Line |
| Jump Line Features |
| |
| Budget- $500,000.00 |

Signature:_____ Date:_____

**Notes:**

- Includes
  - Fabrication and installation of all Bike Park elements
  - All labor, supplies, tools, materials, and equipment required per scope of work
  - Earthmoving techniques
  - Pour and Finish Asphalt
  - Permits and fees

- Excludes
  - Prevailing Wage, Bonding.
  - Site testing and inspections: standard proctor/density testing, onsite concrete cylinders, engineering, surveying, or testing services.
  - Any landscaping outside of the pumptrack footprint.
  - Removal and/or replanting of any trees or shrubs.
  - Any work not specifically indicated above.

Sourcewell
Awarded Contract
Contract # 112420-ARC

**Purchase through our competitively bid government Sourcewell contract.**

**WE LOOK FORWARD TO BUILDING YOU A GREAT SKATE PARK!**

*Rendering is an example of facility type. Final layout and feature inclusions to be determined.*

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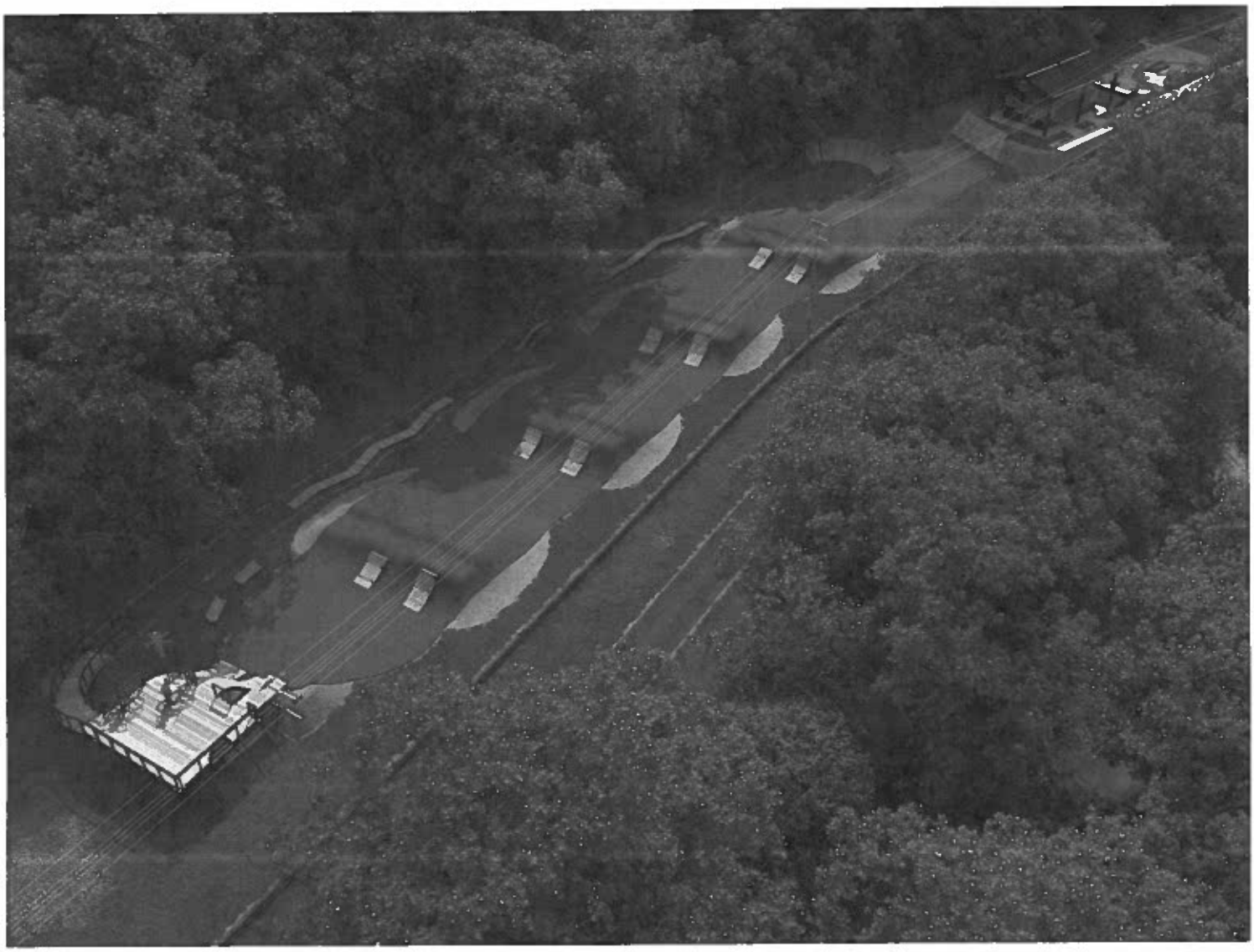
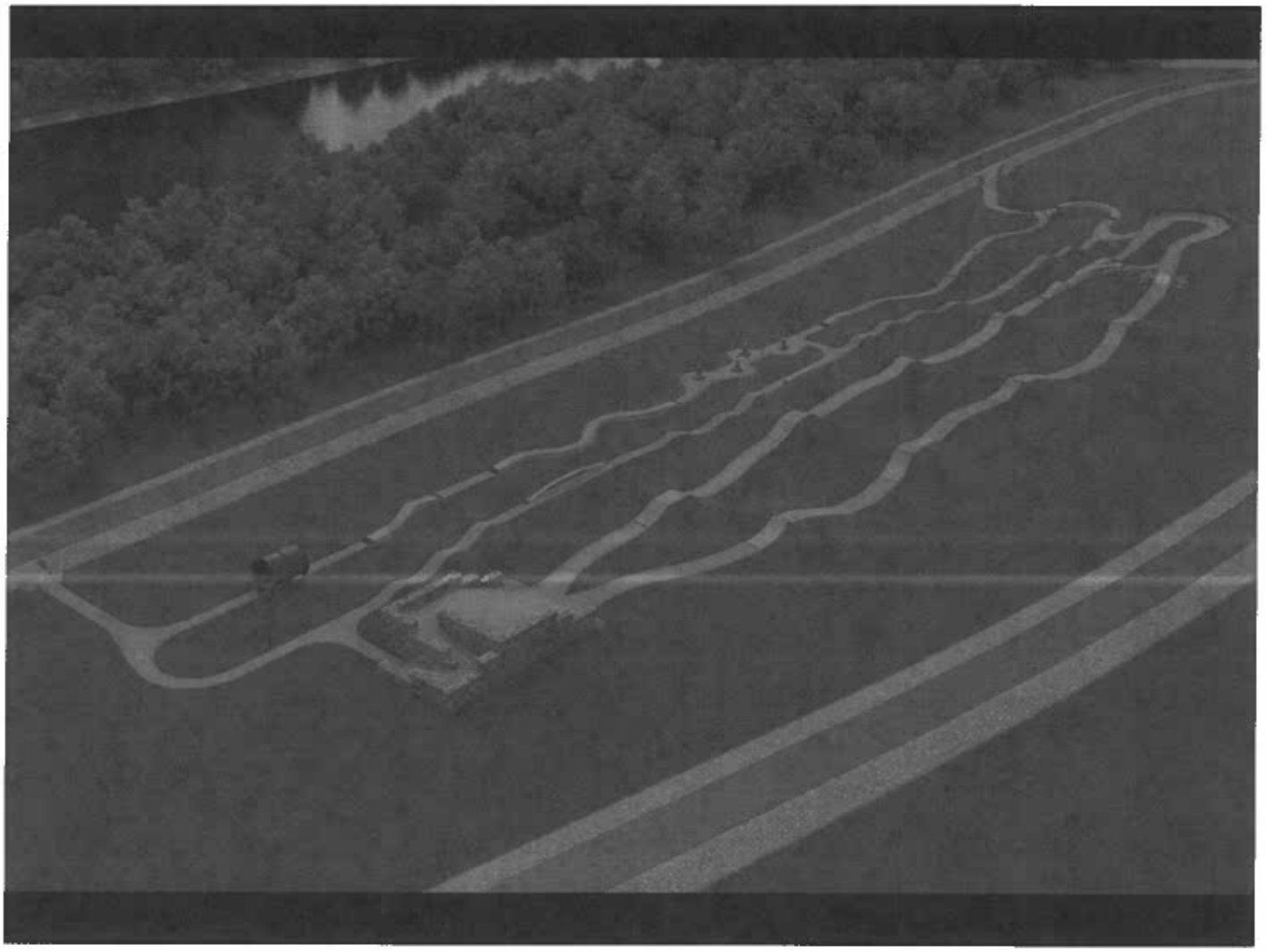


*Rendering is an example of facility type. Final layout and feature inclusions to be determined.*



*Rendering is an example of facility type. Final layout and feature inclusions to be determined.*

APPROVED
By Kevin at 11:23 am, Feb 02, 2024

AMERRAM-04

DONEY

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/7/2023

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

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

PRODUCER
The Insurancenter
2901 Arizona Ave
Joplin, MO 64804

CONTACT NAME: Dawn Oney
PHONE (A/C, No, Ext): (417) 623-7500 FAX (A/C, No):
E-MAIL ADDRESS: doney@theinsurancenter.com

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Gemini Ins Company | 10833 |
| INSURER B : CINCINNATI INSURANCE COMPANY | 10677 |
| INSURER C : Axis Surplus Insurance Company | 26620 |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

INSURED
American Ramp Company
601 McKinley Ave
Joplin, MO 64801

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | X COMMERCIAL GENERAL LIABILITY<br>CLAIMS-MADE X OCCUR | X | X | VMGP005019 | 5/22/2023 | 5/22/2024 | EACH OCCURRENCE $ | 1,000,000 |
| | | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) $ | 100,000 |
| | | | | | | | MED EXP (Any one person) $ | 5,000 |
| | | | | | | | PERSONAL & ADV INJURY $ | 1,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE $ | 2,000,000 |
| | POLICY X PRO-JECT LOC | | | | | | PRODUCTS - COMP/OP AGG $ | 2,000,000 |
| | OTHER | | | | | | $ | |
| B | AUTOMOBILE LIABILITY | | | | | | COMBINED SINGLE LIMIT (Ea accident) $ | 1,000,000 |
| | X ANY AUTO | X | X | EBA0578745 | 5/22/2023 | 5/22/2024 | BODILY INJURY (Per person) $ | |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) $ | |
| | HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) $ | |
| | | | | | | | $ | |
| C | UMBRELLA LIAB X OCCUR | | | | | | EACH OCCURRENCE $ | 4,000,000 |
| | X EXCESS LIAB CLAIMS-MADE | X | X | P00100035789104 | 5/22/2023 | 5/22/2024 | AGGREGATE $ | 4,000,000 |
| | DED X RETENTION $ 0 | | | | | | P/CO Aggregate $ | 4,000,000 |
| | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | | | | PER STATUTE / OTH-ER | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N N / A | | | | | | E.L. EACH ACCIDENT $ | |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE $ | |
| | | | | | | | E.L. DISEASE - POLICY LIMIT $ | |
| A | Professional Liab | | X | VIPL055234 | 1/14/2023 | 1/14/2024 | Each Claim/Aggregate | 3,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: Project described as "Asphalt Pump Track and Bicycle Playground - Beach and Peach Urban Bike Park - Jacksonville, FL - Sourcewell Agreement #11240-ARC"

CG2010 (1219); CG2037 (1219); VE0973 (0420); CG2404 (1219); AA288 (0620); AXIS1010402 (0417); AXIS1010461 (0417); VP0963 (0819);

Professional Liability - Covered Professional Services: Design Services - Retro Date for Professional Liability Limits of $ 2,000,000. Each Claim/Aggregate is 4.15.21

CERTIFICATE HOLDER

City of Jacksonville
214 N. Hogan Street, 4th Floor
Jacksonville, FL 32202

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Dawn Oney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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

Commercial General Liability Coverage Part

| Schedule | |
|---|---|
| **Name Of Additional Insured Person(s) Or Organization(s)** | **Location(s) Of Covered Operations** |
| 1. Any person or organization when you and such person or organization have agreed in writing in a contract, prior to an occurrence that causes "bodily injury", "property damage" or "personal injury and advertising injury", that such person or organization be added as an additional insured on your policy; and<br>2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. Above. | 1. All locations for which you and any person or organization have agreed in writing in a contract, prior to an occurrence that causes "bodily injury", "property damage" or "personal injury and advertising injury", that such person or organization be added as an additional insured on your policy; and<br>2. All locations for which you and any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. Above. |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. | |

**A. Section II – Who Is An Insured** is amended to include as an additional insured 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:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

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

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

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

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

All other terms and conditions of this Policy remain unchanged.


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

# ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

Commercial General Liability Coverage Part

| Schedule | |
|---|---|
| **Name Of Additional Insured Person(s) Or Organization(s)** | **Location And Description Of Completed Operations** |
| 1. Any person or organization when you and such person or organization have agreed in writing in a contract prior to an occurrence that causes "bodily injury", "property damage" or "personal injury and advertising injury", that such person or organization be added as additional insured on your policy; and<br><br>2. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. Above. | 1. All locations for which you and any person or organization have agreed in writing in a contract, prior to an occurrence that causes "bodily injury", "property damage" or "personal injury and advertising injury", that such person or organization be added as an additional insured on your policy; and<br><br>2. All locations for which you and any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph 1. Above. |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. | |

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

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

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

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

**1.** Required by the contract or agreement; or

**2.** Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

All other terms and conditions of this Policy remain unchanged.


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

# PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

Commercial General Liability Coverage Part

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The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

**Primary And Noncontributory Insurance**

This insurance is primary to and will not seek contribution from any other Commercial General Liability insurance available to an additional insured under your policy, but only if:

**(1)** The additional insured is a Named Insured under such other Commercial General Liability insurance; and

**(2)** You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other Commercial General Liability insurance available to the additional insured.

Coverage granted to an additional insured remains subject to all terms, conditions, limitations, and exclusions set forth in the endorsement form that conferred the additional insured status. In the event of conflict between this endorsement and an endorsement conferring additional insured status, then the endorsement conferring additional insured status shall govern the scope of coverage available to the additional insured.

All other terms and conditions of this Policy remain unchanged.


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

# WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

Commercial General Liability Coverage Part

| Schedule |
|---|
| **Name Of Person(s) Or Organization(s):** |
| Any person or organization when you and such person or organization have agreed in writing in a contract, prior to an a occurrence that causes, "bodily injury", property damage" or "personal injury and advertising injury", that you would provide such person or organization a waiver if transfer of right or recovery against other to us on your policy and 2. Any other person or organization you would provide a waiver of transfer of right of recovery against others to us on your policy under the contract or agreement described in Paragraph 1. Above. |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. |

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions:**

We waive any right of recovery against the person(s) or organization(s) shown in the Schedule above because of payments we make under this Coverage Part. Such waiver by us applies only to the extent that the insured has waived its right of recovery against such person(s) or organization(s) prior to loss. This endorsement applies only to the person(s) or organization(s) shown in the Schedule above.

All other terms and conditions of this Policy remain unchanged.

 © Insurance Services Office, Inc., 2018 

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

# CinciPlus®
# BUSINESS AUTO XC+®
# (EXPANDED COVERAGE PLUS)
# ENDORSEMENT

This endorsement modifies insurance provided by the following:

**BUSINESS AUTO COVERAGE FORM**

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

**A. Blanket Waiver of Subrogation**

**SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions, 5. Transfer of Rights of Recovery Against Others to Us** is amended by the addition of the following:

We waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury" or "property damage" arising out of the operation of a covered "auto" when you have assumed liability for such "bodily injury" or "property damage" under an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution or the "insured contract".

**B. Noncontributory Insurance**

**SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance c.** is deleted in its entirety and replaced by the following:

**c.** Regardless of the provisions of Paragraph **a.** above, this Coverage Form's Liability Coverage is primary and we will not seek contribution from any other insurance for any liability assumed under an "insured contract" that requires liability to be assumed on a primary noncontributory basis.

**C. Additional Insured by Contract**

**SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who is an Insured** is amended to include as an insured any person or organization for whom you have agreed in a valid written contract to provide insurance as afforded by this policy.

This provision is limited to the scope of the valid written contract.

This provision does not apply unless the valid written contract has been:

**1.** Executed prior to the accident causing "bodily injury" or "property damage"; and

**2.** Is still in force at the time of the "accident" causing "bodily injury" or "property damage".

**D. Employee Hired Auto**

**1. Changes in Liability Coverage**

The following is added to the **SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who is an Insured**:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

**2. Changes in General Conditions**

**SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance** is deleted in its entirety and replaced by the following:

**b.** For Hired Auto Physical Damage Coverage the following are deemed to be covered "autos" you own:

**(1)** Any covered "auto" you lease, hire, rent or borrow; and

**(2)** Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.


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However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

**E. Audio, Visual and Data Electronic Equipment**

**SECTION III - PHYSICAL DAMAGE COVERAGE, C. Limit of Insurance** is amended by adding the following:

**4.** The most we will pay for all "loss" to audio, visual or data electronic equipment and any accessories used with this equipment as a result of any one "accident" is the lesser of:

**a.** The actual cash value of the damaged or stolen property as of the time of the "accident";

**b.** The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality; or

**c.** $2,500.

Provided the equipment, at the time of the "loss" is:

**a.** Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;

**b.** Removable from a permanently installed housing unit as described in Paragraph **2.a.** above; or

**c.** An integral part of such equipment.

**F. Who is an Insured - Amended**

**SECTION II - LIABILITY COVERAGE, A. Coverage, 1. Who is an Insured** is amended by adding the following:

The following are "insureds":

**1.** Any subsidiary which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this coverage form.

However, the insurance afforded by this provision does not apply to any subsidiary that is an "insured" under any other automobile liability policy or would be an "insured" under such policy but for termination of such policy or the exhaustion of such policy's limits of insurance.

**2.** Any organization that is newly acquired or formed by you and over which you maintain majority ownership. The insurance provided by this provision:

**a.** Is effective on the date of acquisition or formation, and is afforded for 180 days after such date;

**b.** Does not apply to "bodily injury" or "property damage" resulting from an "accident" that occurred before you acquired or formed the organization;

**c.** Does not apply to any newly acquired or formed organization that is a joint venture or partnership; and

**d.** Does not apply to an insured under any other automobile liability policy or would be an insured under such a policy but for the termination of such policy or the exhaustion of such policy's limits of insurance.

**3.** Any of your "employees" while using a covered "auto" in your business or your personal affairs, provided you do not own, hire or borrow that "auto".

**G. Liability Coverage Extensions - Supplementary Payments - Higher Limits**

**SECTION II - LIABILITY COVERAGE, A. Coverage, 2. Coverage Extensions, a. Supplementary Payments** is amended by:

**1.** Replacing the $2,000 Limit of Insurance for bail bonds with $4,000 in **(2)**; and

**2.** Replacing the $250 Limit of Insurance for reasonable expenses with $500 in **(4)**.

**H. Amended Fellow Employee Exclusion**

**SECTION II - LIABILITY COVERAGE, B. Exclusions, 5. Fellow Employee** is modified as follows:

Exclusion **5. Fellow Employee** is deleted.

**I. Hired Auto - Physical Damage**

If hired "autos" are covered "autos" for Liability Coverage, then Comprehensive and Collision Physical Damage Coverages as provided under **SECTION III - PHYSICAL DAMAGE COVERAGE** of this Coverage Part are extended to "autos" you hire, subject to the following:

**1.** The most we will pay for "loss" to any hired "auto" is $50,000 or the actual cash value or cost to repair or replace, whichever is the least, minus a deductible.

**2.** The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage, or $1,000, whichever is less.

**3.** Hired Auto - Physical Damage coverage is excess over any other collectible insurance.


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4. Subject to the above limit, deductible, and excess provisions we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own insured under this policy.

Coverage includes loss of use of that hired auto, provided it results from an "accident" for which you are legally liable and as a result of which a monetary loss is sustained by the leasing or rental concern. The most we will pay for any one "accident" is $3,000.

If a limit for Hired Auto - Physical Damage is shown in the Schedule, then that limit replaces, and is not added to, the $50,000 limit indicated above and the deductibles shown in the Schedule are applicable.

**J. Rental Reimbursement**

**SECTION III - PHYSICAL DAMAGE COVERAGE** is amended by adding the following:

1. We will pay for rental reimbursement expenses incurred by you for the rental of an "auto" because of a "loss" to a covered "auto". Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto". No deductible applies to this coverage.

2. We will pay only for those expenses incurred during the policy period beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, with the lesser of the following number of days:

   a. The number of days reasonably required to repair the covered "auto". If "loss" is caused by theft, this number of days is added to the number of days it takes to locate the covered "auto" and return it to you; or

   b. 30 days.

3. Our payment is limited to the lesser of the following amounts:

   a. Necessary and actual expenses incurred; or

   b. $50 per day.

4. This coverage does not apply while there are spare or reserve "autos" available to you for your operations.

5. We will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided for under **SECTION III - PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions**.

**K. Transportation Expense - Higher Limits**

**SECTION III - PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions** is amended by replacing $20 per day with $50 per day, and $600 maximum with $1,500 maximum in **Extension a. Transportation Expenses**.

**L. Airbag Coverage**

**SECTION III - PHYSICAL DAMAGE COVERAGE, B. Exclusions, 3.a.** is amended by adding the following:

However, the mechanical and electrical breakdown portion of this exclusion does not apply to the accidental discharge of an airbag. This coverage for airbags is excess over any other collectible insurance or warranty.

**M. Loan or Lease Gap Coverage**

1. **SECTION III - PHYSICAL DAMAGE COVERAGE, C. Limit of Insurance** is deleted in its entirety and replaced by the following, but only for private passenger type "autos" with an original loan or lease, and only in the event of a "total loss" to such a private passenger type "auto":

   a. The most we will pay for "loss" in any one "accident" is the greater of:

      (1) The amount due under the terms of the lease or loan to which your covered private passenger type "auto" is subject, but will not include:

         (a) Overdue lease or loan payments;

         (b) Financial penalties imposed under the lease due to high mileage, excessive use or abnormal wear and tear;

         (c) Security deposits not refunded by the lessor;

         (d) Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and

         (e) Carry-over balances from previous loans or leases, or

      (2) Actual cash value of the stolen or damaged property.

   b. An adjustment for depreciation and physical condition will be made in determining actual cash value at the time of "loss".


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2. **SECTION V - DEFINITIONS** is amended by adding the following, but only for the purposes of this **Loan or Lease Gap Coverage**:

   "Total loss" means a "loss" in which the cost of repairs plus the salvage value exceeds the actual cash value.

**N. Glass Repair - Waiver of Deductible**

**SECTION III - PHYSICAL DAMAGE COVERAGE, D. Deductible** is amended by adding the following:

No deductible applies to glass damage if the glass is repaired in a manner acceptable to us rather than replaced.

**O. Duties in the Event of an Accident, Claim, Suit or Loss - Amended**

**SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions, 2. Duties in the Event of Accident, Claim, Suit or Loss, a.** is amended by adding the following:

This condition applies only when the "accident" or "loss" is known to:

1. You, if you are an individual;
2. A partner, if you are a partnership;
3. An executive officer or insurance manager, if you are a corporation; or
4. A member or manager, if you are a limited liability company.

**P. Unintentional Failure to Disclose Hazards**

**SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 2. Concealment, Misrepresentation or Fraud** is amended by adding the following:

However, if you unintentionally fail to disclose any hazards existing on the effective date of this Coverage Form, we will not deny coverage under this Coverage Form because of such failure.

**Q. Mental Anguish Resulting from Bodily Injury**

**SECTION V - DEFINITIONS, C. "Bodily injury"** is deleted in its entirety and replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by a person, including mental anguish and death sustained by the same person that results from such bodily injury, sickness or disease. "Bodily injury" does not include mental anguish or death that does not result from bodily injury, sickness or disease.

**R. Coverage for Certain Operations in Connection with Railroads**

With respect to the use of a covered "auto" in operations for or affecting a railroad:

1. **SECTION V - DEFINITIONS, H.** "Insured contract", **1.c.** is deleted in its entirety and replaced by the following:

   **c.** An easement or license agreement;

2. **SECTION V - DEFINITIONS, H.** "Insured contract", **2.a.** is deleted.


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**Policy Number: VIPL055234**
**Insured Name: Schubemo Holdings, Inc**
**Number 14**

**VP 09 63 08 19**

**Effective Date: 01/14/2023**

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

# WAIVER OF SUBROGATION

This endorsement modifies insurance provided under the following:

Professional Liability Coverage Part

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Section **IX. GENERAL CONDITIONS**, paragraph **G. SUBROGATION** shall not apply to the entities listed below for **Claims** arising out of **Wrongful Acts** of an **Insured.**

Any person or organization you have agreed in a written and executed contract, prior to a **Claim**, that you would provide such person or organization a waiver of transfer of rights of recovery against others to us on your policy.

All other terms and conditions of this Policy remain unchanged.


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| Endorsement Number | Effective Date of Endorsement | Policy Number | Premium |
|---|---|---|---|
| 4 | 12:01 a.m. on 05/22/2023 | P-001-000357891-04 | N/A |

**AMENDATORY ENDORSEMENT – NON-CONTRIBUTORY CLAUSE**

The Other Insurance condition set forth in the CONDITIONS section of the policy shall not apply when a contract, into which you have entered, requires the Commercial General Liability Policy shown in the Schedule of Underlying Insurance to be primary. However, this exception to the Other Insurance Condition applies only as respects liability arising out of your operations, **your work**, or premises owned or rented to you. Additionally, this condition will not apply to insurance specifically written as excess over this policy.

All other provisions of the policy remain unchanged.

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

Except for section and paragraph headings, all words in bold have a special meaning as set forth in the section entitled **DEFINITIONS**. Titles are provided for informational purposes only and do not have special meaning. The word "Insured" means the persons or entities set forth in the section entitled Who is an Insured. The words "we", "us" and "our" refer to the Insurance Company set forth in the Declarations.

In consideration of the payment of premium and in reliance upon all statements made and information furnished to the Insurer in the application, and subject to all of the terms, conditions, and limitations of this policy and any endorsements thereto, the **First Named Insured** and we agree as follows:

## INSURING AGREEMENTS

We will pay that part of **loss**, up to the Limits of Insurance and in excess of the applicable **underlying insurance**, that the Insured becomes legally obligated to pay provided that:

a. such **loss** is also covered under the **underlying insurance** or would have been covered but for the exhaustion of the applicable **underlying limits**;

b. such **underlying limits** have been exhausted by payment, in legal currency by the **underlying insurers**, of amounts covered under such applicable **underlying insurance**;

c. as respects any **underlying insurance** that applies on a claims-made basis, if any Retroactive Date is shown in the Declarations, such Retroactive Date replaces any retroactive date shown in any **underlying insurance;** and

d. settlement of any claim or **suit** for an amount in excess of any **underlying insurance** shall not be binding on us unless we consent in writing.

Except as otherwise set forth in this Policy, this excess insurance follows the terms, conditions, restrictions, exclusions, definitions and endorsements of the **followed policy**. Further, any exclusions or restrictions included within any layer of **underlying insurance** applies to this excess insurance. Under no circumstances will the coverage provided by this insurance be broader than any **underlying insurance.**

## DEFENSE AND SETTLEMENT

1. We have the right and the duty to defend the Insured against covered **suits** when the Limits of Insurance of all applicable **underlying insurance** have been exhausted by payment of **loss** or **claim expenses** (if such **claim expenses** reduce the Limits of Insurance of the **underlying insurance**) to which this insurance applies. We have such duty even if the **suit** is groundless, false or fraudulent.

2. We have the right to investigate any claim or **suit** we defend. We will pay, with respect to any claim we investigate, or any **suit** we defend, reasonable **claim expenses** to the extent such **claim expenses** are not covered by the **underlying insurance**.

3. Except as set forth in paragraph 1, we have no duty to defend any **suit**. Where we have no duty to defend, we will have the right to participate in the defense of any **suit** or in the investigation of any claim seeking **loss** to which this insurance may apply. When we exercise our right to participate in the defense, we will pay our own expenses, but we will not contribute to the expenses of the Insured or any other insurers, including any **underlying insurer**.

4. If a **suit** is covered by this insurance and is brought outside of the United States of America (including its territories and possessions), Puerto Rico or Canada, and we exercise our right to defend such **suit,** but are prevented by law, or otherwise, from defending the Insured, the Insured will initiate a defense of the **suit**. We will reimburse the Insured for reasonable and necessary **claim expenses** incurred for the defense of a **suit** seeking **loss** to which this insurance applies, that we would have paid had we been able to exercise our right and duty to defend.

5. 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 only defend that indemnitee in the same manner and subject to the same conditions as the applicable **underlying insurance**.

6. We will not have any duty to investigate, negotiate, settle or defend any claim or **suit** after the applicable Limits of Insurance of this policy have been exhausted by the payment of covered **loss** or **claim expenses** (if such **claim expenses** reduce the Limits of Insurance pursuant to the terms of this policy), and we will have the right to withdraw from any further defense of any other claims or **suits**.

## EXCLUSIONS

This policy does not apply to any liability, claim, **suit, loss** or any other cost or expense:

**ASBESTOS**

a. directly or indirectly, arising out of the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of asbestos, asbestos dust, asbestos fibers, or any other form of asbestos, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to any injury or damage;

b. 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 asbestos, asbestos dust, asbestos fibers, or any other form of asbestos;

c. arising out of any supervision, instructions, recommendations, warnings, or advice given or which should have been given in connection with a. or b. above; or

d. arising out of any obligation to share **loss** with or repay someone else who must pay **loss** because of asbestos or products or materials containing asbestos, asbestos dust, asbestos fibers, or any other form of asbestos.

**AUTO NO-FAULT AND SIMILAR LAWS**

arising out of any obligation under any **auto** no-fault, uninsured or underinsured motorists or similar laws or statutes.

**CYBER LIABILITY**

arising, directly or indirectly, out of:

a. the loss of, theft of, misappropriation of, misuse of, use of, corruption of, destruction of, alteration of, viral infestation of, penetration of, or damage to:

(1) any **electronic data** or any other similar data, information, application, or software:

(a) within any server, computer hardware, computer system, computer network, computer application, point of sale system, point of sale hardware, cloud configuration; or

(b) on the Internet;

(2) any:

(a) electronic chatroom or electronic bulletin board;

(b) Internet website, Internet application, social media application, or social network;

(c) computer applications software, computer operations software, point of sale software, or any other similar, application or software;

within any server, computer hardware, computer system, computer network, point of sale system, cloud configuration, or on the Internet;

b. any access to or disclosure of **electronic data** containing any person's or organization's confidential or personal information including, but not limited to, debit card information, credit card information, financial information, health information, customer lists, patents, trade secrets, processing methods, or any other form of nonpublic information.

This exclusion does not apply to the extent that **underlying insurance** for physical bodily injury or tangible property damage resulting from the cyber liability exposures described above is applicable, or would have been applicable but for the exhaustion of the limits of insurance. However, this exclusion continues to apply to that injury or damage that is:

i. mental injury, mental anguish, emotional injury, emotional distress, or any other form of mental injury;

ii. loss of use of tangible property that is not physically injured; or

iii. physical injury to property that is not tangible property;

resulting from the cyber liability exposures described in paragraphs a. and b. above.

Coverage provided under the exception to this exclusion will follow the provisions, exclusions, and limitations of the applicable **underlying insurance** unless otherwise directed by more specific provisions, terms or conditions of this insurance. Such applicable **underlying insurance** must be scheduled as underlying under this policy for these exceptions to this exclusion to apply.

**EMPLOYMENT-RELATED PRACTICES**

a. arising out of:

(1) refusal to hire or employ any person;

(2) termination or constructive termination of any person's employment, or the dismissal or discharge of any employee;

(3) failure to advance or promote any employee; or

(4) employment-related practices, policies, or acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at any past, present or future employee or any applicant for employment; or

b. arising out of injury to the spouse, child, parent, brother, sister or any other relation to that person at whom any of the employment-related practices described in Paragraphs a. (1), (2), (3), or (4) above are directed.

This exclusion applies whether the Insured may be liable as an employer or in any other capacity, and to any obligation to share **loss** or repay someone else who must pay **loss** because of any such liability.

**FUNGI OR BACTERIA**

a. arising, directly or indirectly, out of any 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 any injury or damage; or

b. 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.

This exclusion does not apply to any injury or damage as a result of **fungi** or bacteria that are, are on, or are contained in, a good or product intended for consumption.

**LEAD**

a. arising, directly or indirectly, out of the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of lead or products or materials containing lead regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to any injury or damage;

b. 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 lead;

c. arising out of any supervision, instructions, recommendations, warnings, or advice given or which should have been given in connection with paragraphs a. or b. above; or

d. any obligation to share **loss** with or repay someone else who must pay **loss** because of lead or products or materials containing lead.

**NUCLEAR**

a. arising out of:

(1) with respect to which an Insured under this policy is also an Insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, or the Nuclear Insurance Association of Canada, or would be an Insured under such policy but for its termination upon exhaustion of it Limits of Insurance; or

(2) the **hazardous properties** of **nuclear material** 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. resulting from the **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, any Insured, or;

(b) has been discharged or dispersed there from;

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

(3) the injury, sickness, disease, death, destruction or loss arising 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 Subparagraph (3). applies only to injury to or destruction of or loss of property at such **nuclear facility**.

**POLLUTION**

a. arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants**:

(1) 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;

(2) 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;

(3) which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(a) any insured; or

(b) any person or organization for whom any Insured may be legally responsible.

(4) at or from any premises, site or location on which any Insured or any contractors or subcontractors are 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.

(5) at or from any premises, site or location on which any insured or any contractors or subcontractors are 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**.

b. 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 or others for **loss** 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.**

Subparagraph a. (1) of this exclusion does not apply to the extent that **underlying insurance** exists for, or would have existed but for the exhaustion of the **underlying limits** for:

(1) injury if sustained within a building owned, rented or occupied by the insured and caused by smoke, fumes, vapors or soot caused by equipment used to heat the building; or

(2) injury or damage arising out of heat, smoke or fumes from a **hostile fire.**

**SILICA**

a. arising, directly or indirectly, out of the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of silica, silica dust, silica fibers, or any products or materials containing silica regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to any injury or damage;

b. 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 silica, silica fibers, or any products or materials containing silica;

c. arising out of any supervision, instructions, recommendations, warnings, or advice given or which should have been given in connection with paragraphs a. or b. above; or

d. arising out of any obligation to share **loss** with or repay someone else who must pay **loss** because of silica, silica fibers, or any products or materials containing silica.

**TERRORISM**

arising, directly or indirectly, out of **terrorism**, including any action taken in hindering or defending against an actual or expected incident of **terrorism**; regardless of any other cause or event that contributes concurrently or in any sequence to any injury or damage.

**UNMANNED AIRCRAFT**

arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an **unmanned aircraft**. Use includes operation and loading or unloading. This exclusion applies even if the claims or **suits** against any Insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that Insured, if the occurrence, accident, or event which caused the injury or damage involved the ownership, maintenance, use or entrustment to others of any aircraft that is an **unmanned aircraft.**

As used in this exclusion, loading or unloading means the handling of property:

1. after it is moved from the place where it is accepted for movement into or onto an **unmanned aircraft;**

2. while it is in or on an **unmanned aircraft;** or

3. while it is being moved from an **unmanned aircraft** 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 **unmanned aircraft**.

**UNSOLICITED COMMUNICATIONS.**

based upon or arising, directly or indirectly, from unsolicited communications, regardless of the mode or medium of transmission or reception. This exclusion applies to communications which are actually or allegedly made in the violation of the:

a. Telephone Consumer Protection Act (TCPA) including any amendment thereto;

b. the CAN-SPAM Act of 2003, including any amendment thereto; or

c. any other statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, which prohibits or limits the sending, transmitting, communicating or distribution of material or information.

**WAR**

arising, directly or indirectly, out of:

a. war, including undeclared or civil war;

b. warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

c. insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

## WHO IS AN INSURED

Each of the following is an insured under this policy:

1. Any **Named Insured**.

2. any other person or organization qualifying as an insured in the **followed policy**, but not beyond the extent of any limitation imposed under any **Underlying Insurance**.

## 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. If there is a limit stated in the Declarations for the General Aggregate Limit (Other than Products-Completed Operations), that amount is the most that we will pay for all **loss** under this insurance, except for **loss** arising out of the products-completed operations hazard. The General Aggregate Limit also does not apply to any coverage under this policy for automobile liability.

3. If there is a limit stated in the Declarations for the Products-Completed Operations Aggregate Limit, that amount is the most that we will pay under this insurance for injury or damage included in the products-completed operations hazard.

4. If there is a limit stated in the Declarations for the Combined Aggregate Limit, that amount is the most we will pay under this insurance for **all** coverages, except that this Combined Aggregate Limit does not apply to any coverage under this policy for automobile liability.

5. If there is a limit stated in the Declarations for the Total Aggregate Limit, that amount is the most we will pay under this insurance for all coverages.

6. Subject to Paragraphs 2., 3., 4. and 5.above, the Each Occurrence Limit stated in the Declarations is the most we will pay for **loss** arising out of one **event**.

7. If the applicable Limits of Insurance of the **underlying limits** are reduced or exhausted by payments of **loss**, unless otherwise specified by this policy, the Limits of Insurance of this policy will;

   a. in the event of reduction, apply in excess of such reduced limits; and

   b. in the event of exhaustion, continue in force as underlying insurance.

8. If **claim expenses** do not reduce the Limits of Insurance of the **underlying insurance**, then **claim expenses** will not reduce the Limits of Insurance of this policy. If **claim expenses** do reduce the Limits of Insurance of the **underlying insurance**, then **claim expenses** will also reduce the Limits of Insurance of this policy.

9. The Limits of Insurance of this policy 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, unless the policy period is extended after the issuance of this policy for an additional period of less than 12 months. In that case, the additional period will be deemed to be part of the last preceding policy period for the purposes of determining the Limits of Insurance.

## CONDITIONS

### APPEALS

If an **underlying insurer** or the involved Insured elects not to appeal a judgment in excess of the **underlying limits**, we may do so at our own expense. We will be liable for taxable costs, pre- and post-judgment interest and disbursements.

### BANKRUPTCY

a. Bankruptcy of Insured:

Bankruptcy or insolvency of the Insured or of the Insured's estate will not relieve us of our obligations under this policy.

b. Bankruptcy of **Underlying Insurer**:

Bankruptcy or insolvency of any **underlying insurer** will not relieve us of our obligations under this policy. However, this insurance will not replace the **underlying insurance** in the event of bankruptcy or insolvency of any **underlying insurer**. This insurance will apply as if the otherwise applicable Limits of Insurance of such **underlying insurance** were available and in full effect. It shall be the **Named Insured's** sole responsibility to provide other insurance or self-insurance (including the corresponding defense obligations) to replace such **underlying insurance**.

### CANCELLATION

a. The **First Named Insured** shown in the Declarations may cancel this policy by mailing or delivering to us advance notice of cancellation. Such advance notice of cancellation should be mailed or delivered to the address indicated in the Declarations under the item entitled Notices to Insurer.

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

(1) 10 days before the effective date of cancellation, if we cancel for non-payment of premium; or

(2) 60 days before the effective date of cancellation, if we cancel for any other reason.

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

d. Notice of cancellation will state the effective date of cancellation and will be effective for all Insureds. All coverage will end on the effective date of cancellation.

e. If this policy is cancelled, we will send the **First Named Insured** any premium refund due. If we cancel, the premium 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 premium refund.

f. If notice of cancellation is mailed, proof of mailing shall be considered sufficient proof of notice.

### CHANGES

This policy (including the Declarations, Schedules and any endorsements attached hereto) contains all the agreements between the **Named Insured** 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 prior written consent. This policy's terms and conditions can be amended or waived only by endorsement issued by us and made a part of this policy.

**DUTIES IN THE EVENT OF AN EVENT, CLAIM OR SUIT**

a. The **Named Insured** must see to it that we are notified in writing as soon as practicable of any **event** which is reasonably likely to result in a claim or **suit** under this policy.

   To the extent possible, notice should include:

   (1) how, when and where such **event** took place;

   (2) the names and addresses of any injured persons and witnesses; and

   (3) the nature and location of any injury or damage.

b. If a claim is made or **suit** is brought which is reasonably likely to be covered under this policy, the **Named Insured** must:

   (1) immediately record the specifics of the claim or **suit** and the date received; and

   (2) notify us as soon as practicable.

   the **Named Insured** and any other involved Insured must:

   (a) immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or **suit**;

   (b) authorize us to obtain records and other information;

   (c) cooperate with us in the investigation or settlement of the claim or defense against the **suit**; and

   (d) 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.

c. Without limiting the foregoing requirements, the **Named Insured** shall give us written notice of any **event**, claim or **suit**, when a payment is made or a reserve is set that brings the total of all payments made or reserves set to 50% or more of the Limits of Insurance of the **underlying insurance**.

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 prior written consent.

e. The **Named Insured's** failure to provide us with the required notice of an **event** will not invalidate coverage under this insurance if such **event** was inadvertently reported to another insurer. However, the **Named Insured** is required to report any such **event** as soon as reasonably possible once the **Named Insured** becomes aware of such inadvertent reporting.

f. If any **underlying insurance** is a policy issued by us or any affiliate of ours, then notice of any claim or **suit** under such **underlying insurance** in accordance with the provisions thereof will be deemed to be notice to us in compliance and with paragraphs a and b above.

**EXAMINATION OF THE NAMED INSURED'S BOOKS AND RECORDS**

We may examine and audit the **Named Insured's** books and records as they relate to this policy at any time during the policy period and for up to three years afterward.

**INSPECTION AND SURVEYS**

We have the right, but are not obligated, to:

a. make inspections and surveys at any time;

b. give the **Named Insured** reports on the conditions we find; and

c. recommend changes.

Any inspections, surveys, reports or recommendations 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.

We do not warrant that conditions are safe or healthful or comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization that makes insurance inspections, surveys, reports or recommendations on behalf of the **underlying insurers**.

**LEGAL ACTION AGAINST US**

No person or organization has a right under this policy:

a. to join us as a party or otherwise bring us into a **suit** seeking **loss** from an Insured; or

b. to sue us on this policy 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 **loss** that is not payable under the terms of this policy or that is 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.

Any disputes between the **Named Insured** and us as to whether there is coverage under this insurance must be filed in the courts of the United States of America (including its territories and possessions), Canada or Puerto Rico.

**LOSS PAYMENT**

All payments or reimbursements we make for **loss** because of judgments or settlements covered by this insurance will be made in U.S. currency at the prevailing exchange rate at the time the Insured becomes legally obligated to pay such sums. All payments or reimbursements we make for **claim expenses** will be made in U.S. currency at the prevailing exchange rate at the time the **claim expenses** were incurred.

**MAINTENANCE OF FOREIGN GOVERNMENT REQUIRED INSURANCE**

The **Named Insured** must fully maintain any coverage required by any foreign government law, regulation or other governmental authority during the policy period, except for reduction of the aggregate limits due to payment of **loss** or **claim expenses** (if such **claim expenses** reduce the Limits of Insurance pursuant to the terms of this policy).

Failure to maintain such coverage required by law, regulation or other governmental authority will not invalidate this insurance. However, this insurance will apply as if the required coverage by law, regulation or other governmental authority was in full effect.

**MAINTENANCE OF UNDERLYING INSURANCE**

The **underlying insurance** listed in the Schedule of Underlying insurance shall remain in effect throughout the policy period except for the reduction of the aggregate limits due to payment of **loss** or **claim expenses** (if such **claim expenses** reduce the Limits of Insurance of such **underlying insurance**).

Failure to maintain **underlying insurance** will not invalidate this insurance. However, this insurance will apply as if the **underlying insurance** were in full effect.

The **Named Insured** must notify us as soon as practicable when any **underlying insurance** is no longer in effect.

**OTHER INSURANCE**

This insurance is excess over, and shall not contribute with, any other insurance, whether primary, excess, contingent or on any other basis. This condition will not apply to insurance specifically written as excess over this policy.

**PREMIUM COMPUTATION**

If this policy is subject to audit adjustment, as indicated on the Declarations, the rate, rating basis and estimated exposure for the policy period will be stated in the Declarations. We will compute the premium for this policy by applying the rate to each unit of exposure of the rating basis. The estimated exposure is used to determine the minimum premium and the deposit premium set forth on the Declarations. The actual exposure will be used to determine the earned premium.

At the close of each audit period, we will compute the earned premium. If the earned premium is greater than the deposit premium stated on the Declarations, the first **Named Insured** must, upon notice from us, immediately send us the difference. Subject to the earned premium, if the minimum premium is less than the deposit premium, we will return the excess premium to you. However, if the earned premium is less than the minimum premium stated on the Declarations, we will not return any premium.

In the event of mid-term cancellation, we will retain the applicable pro rata or short rate earned premium and will return the difference between the earned premium and the deposit premium.

However, in no event shall we retain less than the minimum earned premium as calculated by the minimum earned premium percentage set forth in the Declarations.

**REPRESENTATIONS OR FRAUD**

By accepting this policy, the **Named Insured** agrees:

a. the statements in the Application are accurate and complete;

b. those statements are based upon representations the **Named Insured** made to us;

c. we have issued this policy in reliance upon the **Named Insured's** representations: and

d. this policy is void in any case of intentional fraud by the **Named Insured** as it relates to this policy or any claim or **suit** under this policy.

**SUBLIMITED UNDERLYING INSURANCE**

Unless a sublimit is specifically included within the Schedule of Underlying Insurance for this Policy, this Policy shall not apply in excess of any coverage that imposes a sublimit of insurance specified in the **underlying insurance**. Any **loss** related to any sublimited coverage excluded by this policy, but provided by any **underlying insurance,** shall not be recognized by this policy as eroding or exhausting the limits of the **underlying insurance**.

**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 policy, 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 to help us enforce them. We will waive these rights to recover only if and to the extent such rights are waived by the insurers of any **underlying insurance**.

**UNIMPAIRED AGGREGATES OF UNDERLYING INSURANCE**

If an aggregate limit of any **underlying insurance** has been reduced below the aggregate amount shown in the Schedule of Underlying Insurance for that **underlying insurance** as a result of an **event** occurring prior to the inception date of this policy or as a result of **events** not covered by this insurance, we will apply all insurance provided by this policy as if the aggregate of the **underlying insurance** had not been reduced below the limit amount shown in the Schedule of Underlying Insurance.

This condition does not apply to any **event** subject to claims-made coverage and occurring after the retroactive date of this policy (if any).

**UNINTENTIONAL FAILURE TO DISCLOSE**

The **Named Insured's** failure to disclose all hazards existing as of the inception date of this policy will not prejudice the **Named Insured** with respect to the coverage afforded by this policy, provided that any such failure or omission is unintentional.

## DEFINITIONS

Whether expressed in the singular or plural, whenever appearing in bold in this policy, the following terms shall have the meanings set forth below.

**Auto** means:

a. a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment, or

b. any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged.

But **auto** does not include mobile equipment.

**Claim expenses** means:

a. expenses we incur in the investigation, adjustment, defense, mediation and settlement of a claim or **suit**;

b. the cost of bonds to release attachments, but only for bond amounts within the applicable Limits of Insurance. We do not have to furnish these bonds;

c. all reasonable expenses incurred by the Insured at our request to assist 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. all court costs taxed against the Insured in the **suit**. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the Insured;

e. prejudgment interest awarded against the Insured on that part of a 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; or

f. all interest on that part of any judgment covered by this policy that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of a judgment that is within the applicable limit of insurance.

**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.

**Event** means any occurrence, offense, accident, wrongful act, act, error or omission or other event to which the **underlying insurance** applies. Each of the words used in this definition shall have the same meaning as the equivalent of such words as set forth in the **followed policy**.

**First Named Insured** means the person or entity first listed as a **Named Insured** in the Declarations.

**Followed policy** means the policy or policies of insurance listed in the Schedule of Underlying Insurance and identified as **followed policy**, including any self-insured retentions or deductibles that are a part of such policies.

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

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

**Hostile fire** means a fire which becomes uncontrollable or breaks out from where it was intended to be.

**Loss** means damages the Insured becomes legally obligated to pay as judgments or settlements.

**Named Insured** means:

a. the persons or entities listed as such in the Declarations;

b. any persons or entities who qualify as **Named Insureds** under the **underlying insurance** as of the inception date of such **underlying insurance**;

c. any persons or entities who, after the inception date of such insurance, are added as **Named Insureds** by endorsement to the **underlying insurance** provided we are notified of such addition and we are paid any additional premium charged by us for such additional **Named Insured**.

**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 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; or

d. any structure, basin, excavation, premises, 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 site and all premises used for such operations;

**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.

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

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

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

**Suit** means a civil proceeding in which covered **loss** is alleged. **Suit** includes:

a. an arbitration proceeding in which such **loss** is 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 **loss** is claimed and to which the Insured submits with our consent or the **underlying insurer's** consent.

**Terrorism** means activities against persons, organizations or property of any nature:

a. that involve the following or preparation for the following:

(1) use or threat of force or violence;

(2) commission or threat of a dangerous act; or

(3) commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and

b. when one or both of the following applies:

(1) the effect of such activities is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or

(2) it appears that the intent of such activities is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

**Underlying insurance** means any policies of insurance listed in the Declarations under the Schedule of Underlying Insurance.

**Underlying insurer** means any insurer who provides any policy of insurance listed in the Schedule of Underlying Insurance or any automatic renewal or replacement of any such policy, provided that such renewal or replacement provides equivalent coverage to and affords limits of insurance equal to or greater than the policy being renewed or replacement.

**Underlying limits** means the limits of insurance of the **underlying insurance**.

**Unmanned aircraft** means an aircraft of any size or type that is not:

a. designed;

b. manufactured; or

c. modified after manufacture;

to be controlled directly by a person from within or on the aircraft and includes, but is not limited to:

(1) ground support or control equipment used in conjunction with any such aircraft;

(2) any article, device or equipment used on or in such an aircraft, or for use in the control, maintenance or operation of such an aircraft; or

(3) training aids, instructions and manuals relating to the operation, inspection, maintenance, servicing, repair or rebuilding of such an aircraft, any part or portion thereof or ground support or control equipment used with any such aircraft.

**Waste** means any waste material:

a. containing by-product material, and

b. resulting from the operation by any person or organization of any **nuclear facility** included within the definition of **nuclear facility**.

## EXTENDED REPORTING PERIOD OPTION

No Extended Reporting Period extends the policy period, reinstates or increases the Limits of Insurance or changes the scope of coverage provided. Extended Reporting Periods apply only to claims made during the applicable Extended Reporting Period arising out of events that occurred after the retroactive date and before the end of the policy period. Once in effect, the Supplemental Extended Reporting Period may not be cancelled except for non-payment of premium.

### AUTOMATIC EXTENDED REPORTING PERIOD

If we cancel or non-renew this Policy, and if also provided in each layer of the underlying insurance, an automatic Extended Reporting Period is provided without an additional premium charge. This period starts upon cancellation or non-renewal of the policy period and lasts for sixty (60) days. The automatic Extended Reporting Period does not apply to claims that are covered under any subsequent insurance that you purchase, or that would be covered but for the exhaustion of the amount of insurance applicable to such claims.

### SUPPLEMENTAL EXTENDED REPORTING PERIOD

If we cancel this policy for reasons other than non-payment of premium, or if we non-renew this policy, and if and to the extent supplemental extended reporting periods have been selected in each layer of the underlying insurance, the **Named Insured** will have the right to purchase a Supplemental Extended Reporting Period. The Supplemental Extended Reporting Period, if purchased, will incept immediately following the effective date of cancellation or nonrenewal.

The Supplemental Extended Reporting Period and the applicable premium are determined by us in accordance with our rules and rates and in accordance, with any applicable filings. You must provide us with a written request for the Supplemental Extended Reporting Period within thirty (30) days after the end of the policy period. The Supplemental Extended Reporting Period will not go into effect unless you pay the additional premium promptly when due. Once in effect, the Supplemental Extended Reporting Period cannot be canceled except for non-payment of premium. The additional premium for the Supplemental Extended Reporting Period will be due within sixty (60) days after the end of the policy period.

*SIGNATURE PAGE FOLLOWS.*

APPROVED
By Kevin at 11:24 am, Feb 02, 2024

BCS Insurance Company
America Plaza, Suite 200
Oakbrook Terrace, IL 60181
(312) 803-7384

(A stock insurance company, herein the "Company")

# Policy No. RPS-P-1130263M

Cyber and Privacy Liability Insurance Policy

94.111 (07/19)

**NOTICE: THE POLICY CONTAINS ONE OR MORE COVERAGES. CERTAIN COVERAGES ARE LIMITED TO LIABILITY FOR CLAIMS THAT ARE FIRST MADE AGAINST THE INSURED AND NOTIFIED TO US DURING THE POLICY PERIOD AS REQUIRED. CLAIMS EXPENSES SHALL REDUCE THE APPLICABLE LIMITS OF LIABILITY AND ARE SUBJECT TO THE APPLICABLE RETENTION (S). PLEASE READ THIS POLICY CAREFULLY.**

## POLICY DECLARATIONS

| | | |
|---|---|---|
| **ITEM 1.** | **NAMED INSURED** | SchuBemo Holdings, Inc. |
| | **ADDRESS** | 601 S McKinley Ave , Joplin, Missouri, 64801-3220 |
| **ITEM 2.** | **POLICY PERIOD** | FROM: April 22, 2023<br>TO: April 22, 2024<br>(12:01 A.M. Standard time at the address shown in Item 1.) |
| **ITEM 3.** | **POLICY LIMITS OF LIABILITY AND COVERAGES PURCHASED** | I. Aggregate Limit of Liability: $2,000,000<br>(Aggregate for Each and Every Claim or Event including Claims Expenses)<br><br>II. Sublimit of Liability for Individual Coverage(s) Purchased: $2,000,000<br>"Nil" or "N/A" Sublimit of Liability for any coverage indicates that the coverage was not purchased |

| COVERAGE | PER CLAIM SUBLIMIT OF LIABILITY INCLUDES CLAIM EXPENSES | AGGREGATE SUBLIMIT OF LIABILITY |
|---|---|---|
| A. Privacy Liability (including Employee Privacy) | $2,000,000 | $2,000,000 |
| B. Privacy Regulatory Claims Coverage | $2,000,000 | $2,000,000 |
| C. Security Breach Response Coverage | $2,000,000 | None |
| D. Security Liability | $2,000,000 | $2,000,000 |
| E. Multimedia Liability | $2,000,000 | $2,000,000 |
| F. Cyber Extortion | $2,000,000 | None |
| G. Business Income and Digital Asset Restoration | | |
| 1.Business Income Loss | $2,000,000 | N/A |



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| | | |
|---|---|---|
| 2. Restoration Costs | $2,000,000 | N/A |
| 3. Reputation Business Income Loss | $2,000,000 | N/A |
| 4. Systems Integrity Restoration Loss * | $250,000 | N/A |
| H. PCI DSS Assessment | $2,000,000 | $2,000,000 |
| I. Electronic Fraud | | |
| 1. Phishing Loss | $50,000 | None |
| 2. Services Fraud Loss | $100,000 | None |
| 3. Reward Fund Loss | $50,000 | None |
| 4. Personal Financial Loss | $250,000 | None |
| 5. Corporate Identity Theft Loss | $250,000 | None |
| 6. Telephone Hacking Loss | $100,000 | None |
| 7. Direct Financial Loss (Funds Transfer Fraud) | $100,000 | None |
| 8. Cyber Deception** | $250,000 | $250,000 |

* e.g. bricking
** e.g. social engineering

III. Supplemental Limits

| COVERAGE | SUBLIMIT OF LIABILITY |
|---|---|
| A. Court Attendance Costs | $100,000 |
| B. Bodily Injury / Property Damage Liability | $250,000 |
| C. TCPA | $100,000 |
| D. HIPAA Corrective Action Plan Costs | $50,000 |
| E. Post Breach Response | $25,000 |
| F. Independent Consultant | $25,000 |
| G. Outsourced Provider | $250,000 |
| H. Computer System | $250,000 |

**ITEM 4. RETENTION (including Claims Expenses):**

| COVERAGE | EACH CLAIM OR EVENT | AGGREGATE |
|---|---|---|
| A. Privacy Liability (including Employee Privacy) | $5,000 | $5,000 |
| B. Privacy Regulatory Claims Coverage | $5,000 | $5,000 |
| C. Security Breach Response Coverage | $5,000 | $5,000 |
| D. Security Liability | $5,000 | $5,000 |



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| | | |
|---|---|---|
| E. Multimedia Liability | $5,000 | $5,000 |
| F. Cyber Extortion | $5,000 | $5,000 |
| G. Business Income and Digital Asset Restoration | $5,000 | $5,000 |
| H. PCI DSS Assessment | $5,000 | $5,000 |
| I. Electronic Fraud | | |
| 1. Phishing Loss | $5,000 | $5,000 |
| 2. Services Fraud Loss | $5,000 | $5,000 |
| 3. Reward Fund Loss | $5,000 | $5,000 |
| 4. Personal Financial Loss | $5,000 | $5,000 |
| 5. Corporate Identity Theft Loss | $5,000 | $5,000 |
| 6. Telephone Hacking Loss | $5,000 | $5,000 |
| 7. Direct Financial Loss (Funds Transfer Fraud) | $5,000 | $5,000 |
| 8. Cyber Deception | $10,000 | None |

**ITEM 5.** **PREMIUM** $10,118.00

**RPS Service Fee:** $100.00

**ITEM 6.** **TERRITORIAL LIMITS** Worldwide

**ITEM 7.** **RETROACTIVE DATE** Full Prior Acts

**ITEM 8.** **NOTICE OF CLAIM**

Call Baker Hostetler at the 24 Hour Security Breach Hotline: 1-855-217-5204
Or email RPSCyberClaims@bakerlaw.com
Or contact:
BakerHostetler
45 Rockefeller Plaza
New York, NY 10111
Attn: RPSCyberClaims

**ITEM 9.** **SERVICE OF SUIT**

Risk Situated in California:
Eileen Ridley
FLWA Service Corp.
c/o Foley & Lardner LLP
555 California Street, Suite 1700, San Francisco, CA 94104-1520

Risks Situated in All Other States:
Mendes & Mount
750 Seventh Avenue, New York, NY 10019

**ITEM 10.** **CHOICE OF LAW** Missouri



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BCS Insurance Company
2 Mid America Plaza, Suite 200
Oakbrook Terrace, IL 60181
(312) 803-7384

**ITEM 11. WAITING PERIOD:** 8 hrs waiting period

**FORMS AND ENDORSEMENTS EFFECTIVE AT INCEPTION**

94.200 (07/19) CYBER AND PRIVACY LIABILITY POLICY FORM
Cyber Deception Endorsement
94.102 (01 15) Nuclear Incident Exclusion
94.103 (01 15) Radioactive Contamination Exclusion
94.801 MO (07/19) Missouri Amendatory Endorsement



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# BCS INSURANCE COMPANY

**2 Mid America Plaza, Suite 200**
**Oakbrook Terrace, Illinois 60181**

**NOTICE: THIS POLICY IS LIMITED TO LIABILITY FOR CLAIMS THAT ARE FIRST MADE AGAINST YOU AND NOTIFIED TO US DURING THE POLICY PERIOD (OR EXTENDED REPORTING PERIOD, IF APPLICABLE) AS REQUIRED HEREIN, AND LOSS FROM EVENTS THAT FIRST OCCUR AFTER THE RETROACTIVE DATE AND BEFORE THE END OF THE POLICY PERIOD THAT YOU FIRST LEARN OF AND REPORT TO US DURING THE POLICY PERIOD AS REQUIRED HEREIN. CLAIMS EXPENSES SHALL REDUCE THE APPLICABLE LIMITS OF LIABILITY AND ARE SUBJECT TO THE APPLICABLE RETENTION(S). TERMS THAT APPEAR IN "QUOTATIONS" HAVE SPECIAL MEANINGS. SEE THE DEFINITIONS FOR MORE INFORMATION. PLEASE READ THIS POLICY CAREFULLY.**

## CYBER AND PRIVACY LIABILITY POLICY FORM

In consideration of the payment of the premium and reliance upon the statements made by "You" in the "Application" and subject to the Limit of Liability, exclusions, conditions and other terms of this Policy, it is agreed as follows:

### I. COVERAGES

#### A. PRIVACY LIABILITY (INCLUDING EMPLOYEE PRIVACY)

"We" shall pay on "Your" behalf "Damages" and "Claims Expenses" that "You" become legally obligated to pay in excess of the applicable retention resulting from a "Claim" first made against "You" and reported to "Us" during the "Policy Period" or "Extended Reporting Period" arising out of a "Privacy Wrongful Act" occurring on or after the "Retroactive Date" and before the end of the "Policy Period", harming any third (3rd) party or "Employee".

#### B. PRIVACY REGULATORY CLAIMS COVERAGE

"We" shall pay on "Your" behalf "Regulatory Fines", "Consumer Redress Funds", "HIPAA Corrective Action Plan Costs" and "Claims Expenses" that "You" become legally obligated to pay in excess of the applicable retention resulting from a "Regulatory Claim" first made against "You" and reported to "Us" during the "Policy Period" or "Extended Reporting Period" arising out of a "Privacy Wrongful Act" occurring after the "Retroactive Date" and before the end of the "Policy Period".

#### C. SECURITY BREACH RESPONSE COVERAGE

"We" shall pay on "Your" behalf any "Breach Response Costs" in excess of the applicable retention that are incurred in the event of a "Security Breach" with respect to "Private Information" or after a "Cyber-Extortion Threat".

"We" will not make any payment under this Coverage unless the "Security Breach" first occurs after the "Retroactive Date" and before the end of the "Policy Period" and "You" first learn of the "Security Breach" during the "Policy Period" and report the "Security Breach" to "Us" as soon as practicable within the "Policy Period".

## D. SECURITY LIABILITY

"We" shall pay on "Your" behalf "Damages" and "Claims Expenses" that "You" become legally obligated to pay in excess of the applicable retention resulting from a "Claim" first made against "You" and reported to "Us" during the "Policy Period" or "Extended Reporting Period" arising out of a "Security Wrongful Act" occurring after the "Retroactive Date" and before the end of the "Policy Period".

## E. MULTIMEDIA LIABILITY

"We" shall pay on "Your" behalf "Damages" and "Claims Expenses" that "You" become legally obligated to pay in excess of the applicable retention resulting from a "Claim" first made against "You" and reported to "Us" during the "Policy Period" or "Extended Reporting Period" arising out of a "Multimedia Wrongful Act" occurring after the "Retroactive Date" and before the end of the "Policy Period".

## F. CYBER EXTORTION

"We" shall reimburse "You" for the "Cyber-Extortion Expenses and Cyber-Extortion Payments" that "You" actually pay in excess of the applicable retention directly resulting from a "Cyber-Extortion Threat" that "You" first receive and report to "Us" as soon as practicable during the "Policy Period".

## G. BUSINESS INCOME AND DIGITAL ASSET RESTORATION

1. "We" shall pay "Your Organization" for the "Business Income Loss" in excess of the applicable retention that "You" sustain during a "Period of Restoration" resulting directly from a "Network Disruption" that commences during the "Policy Period", but only if the duration of such "Period of Restoration" exceeds the "Waiting Period" set forth in the Declarations, and such "Network Disruption" first occurs after the "Retroactive Date" and before the end of the "Policy Period" and "You" first learn of the "Network Disruption" during the "Policy Period" and report the "Network Disruption" to "Us" as soon as practicable within the "Policy Period".

2. "We" shall reimburse "Your Organization" for the "Restoration Costs" in excess of the applicable retention that "You" incur because of the alteration, destruction, damage or loss of "Digital Assets" that commences during the "Policy Period" resulting solely and directly from a "Security Compromise", but only if such "Security Compromise" first occurs on or after the "Retroactive Date" and before the end of the "Policy Period" and "You" first learn of the "Security Compromise" during the "Policy Period" and report the "Security Compromise" to "Us" as soon as practicable within the "Policy Period".

3. "We" shall pay "Your Organization" for the "Reputation Business Income Loss" in excess of the applicable retention that "You" sustain following a "Security Breach" or "Network Disruption", but only if such "Security Breach" or "Network Disruption" first occurs on or after the "Retroactive Date" and before the end of the "Policy Period" and "You" first learn of the "Security Breach" or "Network Disruption" during the "Policy Period" and report the "Security Breach" or "Network Disruption" to "Us" as soon as practicable within the "Policy Period".

4. "We" shall reimburse "Your Organization" for the "Systems Integrity Restoration Loss" in excess of the applicable retention caused by a "Security Compromise", but only if such "Security Compromise" first occurs on or after the "Retroactive Date" and before the end of the "Policy Period" and "You" first learn of the "Security Compromise" during the "Policy

Period" and report the "Security Compromise" to "Us" as soon as practicable within the "Policy Period".

### H. PCI DSS ASSESSMENT

"We" shall pay on "Your" behalf "Damages" and "Claims Expenses" that "You" become legally obligated to pay in excess of the applicable retention resulting from a "Claim" first made against "You" and reported to "Us" during the "Policy Period" or "Extended Reporting Period" arising out of a "PCI DSS Wrongful Act" occurring on or after the "Retroactive Date" and before the end of the "Policy Period".

### I. ELECTRONIC FRAUD

1. "We" shall reimburse "Your Organization" in excess of the applicable retention for a "Phishing Loss" caused by a "Phishing Event" first discovered by "You" and reported to "Us" during the "Policy Period".

2. "We" shall reimburse "Your Organization" in excess of the applicable retention for a "Services Fraud Loss" caused by a "Services Fraud Event" first discovered by "You" and reported to "Us" during the "Policy Period".

3. "We" shall reimburse "Your Organization" for "Reward Fund Loss" paid by "You" with "Our" prior written consent in excess of the applicable retention related to an "Event" implicating coverage under this Policy; but will not include any amount based upon information provided by "You", "Your" auditors or any individual hired or retained to investigate the illegal acts. All criminal reward funds offered pursuant to this Policy must expire no later than 6 months following the end of the "Policy Period".

4. "We" shall reimburse any senior executive officer(s) of "Your Organization" in excess of the applicable retention for "Personal Financial Loss" as a direct result of a "Security Breach" or "Security Compromise" first discovered by "You" and reported to "Us" during the "Policy Period".

5. "We" shall reimburse "Your Organization" in excess of the applicable retention for "Corporate Identity Theft Loss" incurred by "You" as a direct result of a "Security Breach" or "Security Compromise" first discovered by "You" and reported to "Us" during the "Policy Period".

6. "We" shall reimburse "Your Organization" for "Telephone Hacking Loss" in excess of the applicable retention arising from a "Telephone Hacking Event" first discovered by "You" during the "Policy Period" as a direct result of "Your" "Telecommunications Services" being subject to a "Telephone Hacking Event" arising from unauthorized calls or unauthorized use of "Your" bandwidth, but only if "You" first learn of the "Telephone Hacking Event" during the "Policy Period" and report the "Telephone Hacking Event" to "Us" as soon as practicable within the "Policy Period."

7. "We" shall reimburse "Your Organization" for "Direct Financial Loss" as a direct result of "Funds Transfer Fraud" committed by a third party and first discovered by "You" and reported to "Us" during the "Policy Period".

8. In consideration of the required additional premium for optional Cyber Deception coverage, "We" shall reimburse "Your Organization" per the terms and conditions of the Cyber Deception Endorsement attached to this policy.

## II. DEFENSE, SETTLEMENT, AND INVESTIGATION OF CLAIMS

A. "We" shall have the right and duty to defend, subject to the "Policy Aggregate Limit" and applicable "Sublimits of Liability", exclusions and other terms and conditions of this Policy, any "Claim" against "You" seeking "Damages" which are potentially payable under the terms of this Policy, even if any of the allegations of the "Claim" are groundless, false, or fraudulent.

"You" and "We" shall mutually agree on counsel to defend "Claims". "You" shall not formally appoint defense counsel without "Our" consent, which shall not be unreasonably withheld. However, in the absence of such agreement, "Our" choice of counsel decision shall control. "We" agree that "You" may settle any "Claim" where the "Damages" and "Claims Expenses" do not exceed fifty percent (50%) of the applicable retention, provided that the entire "Claim" is resolved and "You" receive a full release from all claimants.

"We" shall have the right to make any investigation We" deem necessary, including without limitation, any investigation with respect to the "Application" and statements made in the "Application" and with respect to potential coverage.

The "Policy Aggregate Limit" and "Sublimits of Liability" available to pay "Damages", "Claims Expenses" and "Loss" shall be reduced and may be completely exhausted by payment of such. "Damages", "Claims Expenses" and "Loss" and shall be applied against the applicable retention "You" pay.

B. If "You" refuse to consent to a settlement or compromise "We" recommend, which settlement or compromise is acceptable to the claimant, and "You" elect to contest the "Claim", then:

1. Subject to the applicable Limits of Liability, our liability for any "Damages" and "Claims Expenses" shall not exceed:

   a. the amount for which the "Claim" could have been settled, plus the "Claims Expenses" incurred up to the date of such refusal; and

   b. eighty percent (80%) of the "Damages" and "Claims Expenses" in excess of the amount in a. above incurred for such "Claim"; provided that "You" bear the remaining twenty percent (20%) of the "Damages" and "Claims Expenses" in excess of the amount in a. above as uninsured and at "Your" own risk; and

2. "We" shall have the right to withdraw from the further defense of such "Claim" by tendering control of the defense to "You".

This clause shall not apply to any settlement where the total of the proposed settlement and incurred "Claims Expenses" do not exceed all applicable retentions.

C. "We" shall not be obligated to pay any "Damages", "Claims Expenses" or "Loss" or to undertake or continue any defense of any "Claim", after the "Policy Aggregate Limit" or applicable "Sublimit(s) of Liability" have been exhausted by payment of "Damages", "Claims Expenses" and/or "Loss" or after deposit of the "Policy Aggregate Limit" or applicable "Sublimit(s) of Liability" in a court of competent jurisdiction, and that upon such payment or deposit, "We" shall have the right to withdraw from the further defense thereof by tendering control of said defense to "You".

## III. TERRITORY

This insurance applies to "Events" occurring, "Claims" made and "Wrongful Acts", acts, errors or omissions committed or alleged to have been committed anywhere in the world.

## IV. EXCLUSIONS

The coverage under this Policy shall not apply to any "Damages", Claims Expenses", "Loss" or other amounts, arising out of or resulting directly, from:

A. "Bodily Injury" or "Property Damage"; except:

   1. with respect to a "Claim" under Coverages A. Privacy Liability and D. Security Liability only, this exclusion will not apply to any otherwise covered "Claim" for emotional distress mental injury, mental tension or mental anguish, pain and suffering, humiliation or shock; and

   2. Except for a "Claim" described in Section IV.A.1., with respect to a "Claim" under Coverages A. Privacy Liability and D. Security Liability only, this exclusion will not apply to any otherwise covered claim for "Bodily Injury" or "Property Damage" but the most "We" will pay for such "Bodily Injury" or "Property Damage" is the sublimit of liability stated in ITEM 3.III.B. of the Declarations. Such sublimit is part of the Limit of Liability and not in addition.

   3. This exclusion will also not apply to a "Systems Integrity Restoration Loss" covered under Coverages G.4.

B. "Your" employment practices or any alleged or actual discrimination against any person or entity on any basis, including without limitation, race, creed, color, religion, ethnic background, national origin, age, handicap, disability, sex, sexual orientation, or pregnancy; provided, however, this exclusion shall not apply to any "Claim" alleging a "Privacy Wrongful Act" or "Security Wrongful Act" in connection with an "Employee's" or prospective employee's employment;

C. The failure, malfunction or inadequacy of any satellite; any electrical or mechanical failure and/or interruption, including but not limited to electrical disturbance, spike, brownout or blackout; or any outage to gas, water, telephone, cable, telecommunications or other infrastructure, unless such infrastructure is under "Your" operational control; provided, however this exclusion shall not apply to any "Privacy Wrongful Act" that is caused by such electrical or mechanical failure or that is caused by such failure of telephone lines, data transmission lines or other infrastructure comprising or supporting the "Internet";

D. Fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, an act of God or any other physical event, however caused;

E. Breach of any express, implied, actual or constructive contract, agreement, warranty, guarantee or promise, provided, however, this exclusion shall not apply to:

   1. any liability or obligation "You" would have in the absence of such contract or agreement;

   2. any breach of "Your" privacy statement; or

   3. any indemnity by "You" in a written contract or agreement with "Your" client regarding any "Privacy Wrongful Act" or "Security Wrongful Act" by "You" in failing to preserve the confidentiality or privacy of "Private Information";

   4. any "Merchant Service" Agreement that "You" may enter into as part of "Your" business activities.

F. Any of the following:

   1. Any presence of pollutants or contamination of any kind;

   2. Any actual, alleged or threatened discharge, dispersal, release, or escape of pollutants or contamination of any kind;

3. Any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify, or neutralize pollutants or in any way respond to or assess the effects of pollutants or contamination of any kind;

4. Manufacturing, mining, use, sale, installation, removal, distribution of or exposure to asbestos, materials, or products containing asbestos, asbestos fibers or dust;

5. Ionizing radiation or contamination by radioactivity from any nuclear fuel or any nuclear waste from the combustion of nuclear fuel;

6. Actual, potential or alleged presence of mold, mildew or fungi of any kind;

7. The radioactive, toxic, or explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof; or

8. The existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism that actually or allegedly affects the health, safety or condition of any person or the environment or that affects the value, marketability, condition or use of any property;

G. Any of the following:

1. the purchase, sale, offer of or solicitation of an offer to purchase or sell securities, or alleged or actual violation of any securities law, including but not limited to the provisions of the Securities Act of 1933 or the Securities Exchange Act of 1934, as amended, the Sarbanes-Oxley Act of 2002, or any regulation promulgated under the foregoing statutes, or any federal, state, local or foreign laws similar to the foregoing statutes (including "Blue Sky" laws), whether such law is statutory, regulatory or common law. However, this exclusion G.1. does not apply to any "Claim" alleging or arising out of a violation of Regulation S-P (17 C.F.R. §248) or any failure to disclose a "Security Breach" or violation of any "Privacy Regulation";

2. alleged or actual violation of the Organized Crime Control Act of 1970 (commonly known as Racketeer Influenced And Corrupt Organizations Act or RICO), as amended, or any regulation promulgated thereunder, or any federal, state, local or foreign law similar to the foregoing statute, whether such law is statutory, regulatory or common law, unless the "Claim" results from "Your" alleged introduction of malicious code that results in the theft, loss or unauthorized disclosure of the claimant's "Private Information";

3. alleged or actual violation of the responsibilities, obligations or duties imposed upon fiduciaries by the Employee Retirement Income Security Act of 1974, as amended unless the "Claim" results from "Your" alleged introduction of malicious code that results in the theft, loss or unauthorized disclosure of the claimant's "Private Information"; or

4. alleged or actual anti-trust violations, restraint of trade or unfair competition, including without limitation, violations of the Sherman Act, the Clayton Act or the Robinson-Patman Act, or any other federal, state, local, or foreign laws regulating the same or similar conduct; provided, however, this exclusion G.4 shall not apply to a "Claim" for a "Multimedia Wrongful Act" or a "Regulatory Claim";

H. Any "Act Of Terrorism"; strike or similar labor action, war, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not), civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular uprising, military rising, insurrection, rebellion, revolution, military or usurped power, or any action taken to hinder or defend against

these actions; including all amounts, "Damages", "Claims Expenses" or "Loss" of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing, or in any way relating to the above; provided, however, if "We" allege that by reason of this exclusion any "Damages", "Claims Expenses" or "Loss" are not covered by this Policy, the burden of proving the contrary shall be upon "You". However, this exclusion does not apply to acts perpetrated electronically;

I. Any of the following:

1. any circumstance or "Event" occurring, or "Wrongful Act", act, error, or omission committed, prior to the inception date of this Policy or, if this is a renewal, prior to the first date of this type of insurance granted by "Us" or any other insurer, that a member of the "Control Group" knew, or could have reasonably foreseen that such circumstance, "Event", "Wrongful Act", act, error, or omission would be the basis of a "Claim" or lead to an "Event";

2. any "Claim", "Event" or circumstance of which notice was provided to "Us" or another insurer prior to the "Policy Period" that was, could reasonably be expected to be, or lead to, the type of "Claim" or "Event" potentially covered by this Policy; or

3. any circumstance occurring or "Event" commencing, or "Wrongful Act", act, error, or omission committed prior to the "Retroactive Date";

J. Any criminal conduct, dishonest act, intentional violation of the law, unfair or deceptive business practice, fraudulent or malicious act, or error or omission committed by "You" with actual criminal, dishonest, fraudulent or malicious purpose or intent; provided, however, this exclusion shall not apply to:

1. "Claims Expenses" incurred in defending any such "Claim" until there is a final adjudication, judgment, binding arbitration decision or conviction against "You" in such "Claim" or an admission by "You" establishing such conduct, or a plea of nolo contendere or no contest by "You" regarding such conduct, in which event "You" shall reimburse "Us" for all "Claims Expenses" that "We" have paid and "We" shall have no further liability for "Claims Expenses" from such "Claim"; and

2. any of "You" who did not personally commit, personally participate in committing or personally acquiesce in such conduct, except that this exclusion shall apply with respect to "Your Organization" if an admission, final adjudication, or finding in a proceeding separate or collateral to the "Claim" establishes that a current member of the "Control Group" in fact engaged in such conduct;

K. Any "Claim" made by or on behalf of:

1. any person or entity within the definition of "You" against any other Insured person or entity within the definition of "You"; provided, however, this exclusion shall not apply to an otherwise potentially covered "Claim" under Coverage A made by a current or former "Employee" of "Your Organization"; or

2. any entity which:

a. is operated, managed, or controlled by "You" or in which "You" have an ownership interest in excess of twenty five percent (25%) or in which "You" are an officer or director; or

b. operates, controls, or manages "Your Organization", or has an ownership interest of more than twenty five percent (25%) in "Your Organization";

L. "Your" activities as a trustee, partner, officer, director, or "Employee" of any employee trust, charitable organization, corporation, company or business other than "Your Organization";

M. Any alleged or actual:

1. infringement or violation of patent rights; or

2. misappropriation, theft, copying, display or publication of any trade secret;

Unless such event occurs as a result of a "Security Compromise".

N. Any trading losses or trading liabilities; the monetary value of any electronic fund transfers or transactions by or on behalf of "You" which is lost, diminished, or damaged during transfer from, into or between accounts; or the face value of coupons, price discounts, prizes, awards, or any other valuable consideration given in excess of the total contracted or expected amount; provided, however, this exclusion will not apply to any "Breach Response Costs" incurred due to a "Security Breach".

O. Any actual or alleged violation of the Telephone Consumer Protection Act (the "TCPA"); however, this exclusion will not apply to a "Claim" against "You" for violation of the TCPA otherwise covered under Insuring Agreements A or B; however, the most "We" will pay for "Claims Expenses" or "Damages" under this exception to this exclusion is the sublimit of liability stated in ITEM 3.III.C. of the Declarations. Such sublimit is part of the Limit of Liability and not in addition.

With respect to Coverage G only, this Policy does not apply to any "Damages", "Claims Expenses", "Loss" or other amounts arising out of, or resulting, directly or indirectly from:

P. Any failure of:

1. telephone lines;

2. data transmission lines or wireless communications connection; or

3. other telecommunications equipment, facilities or electronic infrastructure, including equipment, facilities or infrastructure that supports the operation of computer networks, including the "Internet", which are used to transmit or receive voice or data communications and which are not under "Your" direct operational control or, if applicable, not under the direct operational control of "Your" "Service Provider";

Q. Any seizure, confiscation, nationalization, or destruction of, or damage to or loss of use of any "Digital Asset" or "Your" "Computer Systems" by order of any governmental authority;

R. Ordinary wear and tear or gradual deterioration of "Digital Assets" or "Computer Systems" on which "Digital Assets" are processed or stored, whether owned by "You" or others; or

S. The physical loss of, damage to or destruction of tangible property, including the loss of use thereof; however, "tangible property" does not include "Digital Assets", but does include all computer hardware unless otherwise covered as "Systems Integrity Restoration Loss".

**NOTE: Exclusions P through S apply to Coverage G only.**

## V. DEFINITIONS

"Acquiring Bank" means a bank or financial institution that accepts credit and/or debit payments (including credit cards, debit cards, stored value cards and pre-paid cards) for products or services on behalf of a merchant, including processing and crediting those payments to a merchant.

"Act Of Terrorism" means:

1. any act certified an "Act Of Terrorism" pursuant to the federal Terrorism Risk Insurance Act of 2002 or otherwise declared an "Act Of Terrorism" by any government;

2. any act committed by any person or group of persons designated by any government as a terrorist or terrorist group or any act committed by any person or group of persons acting on behalf of or in connection with any organization designated by any government as a terrorist organization; or

3. the use of force or violence and/or the threat thereof by any person or group of persons, whether acting alone or on behalf of or in connection with any organization or government, committed for political, religious, ideological, or similar purposes, including the intention to influence any government and/or put the public, or any section of the public, in fear.

"Application" means all applications, including any attachments thereto, and all other information and materials submitted by "You" or on "Your" behalf to "Us" in connection with the underwriting of this Policy.

"Bodily Injury" means injury to the body, sickness, or disease sustained by any person, and where resulting from such injuries, mental anguish, mental injury, shock, humiliation, emotional distress, loss of consortium, or death.

"Breach Response Costs" means the following fees, costs, charges or expenses, if reasonable and necessary, that our "Breach Response Team" incurs in responding to a "Security Breach" or a "Cyber-Extortion Threat", or the following costs described in subparagraphs 1 through 9 and incurred by a non-panel vendor with "Our" prior written agreement because of a "Security Breach" experienced by "You", so long as such costs are incurred during the period of twelve (12) months after "You" first learn of such "Security Breach":

1. forensic professional fees and expenses to determine the cause and extent of such "Security Breach" and terminate the "Security Breach";

2. "Breach Response Counsel" fees and expenses to: determine whether "You" or a third party are obligated under applicable "Privacy Regulations" to notify applicable regulatory agencies or individuals affected or reasonably believed to be affected by such "Security Breach"; effect compliance with any applicable "Privacy Regulations"; draft the text of privacy notifications to individuals affected or reasonably believed to be affected by such "Security Breach"; notify law enforcement; and, coordinate the investigation of such "Security Breach";

3. costs to notify individuals affected or reasonably believed to be affected by such "Security Breach", including printing costs, publishing costs, postage expenses, call center costs or costs of notification via phone or e-mail, including "voluntary notification" where "You" or a third party have no legal obligation to provide notification, but wish to do so to protect "Your" or a third party's brand and reputation, and the costs to notify regulators if required to do so;

4. "Credit Monitoring Expenses";

5. identity theft restoration costs;

6. public relations expenses;

7. the cost of a PCI Forensic Investigator (PFI) fees/expenses and a second forensic investigator to shadow the PFI following a "Security Breach"; and

8. reasonable and necessary fees for a mandatory audit by a Qualified Security Assessor (QSA) to show "You" are PCI Data Security Standards compliant following a "Security Breach".

9. the reasonable and necessary costs, not to exceed the sublimit of liability stated in ITEM 3.III.E. of the Declarations and implemented by the members of the "Breach Response Team" identified as Post Breach Response service providers, of the following: (1) the revision of an incident response plan; (2) the completion of a network security audit; (3) an information security risk assessment; or (4) the implementation of a security awareness training program;

"Breach Response Costs" do not include "Your" overhead expenses or any salaries, wages, fees, or benefits of "Your" "Employees".

"Breach Response Counsel" means counsel approved in the Breach Response Team Endorsement and counsel as appointed by "Us".

"Breach Response Team" means the vendors approved in the Breach Response Team Endorsement and vendors approved by "Us".

"Business Income Loss" means:

1. "Earnings Loss";

2. "Expenses Loss"; and/or

3. The reasonable and necessary costs "You" incur to retain an Independent Consultant to determine the amount of "Your" "Business Income Loss", not to exceed the sublimit stated in ITEM 3.III.F. of the Declarations. This sublimit of liability is part of, and not in addition to, the sublimit of liability stated in ITEM 3.II.G.1. of the Declarations.

The most "We" will pay for "Business Income Loss" that "You" sustain resulting directly from a "Network Disruption" involving an "Outsourced Provider" "Computer System" (as defined in part 2. of the Definition of "Network Disruption") is the sublimit stated in ITEM 3.III.G. of the Declarations. This sublimit of liability is part of, and not in addition to, the sublimit of liability stated in ITEM 3.II.G.1. of the Declarations.

"Business Income Loss" does not include:

1) any contractual penalties;

2) any costs or expenses incurred to update, upgrade, replace, restore or otherwise improve any "Computer System" to a level beyond that which existed prior to a "Network Disruption";

3.) any costs or expenses incurred to identify, remove or remediate computer program errors or vulnerabilities, or costs to update, upgrade, replace, restore, maintain or otherwise improve any "Computer System";

4) any legal costs or expenses or other amounts arising out of liability to any third (3rd) party;

5) any amounts incurred as a result of unfavorable business conditions; or

6) any other consequential amounts, loss or damage.

"Claim" means:

1. A written demand received by "You" for money or services, including the service of a civil suit or institution of arbitration proceedings;

2. Initiation of a civil suit against "You" seeking injunctive relief;

3. A written notice of an alleged "Privacy Wrongful Act" or "Security Wrongful Act" from a third party.

4. Solely with respect to Coverage B., a "Regulatory Claim" made against "You"; or

5. Solely with respect to Coverage H., written notice to "You" of a "PCI DSS Assessment".

Multiple "Claims" arising from the same or a series of related or repeated "Wrongful Acts", acts, errors, or omissions or from any continuing "Wrongful Acts", acts, errors or omissions shall be considered a single "Claim" for the purposes of this Policy, irrespective of the number of claimants or "You" involved therein. All such related "Claims" shall be deemed to have been first made at the time the earliest such "Claim" was made or deemed made under Section IX.A.

"Claims Expenses" means:

1. reasonable and necessary fees charged in the defense or settlement of a "Claim" by an attorney whom "We" designate or whom "You" designate with "Our" prior written consent, such consent not to be unreasonably withheld; and

2. all other legal costs and expenses resulting from the investigation, adjustment, defense and appeal of a "Claim", if incurred by "Us" or by "You" with "Our" prior written consent; however, "Claims Expenses" do not include "Your" overhead expenses or any salaries, wages, fees, or benefits of "Your" "Employees" for any time spent in cooperating in the defense or investigation of any "Claim" or circumstance that might lead to a "Claim".

3. Notwithstanding the foregoing, "Claims Expenses" includes Court Attendance Costs, defined as reasonable sums necessarily incurred by "You" with "Our" prior written agreement, not to exceed the sublimit of liability stated in ITEM 3.III.A. of the Declarations, to attend court or any tribunal, arbitration, adjudication, mediation or other hearing in connection with any "Claim" for which "You" are entitled to a defense under this Policy.

"Computer System" means electronic, wireless, web or similar systems (including all hardware and software) used to process data or information in an analog, digital, electronic or wireless format, including computer programs, electronic data, operating systems, and components thereof, including but not limited to laptops, personal digital assistants, cellular phones, media storage and peripheral devices, including the internet of things (IoT) devices, media libraries, associated input and output devices, networking identity equipment, and electronic backup equipment. With respect to Coverage G only, "Computer System" means a "Computer System" over which "You" have direct operational control or that is under the direct operational control of a "Service Provider" used to process, maintain or store "Your" "Digital Assets".

"Consumer Redress Funds" means any sums of money "You" are legally required to deposit in a fund for the payment of consumers due to a settlement of, or an adverse judgment in, a "Regulatory Claim".

"Control Group" means the board members, executive officers, Chief Technology Officer, Chief Information Officer, Risk Manager and General Counsel or their functional equivalents of "Your Organization". This does not include any administrative staff who work in the offices of these named positions.

"Corporate Identity Theft Loss" means monetary or other financial asset loss as a result of the fraudulent use of "Your" electronic identity, including the establishment of credit in "Your" name, the electronic signing of any contract, or the creation of any website designed to impersonate "You". The most "We" will pay for any "Corporate Identity Theft Loss" is the sublimit of liability stated in ITEM 3.II.I.5. of the Declarations. Such sublimit is part of the Limit of Liability in Coverage I and not in addition.

"Credit Monitoring Expenses" means the reasonable and necessary expense of providing free credit report services, identity theft protection services, credit monitoring services, credit freezes, healthcare fraud monitoring services, fraud alerts or call center services for customers, third parties and employees affected or reasonably believed to be affected by a "Security Breach". However, "We" shall not be obligated to pay for more than twelve (12) months from the date of enrollment in such services, unless there is a statute, rule, regulation, court ruling or requirement by a regulator requiring otherwise, or in the opinion of "Breach Response Counsel", offering more than twelve (12) months will justifiably reduce "Your" potential liability, "Damages" or "Loss".

"Cyber-Extortion Expenses" means the reasonable and necessary expenses "You" incur with "Our" approval in evaluating and responding to a "Cyber-Extortion Threat". However, "Cyber-Extortion Expenses" do not include "Your" overhead expenses or any salaries, wages, fees, or benefits of "Your" "Employees".

"Cyber-Extortion Payment" means any sum paid to or at the direction of any third (3rd) party, including sums paid via bitcoin or other crypto currencies, that "You" reasonably believe to be responsible for a "Cyber-Extortion Threat"; provided that:

1. "You" obtain "Our" written consent prior to making such "Cyber-Extortion Payment";

2. "You" make such "Cyber-Extortion Payment" to terminate the "Cyber-Extortion Threat"; and

3. the "Cyber-Extortion Payment" does not exceed the amounts "We" reasonably believe would have been incurred had such "Cyber-Extortion Payment" not been made.

"Cyber-Extortion Threat" means a credible threat or connected series of threats made, or actions taken, by someone other than a member of the "Control Group":

1. to introduce "Malicious Code" into "Your" "Computer System";

2. to interrupt "Your" "Computer System" or interrupt access to "Your" "Computer System", such as through a "Denial of Service Attack";

3. to corrupt, damage or destroy "Your" "Computer System"; or

4. to disseminate, divulge, or improperly utilize any "Private Information" on "Your" "Computer Systems" taken as a result of a "Network Disruption".

"Damages" means:

1. Solely with respect to Coverages A, D, or E, a monetary judgment, award or settlement, including:

a. Pre-judgment interest;

b. Post-judgment interest that accrues after entry of the judgment or award and before "We" have paid, offered to pay or deposited in court that part of the judgment or award within the applicable Limits of Liability;

c. subject to this Policy's terms, conditions, and exclusions, punitive or exemplary "Damages" (where insurable by the applicable law that most favors coverage for such "Damages");

d. liquidated damages, contractual service credits or contractual penalties but not exceeding those "You" would have been liable for in the absence of such contract;

2. Solely with respect to Coverage B, "Regulatory Fines" and "Consumer Redress Funds"; and

3. Solely with respect to Coverage H, a "PCI DSS Assessment" or a settlement of a "PCI DSS Assessment".

"Damages" shall not include or mean:

1) "Your" future profits, restitution, or disgorgement of profits; or "Your" cost to comply with any order granting injunctive or non-monetary relief, including specific performance, or any agreement to provide such relief;

2) "Your" return or offset of fees, charges, royalties, or commissions for goods or services already provided or contracted to be provided;

3) fines or penalties of any nature, except those that are part of "Regulatory Fines" and "Consumer Redress Funds" as identified above, or sought in a "PCI DSS Assessment";

4) any amount "You" are not financially or legally obligated to pay;

5) any donations or contributions to any charitable organization;

6) charge backs, interchange fees, discount fees or prospective services fees sought, awarded or agreed to as part of a settlement in a "PCI DSS Assessment"; or

7) matters that may be deemed uninsurable under law. "We" shall apply the most favorable state law to "You" in determining insurability.

"Denial of Service Attack" means unauthorized attacks or deliberate overloading of bandwidth connections and/or web servers by means of the sending of substantial quantities of repeat or irrelevant communication or data with the intent of blocking access to "Your" "Computer System" through the "Internet" by third (3rd) parties.

"Digital Assets" means any electronic data, including personally identifiable, non-public information, or computer software over which "You" have direct control or for which such control has been contractually assigned by "Your Organization" to a "Service Provider". "Digital Assets" do not include computer hardware of any kind.

"Direct Financial Loss" means "Your" monetary or other financial asset loss as a result of a "Funds Transfer Fraud" under Coverage I. The most "We" will pay for any "Direct Financial Loss" arising from

a "Funds Transfer Fraud" is the sublimit of liability stated in ITEM 3.II.I.7. of the Declarations. Such sublimit is part of the Limit of Liability in Coverage I and not in addition.

"Earnings Loss" means the difference between the revenue that "Your Organization" would have earned, based on reasonable projections and the variable costs that would have been incurred, but which "Your Organization" would have saved as a result of not earning that revenue.

"Employee" means any individual in "Your Organization's" service, including any part-time, seasonal, and temporary employee, who is compensated by salary, wages, fees or commissions, or unpaid intern or volunteer over whom "You" have the right to direct and control, but excluding any partner or director of "Your Organization".

"Event" means a:

1. "Security Breach";
2. "Cyber-Extortion Threat";
3. "Security Compromise";
4. "Network Disruption;
5. "Phishing Event";
6. "Services Fraud Event";
7. "Telephone Hacking Event"; or
8. "Funds Transfer Fraud".

Multiple "Events" arising from the same or a series of related or repeated "Events", acts, errors, or omissions, or from any continuing "Events", acts, errors, or omissions shall be considered a single "Event" for the purposes of this Policy. All such related "Events" shall be deemed to have first occurred at the time the earliest such "Event" first occurred or commenced.

"Expenses Loss" means the additional expenses "Your Organization" incurred to minimize the suspension of business and to continue operations that are over and above the expenses that "Your Organization" reasonably and necessarily would have incurred to conduct "Your" business had no "Network Disruption" occurred. These additional expenses do not include any " "Restoration Costs" or any actual, reasonable and necessary expenses "You" incur in response to a "Network Disruption" in order to prevent, minimize or mitigate any further damage to "Your" "Digital Assets", or preserve critical evidence of any wrongdoing.

"Extended Reporting Period" means the period of time after the end of the "Policy Period" for reporting "Claims" as provided in Section VIII. of this Policy.

"Funds Transfer Fraud" means any of the following acts, carried out by means other than through the intentional misleading of a person by means of a dishonest misrepresentation of a material fact contained or conveyed within an electronic or telephonic communication(s) and relied upon by a person believing it to be genuine:

1. any unauthorized electronic funds transfer;
2. theft of "Your" money or other financial assets from "Your" bank by electronic means;

3. theft of money or other financial assets from "Your" corporate credit cards by electronic means; or

4. any fraudulent manipulation of electronic documentation while stored on "Your" "Computer System".

"HIPAA Corrective Action Plan Costs" means reasonable and necessary costs "You" incur with "Our" prior written approval, not to exceed the sublimit of liability stated in ITEM 3.III.D. of the Declarations, to meet any of the requirements specified within a HIPAA corrective action plan as the direct result of a "Regulatory Claim" otherwise covered by this "Policy".

"Intranet" means a private computer network inside a company or organization that uses the same kinds of software found on the "Internet", but only for internal use.

"Internet" means the worldwide public network of computer networks which enables the transmission of electronic data between different users, commonly referred to as the "Internet", including a private communications network existing within a shared or public network platform.

"Loss" means a:

1. "Business Income Loss";

2. "Breach Response Costs";

3. "Reputation Business Income Loss";

4. "Restoration Costs";

5. "System Integrity Restoration Loss";

6. "Cyber-Extortion Payments" and "Cyber-Extortion Expenses";

7. "Phishing Loss";

8. "Services Fraud Loss"";

9. "Reward Fund Loss";

10. "Personal Financial Loss";

11. "Corporate Identity Theft Loss";

12. "Telephone Hacking Loss"; or

13. "Direct Financial Loss".

"Malicious Code" means any unauthorized and corrupting or harmful computer code, including but not limited to computer viruses, spyware, Trojan horses, worms, logic bombs, and mutations of any of the proceeding.

"Media Content" means data, digital code, images, graphics, sounds, text or any other similar material regardless of the method or medium of communication of such content or the purpose of the communication.

"Merchant Services Agreement" means any written agreement between "You" and a card association (including MasterCard, VISA, Discover, American Express or JCB), which allows "You" to accept payment by credit, debit or prepaid card.

"Multimedia Wrongful Act" means any of the following acts committed in the ordinary course of "Your Organization's" business in gathering, communicating, reproducing, publishing, disseminating, displaying, releasing, transmitting or disclosing "Media Content" via any "Computer System" that "You" own or operate or is operated on "Your" behalf by a third (3rd) party, including any web-based social media authorized or operated by "Your Organization" or any "Internet" or "Intranet" website, or via any non-electronic media:

1. defamation, libel, slander, product disparagement, trade libel, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization;

2. invasion of or interference with the right to privacy or publicity;

3. false arrest, detention or imprisonment or malicious prosecution;

4. infringement of any right to private occupancy, including trespass, trespass as a result of cookie use, wrongful entry, eviction or eavesdropping;

5. infringement of copyright, domain name, trade dress, title or slogan, or the dilution or infringement of trademark, service mark, service name or trade name;

6. plagiarism, piracy or misappropriation of ideas;

7. improper deep linking; or

8. other conduct causing liability regarding any" Media Content" for which "You" are responsible;

provided always that any "Multimedia Wrongful Act" was committed or alleged to have been committed by "You", or any person for whom or entity for which "You" are legally responsible, including an independent contractor or outsourcing organization.

"Network Disruption" means any of the following incidents:

1. an unplanned failure, interruption or degradation of the operation of "Your" "Computer System" or the denial, restriction or hindrance of access to or use of "Your" "Computer System" or "Your" "Digital Assets" by any party who is otherwise authorized to have access; and

2. with respect to Coverage G.1 only, "Network Disruption" also means an unplanned failure, interruption or degradation of the operation of an "Outsourced Provider" "Computer System"; or the denial, restriction or hindrance of access to or use of an "Outsourced Provider" "Computer System" by any party who is otherwise authorized to have access.

Solely with respect to Coverage G.1.:

3. the voluntary and intentional shutdown of "Computer Systems" by "You" but only to the extent necessary to mitigate the "Loss" resulting from a situation described in Section V. Definitions, "Security Compromise" 1. or 2.; or

4. the intentional shutdown of "Computer Systems" by "You" as expressly required by any federal, state, local or foreign governmental entity in such entity's regulatory or official

capacity resulting from a situation described in Section V. Definitions, "Security Compromise" 1. or 2.

More than one such incident that results from the same or related underlying facts, circumstances, situations, transactions or "Security Compromises" shall be considered a single "Network Disruption" which first occurs on the date of the earliest of such events.

"Outsourced Provider" means any provider, other than a "Service Provider", that "You" do not own, operate, or control, that performs services, other than IT services, for "You" pursuant to a written contract. An "Outsourced Provider" does not include any provider of "Telecommunications Services" including "Internet" access to "You".

"PCI DSS Assessment(s)" means amounts legally owed by "You" to "Your" acquiring bank or a card association (MasterCard, VISA, Discover, American Express or JCB) for monetary fines, penalties, reimbursements, fraud recoveries or assessments, due to "Your" actual or alleged non-compliance with PCI Data Security Standards further to the terms of a "Merchant Services Agreement".

"PCI Data Security Standards" (known as PCI DSS) means the published data security standard in effect now or as hereafter amended that all merchants and processors must follow when storing, processing and transmitting cardholder data.

"PCI DSS Wrongful Act" means "Your" actual or alleged non-compliance with "PCI Data Security Standards".

"Period of Restoration" means the time period from the commencement of a "Network Disruption" to the earlier of the following dates:

1. the date "Your" "Computer System", "Outsourced Provider" "Computer System" or "Your" "Digital Assets" are restored to the condition and functionality that existed immediately prior to the "Network Disruption;" or

2. the date "Your" "Computer System", "Outsourced Provider" "Computer System" or "Your" "Digital Assets" with reasonable diligence, could have been restored to the condition and functionality that existed immediately prior to the "Network Disruption."

"Personal Financial Loss" means monetary or other financial asset loss as a result of:

1. theft of money or other financial assets from a personal bank account of the senior executive officer; or

2. identity theft of the senior executive officer.

The most "We" will pay for any "Personal Financial Loss" is the sublimit of liability stated in ITEM 3.II.I.4. of the Declarations. Such sublimit is part of the Limit of Liability in Coverage I and not in addition.

"Phishing Event" means the impersonation of "You" by a third party via email or other electronic communications.

"Phishing Loss" means an unpaid account receivable held by "You", or an inability to collect funds owed to "You" by a third party, caused by a "Phishing Event". The most "We" will pay for any "Phishing Loss" is the sublimit of liability stated in ITEM 3.II.I.1. of the Declarations. Such sublimit is part of the Limit of Liability in Coverage I and not in addition.

"Policy Period" means the period of time beginning on the date stated in ITEM 2 of the Declarations and ending on the earlier of the expiration date stated in ITEM 2 of the Declarations or the effective date of the cancellation of the Policy. If "You" become an insured under the Policy, the "Policy Period" begins on the date "You" become an insured.

"Privacy Breach" means a common law breach of confidence, infringement, or violation of any rights to privacy, including but not limited to breach of "Your" privacy statement, breach of a person's right of publicity, wrongful collection, false light, intrusion upon a person's seclusion, public disclosure of "Private Information", or misappropriation of a person's picture or name for commercial gain.

"Privacy Regulations" means any federal, state, local or foreign statute or regulation requiring "You" to limit or control the collection, use of, or access to, "Private Information" in "Your" possession or under "Your" control, or obligating "You" to inform customers of the "Unauthorized Access" or disclosure of such personally identifiable, non-public information, including but not limited to the following statutes and regulations:

1. the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), including Title II requiring protection of confidentiality and security of electronic protected health information, and as amended by the Health Information Technology for Economic and Clinical Health Act (HITECH), any rules and regulations promulgated thereunder as they currently exist and as amended, and any related state medical privacy laws as they currently exist and as amended;

2. the Gramm-Leach-Bliley Act of 1999, also known as the Financial Services Modernization Act of 1999, including sections concerning security protection and standards for customer records maintained by financial services companies, and the rules and regulations promulgated thereunder as they currently exist and as amended;

3. Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a), but solely with respect to alleged unfair or deceptive acts or practices in or affecting commerce;

4. federal, state or local privacy protection regulations or laws, such as the California Database Protection Act of 2003 (previously called SB 1386), as they currently exist now or may be amended, associated with the control and use of, or limiting "Unauthorized Access" to, personal information, including but not limited to requirements to post privacy policies, adopt specific privacy controls, or inform customers of breaches of security that has or may impact their personal information;

5. federal, state or local data breach regulations or laws, as they currently exist now or in the future, imposing liability for failure to take reasonable care to guard against "Unauthorized Access" to credit or debit account information that is in "Your" possession or under "Your" control;

6. identity theft red flags under the Fair and Accurate Credit Transactions Act of 2003;

7. federal and state consumer credit reporting laws, such as the Federal Fair Credit Reporting Act (FCRA) and the California Consumer Credit Reporting Agencies Act (CCCRAA);

8. the Children's Online Privacy Protection Act of 1998; and

9. privacy protection regulations or laws adopted by countries outside of the United States, such as the General Data Protection Regulation (Regulation (EU) 2016/679 (GDPR) and the Canadian Personal Information Protection and Electronic Documents Act (PIPEDA), as they currently exist now or may be amended, associated with the collection, control and use of, or limiting "Unauthorized Access" to, personal information.

"Privacy Wrongful Act" means any "Privacy Breach" or breach of "Privacy Regulations" actually or allegedly committed by "You" or by any person or entity for which "You" are legally responsible, including an independent contractor or outsourcing organization.

"Private Information" means any:

1. proprietary or confidential information owned by a third party or "You";

2. information that can be used to determine, distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual;

3. information concerning an individual that would be considered personal data or sensitive personal data within the meaning of the General Data Protection Regulation (Regulation (EU) 2016/679 (GDPR) and any amendments thereto; or

4. "Your" corporate confidential information that relates to "Your" organization's business operations, activities and procedures.

"Property Damage" means physical injury to or destruction of any tangible property, including the loss of use thereof. Electronic data is not considered tangible property.

"QSA Audit" is an audit required by PCI Security Standards Council and conducted by a Qualified Security Assessor employed by a qualified QSA auditor.

"Regulatory Claim" means:

1. any request for information, civil investigative demand or formal investigation of "You" by an administrative or regulatory agency or similar governmental body concerning a "Privacy Breach" or possible breach of "Privacy Regulations"; or

2. any administrative or civil proceeding against "You" by an administrative or regulatory agency, supervisory authority, authorized data protection authority or similar governmental body for a breach of "Privacy Regulations".

"Regulatory Fines" means fines, penalties, or sanctions awarded for a violation of any "Privacy Regulation".

"Reputation Business Income Loss" means:

1. "Earnings Loss" and/or

2. "Expenses Loss";

solely due to the loss of current or future customers during a 12 month period following a notification to "Us" in accordance with Section IX.A of a "Security Breach" or "Network Disruption" and where such customer loss arises directly from a "Security Breach" or "Network Disruption".

"Reputation Business Income Loss" does not include or mean:

1. any contractual penalties;

2. any costs or expenses incurred to update, upgrade, replace, restore or otherwise improve any "Computer System" to a level beyond that which existed prior to a "Network Disruption";

3. any costs or expenses incurred to identify, remove or remediate computer program errors or vulnerabilities, or costs to update, upgrade, replace, restore, maintain or otherwise improve any "Computer System";

4. any legal costs, expenses or other amounts arising out of liability to any third party;

5. any amounts incurred as a result of unfavorable business conditions; or

6. any other consequential amounts, loss or damage.

"Restoration Costs" means the actual, reasonable and necessary costs, including the additional cost of employing temporary staff or paying overtime costs to employees, that "You" incur to replace, restore, or re-create "Your" "Digital Assets" to the level or condition at which they existed immediately prior to sustaining any alteration, destruction, damage or loss thereof, resulting from a "Security Compromise". If such "Digital Assets" cannot be replaced, restored or re-created, then "Restoration Costs" will be limited to the actual, reasonable and necessary costs "You" incur to reach this determination.

"Restoration Costs" also means the actual, reasonable and necessary costs to install a more secure and efficient version of "Your" affected "Computer System", provided that the maximum amount "We" will pay is twenty-five percent (25%) more than the cost that would have been incurred to replace the original model(s) or license(s) that existed prior to the "Security Compromise" (and subject to the maximum sublimit as stated in ITEM 3.III.H. of the Declarations). Under no circumstances will "We" pay the cost of acquiring or installing "Computer Systems" which did not form a part of "Your" "Computer Systems" immediately prior to the incident which gave rise to the "Loss".

"Restoration Costs" do not include:

1. "Systems Integrity Restoration Loss";

2. the economic or market value of any "Digital Assets", including trade secrets.

"Retroactive Date" means the date specified in ITEM 7. of the Declarations.

"Reward Fund Loss" any amount offered and paid by "You" for information that leads to the arrest and conviction of any individual(s) committing or trying to commit any illegal act associated with an "Event". The most "We" will pay for any "Reward Fund Loss" is the sublimit of liability stated in ITEM 3.II.I.3. of the Declarations. Such sublimit is part of the Limit of Liability in Coverage I and not in addition.

"Security Breach" means the actual or reasonably suspected:

1. loss or disclosure of "Private Information" in "Your" care, custody or control, including such information stored on paper or on a "Computer System" operated by "You" or on "Your" behalf; or

2. "Theft of Data", "Unauthorized Access" to or "Unauthorized Use" of "Private Information" in "Your" care, custody or control, including such information stored on paper or on a "Computer System" operated by "You" or on "Your" behalf;

that results in or may result in the compromise of the privacy or confidentiality of "Private Information".

More than one "Security Breach" arising from the same or a series of continuous, repeated or related acts, errors, or omissions shall be considered a single "Security Breach", which shall be deemed to have first occurred at the time of the first such "Security Breach".

"Security Compromise" means the actual or reasonably suspected:

1. "Unauthorized Access" or "Unauthorized Use" of "Your" "Computer System" or "Your" "Digital Assets";

2. unauthorized transmission of computer code into "Your" "Computer System" that causes loss or damage to "Your" "Digital Assets"; or

3. "Denial of Service Attack" on "Your" "Computer System" that causes loss or damage to "Your" "Digital Assets".

"Security Wrongful Act" means any act, error, or omission committed by "You" or a person or entity for which "You" are legally responsible, including an independent contractor or outsourcing organization, in the conduct of "Computer Systems" security and the protection of the security and confidentiality of "Private Information", that results in:

1. the inability of a third (3rd) party, who is authorized to do so, to gain access to "Your" "Computer Systems";

2. the failure to prevent or hinder "Unauthorized Access" to or "Unauthorized Use" of a "Computer System" operated by "You" or on "Your" behalf, the failure to prevent physical theft of hardware or firmware "You" control, the failure to prevent people or processes security failures, or the failure to prevent false communications designed to trick the user into surrendering "Private Information" (such as phishing, pharming or vishing), any of which results in:

    a. The alteration, copying, corruption, destruction or deletion of, or damage to, electronic data on a "Computer System" operated by "You" or on "Your" behalf;

    b. Unauthorized disclosure of "Private Information";

    c. "Theft of Data" (including identity theft); or

    d. Denial of service attacks against "Internet" sites or "Computer Systems" of a third (3rd) party; or

3. the failure to prevent transmission of "Malicious Code" from a "Computer System" operated by "You" or on "Your" behalf to a third (3rd) party's "Computer System".

"Services Fraud Event" means the unauthorized use of or access to "Your" "Computer System" by a third party which results in increased service charges to "You", including: the unauthorized use of "Your" "Computer System" by a third party to mine cryptocurrency or any other digital or electronic currency; the fraudulent or unauthorized use of Software-as-a-Service (SaaS), Infrastructure-as-a-Service (IaaS), Network-as-a-Service (NaaS), or IP Telephony.

"Services Fraud Loss" means monetary or other financial asset loss as a result of a "Services Fraud Event", provided: (1) the service provider charges "You" via a periodic billing statement pursuant to a written contract that was executed before the "Services Fraud Event" occurred; (2) the service provider charges "You" a fee that scales with the rate of use of such services; and (3) the "Services Fraud Event" began on or after the "Retroactive Date". The most "We" will pay for any "Services

Fraud Loss" is the sublimit of liability stated in ITEM 3.II.I.2. of the Declarations. Such sublimit is part of the Limit of Liability in Coverage I and not in addition.

"Service Provider" means any third (3rd) party that is responsible for the processing, maintenance, protection or storage of "Digital Assets" pursuant to a written contract directly with "Your Organization". A "Service Provider" does not include any provider of telecommunications services, including "Internet" access, to "You".

"Subsidiary" means any corporation of which more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of such corporation's directors are owned by the "Named Insured" directly or indirectly, if such corporation was so owned on the inception date of this Policy; or

1. becomes so owned after the inception date of this Policy, provided the revenues of the newly acquired corporation do not exceed twenty-five percent (25%) of "Your Organization's" annual revenues as set forth in its most recent audited financial statement; or

2. becomes so owned after the inception date of this Policy, provided that if the revenues of the newly acquired corporation exceed twenty-five percent 25%) of "Your Organization's" annual revenues as set forth in its most recent audited financial statement, the provisions of Section IX. I. must be fulfilled.

"Systems Integrity Restoration Loss" means the reasonable and necessary costs "You" incur, with our prior written consent, to restore or replace that part of "Your" "Computer System" directly impacted by a "Security Compromise". "System Integrity Restoration Loss" does not include "Restoration Costs". The most "We" will pay for any "Systems Integrity Restoration Loss" is the sublimit of liability stated in ITEM 3.II.G.4. of the Declarations. Such sublimit is part of the Limit of Liability in Coverage G and not in addition.

"Telecommunications Services" means telephone, fax, broadband, or other data transmission services that "Your Organization" purchases from third parties.

"Telephone Hacking Event" means a third party's intentional, unauthorized and fraudulent use of "Your" "Telecommunications Services" that results in unauthorized calls or unauthorized use of "Your" bandwidth.

"Telephone Hacking Loss" means "Your" monetary or other financial asset loss as a result of a "Telephone Hacking Event". The most "We" will pay for any "Telephone Hacking Loss" is the sublimit of liability stated in ITEM 3.II.I.6. of the Declarations. Such sublimit is part of the Limit of Liability in Coverage I and not in addition.

"Theft Of Data" means the unauthorized taking, misuse or disclosure of information on including but not limited to charge, debit, or credit information, banking, financial and investment services account information, proprietary information, and "Private Information".

"Unauthorized Access" means the gaining of access to a "Computer System" by an unauthorized person or an authorized person in an unauthorized manner.

"Unauthorized Use" means the use of a "Computer System" by an unauthorized person or an authorized person in an unauthorized manner.

"Waiting Period" means the time period specified in ITEM 11. of the Declarations.

"We", "Us" or "Our" means the underwriters providing this insurance.

"Wrongful Act" means a "Privacy Wrongful Act", "Security Wrongful Act", "Multimedia Wrongful Act", or "PCI DSS Wrongful Act".

"You" or "Your" or "Yours" means:

1. the entity named in ITEM 1. of the Declarations ("Named Insured") and its "Subsidiaries" (together "Your Organization");

2. any present or future director, officer, or trustee of "Your Organization", but only with respect to the performance of his or her duties as such on behalf of "Your Organization";

3. any present or future "Employee" of "Your Organization" but only with respect to work done while acting within the scope of his or her employment and related to the conduct of "Your Organization's" business;

4. in the event that the "Named Insured" is a partnership, limited liability partnership, or limited liability company, then any general or managing partner, principal, or owner thereof, but only while acting within the scope of his or her duties as such;

5. any person who previously qualified as "You" under 2, 3, or 4 above prior to the termination of the required relationship with "Your Organization", but only with respect to the performance of his or her duties as such on behalf of "Your Organization";

6. the estate, heirs, executors, administrators, assigns and legal representatives of any of "You" in the event of "Your" death, incapacity, insolvency or bankruptcy, but only to the extent that "You" would otherwise be provided coverage under this insurance;

7. any agent or independent contractor, including any distributor, licensee or sub-licensee, but only while acting on "Your" behalf, at "Your" direction, and under "Your" control; and

8. any third (3rd) party entity (including a HIPAA Covered Entity) required by contract to be named as an insured under this Policy, but only in respect of sums which they become legally obligated to pay (including liability for claimants' costs and expenses) as a result of a "Claim" arising solely out of an act, error or omission committed by "You", provided that:

   a) "You" contracted in writing to indemnify the third (3rd) party for such a "Claim" prior to it first being made against them; and

   b) had the "Claim" been made against "You", then "You" would be entitled to indemnity under this Policy.

   As a condition to "Our" indemnification of any third (3rd) party they shall prove to "Our" satisfaction that the "Claim" arose solely out of a "Wrongful Act", act, error or omission committed by "You"; and where a third (3rd) party is indemnified as an additional insured as a result, it is understood and agreed that any "Claim" made by that third (3rd) party against "You" shall be treated by "Us" as if they were a third (3rd) party, not an additional insured.

## VI. LIMITS OF LIABILITY

Limits of Liability for Damages and Claims Expenses

A. The amount stated in the Policy as stated in ITEM 3.I of the Declarations (herein the "Policy Aggregate Limit") is the most "We" will pay in the aggregate under this Policy, under all Coverages combined, for:

1. all "Damages"; and

2. all "Claims Expenses".

regardless of the number of "Claims", "Events", "Wrongful Acts", acts, errors, or omissions, insured persons, insured entities or claimants involved, or Coverages triggered.

B. For any Coverage purchased as indicated in ITEM 3.II of the Declarations, any Per Single "Claim", Per Single "Event" or Aggregate Per Coverage "Sublimit(s) of Liability" shall be part of, and not in addition to, the "Policy Aggregate Limit", unless otherwise specified.

C. If any single "Claim", single "Event", or single "Event" combined with a single "Claim" directly arising therefrom ("Combined Matter") is covered under more than one Coverage, the highest applicable Per Single "Claim" or Per Single "Event" "Sublimit of Liability" shall be the most "We" shall pay as to such single "Claim", single "Event" or "Combined Matter", and such single "Claim", single "Event" or "Combined Matter" shall be subject to the highest applicable retention, unless otherwise specified.

D. Any Aggregate Per Coverage "Sublimit of Liability" as stated in ITEM 3.II of the Declarations shall be the most "We" will pay in the aggregate for any given Coverage, for:

1. all "Damages"; and
2. all "Claims Expenses".

regardless of the number of "Claims", "Events", "Wrongful Acts", acts, errors, or omissions, insured persons, insured entities or claimants to which such given Coverage applies.

Limits of Liability for Loss(es)

E. The amount stated in the Policy as stated in ITEM 3.I of the Declarations (herein the "Each Event Aggregate Limit") is the most "We" will pay in the aggregate under this Policy for all "Loss" arising out of a single "Event".

F. Any Aggregate Per Coverage "Sublimit of Liability" as stated in ITEM 3.II of the Declarations shall be the most "We" will pay in the aggregate for any given Coverage under this Policy for all "Loss" arising out of a single "Event".

## VII. RETENTIONS

The retention for each Coverage is stated in ITEM 4 of the Declarations. The applicable retention shall be first applied to "Damages", "Claims Expenses" and "Loss" covered by this Policy and "You" shall make direct payments within the retention to appropriate other parties designated by "Us". "We" shall be liable only for the amounts in excess of the retention, not to exceed the applicable "Sublimit(s) of Liability" or "Policy Aggregate Limit". Each single "Claim", single "Event" or "Combined Matter" shall be deemed to be one single potentially covered matter, and only one retention shall apply thereto. Where multiple Coverages potentially apply to a single "Claim", single "Event" or "Combined Matter"; only one retention shall apply and this shall be the highest retention applicable to such Coverages.

Except as otherwise provided, the amount set forth in ITEM 4 of the Declarations (the "Aggregate Retention Amount") is the most "You" will pay for all retentions combined under this Policy regardless of the number of "Claims", "Events", or "Wrongful Acts". Upon payment of the "Aggregate Retention Amount" by "You" the applicable retentions shall be waived.

No retention is applicable to "Breach Response Counsel" fees and expenses.

With respect to Coverage G. 1, once the "Period of Restoration" has exceeded the "Waiting Period", the retention stated in ITEM 4 of the Declarations shall be applied against the "Business Income Loss" computed from the commencement of the "Network Disruption".

At "Our" sole and absolute discretion, "We" may pay all or part of the applicable retention, in which case "You" agree to repay "Us" immediately after "We" notify "You" of the payment; and such payment or repayment of any amount within the retention shall be first applied to "Damages", "Claims Expenses" and "Loss" covered by this Policy.

## VIII. EXTENDED REPORTING PERIOD

A. Basic "Extended Reporting Period": In the event of cancellation or non-renewal of this Policy by "You" or "Us", an "Extended Reporting Period" of sixty (60) days immediately following such cancellation or non-renewal shall be automatically granted hereunder at no additional premium. Such "Extended Reporting Period" shall cover "Claims" first made and reported to "Us" during such sixty (60) day "Extended Reporting Period" but only in respect of any act, error, or omission committed prior to the date of cancellation or non-renewal, and subject to all other terms, conditions, and exclusions of this Policy. No "Claim" in such sixty (60) day extended reported period shall be covered under this Policy if "You" are entitled to indemnity under any other insurance or would have been entitled to indemnity under such insurance but for the exhaustion thereof.

B. Optional "Extended Reporting Period": In the event of cancellation or non-renewal of this Policy by "You" or "Us", "You" shall have the right, upon payment in full and not proportionally or otherwise in part to have issued an endorsement providing an optional "Extended Reporting Period" after the end of the "Policy Period" as follows.

| Extended Reporting Period | Extended Reporting Period Premium |
|---|---|
| 12 Months | 100% of the Annual Policy Premium |
| 24 Months | 150% of the Annual Policy Premium |
| 36 Months | 200% of the Annual Policy Premium |

C.

1. Such optional "Extended Reporting Period" shall cover "Claims" made and reported to "Us" during this optional "Extended Reporting Period", but only in respect of any "Claim" arising out of any act, error, or omission committed prior to the date of cancellation or non-renewal, and subject to all other terms, conditions, and exclusions of the Policy.

2. In order for "You" to invoke the optional "Extended Reporting Period", the payment of additional premium as stated in this provision must be paid to "Us" within sixty (60) days after the end of the "Policy Period".

3. At the commencement of the optional "Extended Reporting Period", the entire premium shall be deemed fully earned, and in the event "You" terminate the optional "Extended Reporting Period" for whatever reason prior to its natural expiration, "We" will not be liable to return any premium paid for the optional "Extended Reporting Period".

D. Terms and conditions of basic and optional "Extended Reporting Period":

1. At renewal of this Policy, "Our" quotation of different premium, retention or limit of indemnity or changes in policy language shall not constitute non-renewal by "Us" for the purposes of granting the optional "Extended Reporting Period".
2. The right to the "Extended Reporting Period" shall not be available to "You" where "We" cancel or non-renew due to non-payment of premium.
3. The limit of liability for the "Extended Reporting Period" shall be part of, and not in addition to, the limit of liability for the "Policy Period".

4. All notices and premium payments with respect to the "Extended Reporting Period" shall be directed to "Us" through the entity named in the Policy.

## IX. TERMS AND CONDITIONS

### A. NOTICE OF CLAIM OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM

1. If any "Claim" is made against "You" during the "Policy Period" (or an "Extended Reporting Period", if applicable), or an "Event" first occurs during the "Policy Period", then as soon as practicable after a member of the "Control Group" becomes aware of such "Claim" or "Event", "You" must provide notice thereof to "Us" through the person identified in ITEM 8. in the Declarations, during the "Policy Period" (or an "Extended Reporting Period", if applicable), including every demand, notice, summons or other process "You" or "Your" representative receive.

2. If during the "Policy Period" a member of the "Control Group" becomes aware of any situation, circumstance, "Wrongful Act", act, error or omission that might reasonably give rise to a "Claim", and if "You" give written notice to "Us" through the person identified in ITEM 8. in the Declarations, as soon as practicable during the "Policy Period", of:

   a. The specific details of the situation, circumstance, "Wrongful Act", act, error or omission that might reasonably give rise to a "Claim";

   b. The possible damage which may result or has resulted from the situation, circumstance, "Wrongful Act", act, error or omission;

   c. A description of how "You" first became aware of the situation, circumstance, "Wrongful Act", act, error or omission; and

   d. Any "Computer System" security and event logs which provide evidence of the situation, circumstance, "Wrongful Act", act, error or omission,

   then any subsequent "Claim" made against "You" arising out of such situation, circumstance, "Wrongful Act", act, error or omission which is the subject of the written notice will be deemed to have been first made at the time written notice complying with the above requirements was first given to "Us".

3. A "Claim" shall be considered to be reported to "Us" when notice is first given to "Us" through the person identified in ITEM 8. in the Declarations or when notice of a situation, circumstance, "Wrongful Act", act, error or omission which might reasonably give rise to a "Claim" is first provided in compliance with Section IX.A.2 above. An "Event" shall be considered reported to "Us" when notice is first given to "Us" through the person identified in ITEM 8. in the Declarations.

4. Whenever coverage under this Policy would be lost due to non-compliance of Section IX.A.1.'s notice requirements because of the failure to give such notice, or concealment of such failure, by one or more "You" responsible for causing the "Damage", "Loss" or other amounts potentially insured hereunder, then "We" agree that such insurance as would otherwise be afforded under this Policy shall remain available with respect to those of "You" who did not personally commit, personally participate in committing or personally acquiesce in such failure to give notice, provided that those of "You" entitled to the benefit of this provision provide notice of a "Claim" or "Event" during the "Policy Period" (or "Extended Reporting Period", if applicable), promptly after obtaining knowledge of such failure of any others of "You" to comply with Section IX.A.1.

However, such insurance as afforded by this provision shall not cover a "Claim" against "Your Organization", or an "Event", if a member of the "Control Group" failed to give notice as required by Section IX.A.1.if such "Claim" or "Event" arises from "Wrongful Acts", acts, errors or omissions that were also known to another then current member of the "Control Group".

**B. ASSISTANCE AND COOPERATION**

1. "You" shall cooperate with "Us" in all investigations. "You" shall execute or cause to be executed all papers and render all assistance as requested by "Us". Part of this assistance may require "You" to provide soft copies of "Your" system security and event logs.

2. Upon "Our" request, "You" shall assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to "You" because of "Wrongful Acts", acts, errors, or omissions with respect to which insurance is afforded under this Policy; and "You" shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.

3. "You" shall not admit liability, make any payment, assume any obligation, incur any expense, enter into any settlement, stipulate to any judgment or award or dispose of any "Claim" without "Our" written consent, unless otherwise provided under Section II.

4. As soon as practicable after "You" give "Us" notice of any "Claim", "Event", or circumstance, "You" must also give "Us" copies of reports, photographs, investigations, pleadings and all other papers in connection therewith, including allowing "Us" to question "You" under oath at such times as may be reasonably required regarding "Your Organization's" books, records, and any other information relating to such matters.

5. In the event of a "Privacy Breach", "Security Breach" or other "Event", "You" must take all reasonable steps to protect "Computer Systems" and "Private Information" from further access, disclosure, loss or damage.

**C. DUTIES FOLLOWING NOTICE OF AN EVENT (applicable to Coverages C, F, G and I only).**

"You" must see that the following are done if "You" send "Us" notice of an "Event" to which Coverages C, F, G or I potentially apply:

1. at "Our" request, notify the police, FBI, CERT or other applicable law enforcement authority, central reporting or investigative organization that "We" may designate, if it appears that a law may have been broken;

2. immediately take all reasonable steps and measures necessary to limit or mitigate the "Loss";

3. send "Us" copies of every demand, notice, summons, or any other applicable information "You" receive;

4. if requested, permit "Us" to question "You" under oath at such times and places as may be reasonably required about matters relating to this insurance, including "Your" books and records;

5. send "Us" a sworn statement of "Loss" or other amounts incurred containing the information "We" request to resolve, settle or otherwise handle the "Event". "We" will provide "You" with the necessary forms;

6. cooperate with "Us" and counsel "We" may appoint in the investigation of any "Event" covered by this Policy;

7. assist "Us" and counsel "We" may appoint in the investigation or settlement of "Loss";

8. assist "Us" in protecting and enforcing any right of subrogation, contribution or indemnity against any person, organization or other entity that may be liable to "You", including attending depositions, hearings and trials;

9. assist "Us" when a "Telephone Hacking Event" and/or "Funds Transfer Fraud" occurs, and

10. otherwise assist in securing and giving documentation and evidence, and obtaining the attendance of witnesses.

    A "Telephone Hacking Event" will be deemed to occur when "You" first discover that a "Telephone Hacking Event" has occurred, or "You" have a reasonable basis to know that a "Telephone Hacking Event" has occurred, including the receipt of any notice, invoice, or billing evidencing unauthorized use of "Telecommunications Services". If any related "Telephone Hacking Events" subsequently occur, and are reported to "Us," all such related "Telephone Hacking Events" will be considered a single "Telephone Hacking Event" and will be deemed to have occurred on the date the first of those "Telephone Hacking Events" occurred.

    "Funds Transfer Fraud" will be deemed to occur when "You" first know that a "Funds Transfer Fraud" has occurred, or "You" have a reasonable basis to know that a "Funds Transfer Fraud" has occurred, including any unauthorized electronic funds transfer; theft of "Your" money or other financial assets from "Your" bank by electronic means; theft of money or other financial assets from "Your" corporate credit cards by electronic means; or any fraudulent manipulation of electronic documentation while stored on "Your" "Computer System". If related "Funds Transfer Fraud" events subsequently occur, and are reported to "Us," all such related "Funds Transfer Fraud" events will be considered a single "Funds Transfer Fraud" event and will be deemed to have occurred on the date the first of those "Funds Transfer Fraud" events occurred.

    As soon as a "Telephone Hacking Event" and/or "Funds Transfer Fraud" first occurs, "You" must notify us in accordance with Section IX., TERMS AND CONDITIONS, paragraph A. NOTICE OF CLAIM OR CIRCUMSTANCE THAT MIGHT LEAD TO A CLAIM.

### D. SUBROGATION

In the event of any payment under this Policy, "You" agree to give "Us" the right to any subrogation and recovery to the extent of "Our" payments. "You" agree to execute all papers required and will do everything that is reasonably necessary to secure these rights to enable "Us" to bring suit in "Your" name. "You" agree to fully cooperate in "Our" prosecution of that suit. "You" agree not to take any action that could impair "Our" right of subrogation without "Our" written consent, whether or not "You" have incurred any unreimbursed amounts. Any recoveries shall be applied first to subrogation expenses, second to "Damages", "Claims Expenses" and "Loss" paid by "Us", and third to the Retention. Any additional amounts recovered shall be paid to "You".

### E. INSPECTIONS AND SURVEYS

"We" may choose to perform inspections or surveys of "Your" operations, conduct interviews and review documents as part of "Our" underwriting, "Our" decision whether to provide continued or modified coverage, or "Our" processing of any "Claim" or "Event". If "We" make recommendations as a result of these inspections, "You" should not assume that every possible recommendation has been made or that "Your" implementation of a recommendation will prevent a "Claim" or "Event". "We" do not indicate by making an inspection or by providing "You" with a report that "You" are complying with or violating any laws, regulations, codes or standards.

## F. OTHER INSURANCE

This insurance shall apply in excess of any other valid and collectible insurance available to "You", including any retention or deductible portion thereof, unless such other insurance is written only as specific excess insurance over this Policy. However, this insurance shall apply as primary in respect of any directors & officers, professional liability, errors & omissions, medical malpractice or professional service liability policy purchased by "You".

## G. ACTION AGAINST US

No action shall lie against "Us" or "Our" representatives unless, as a condition precedent thereto: (1) there shall have been full compliance with all terms of this insurance; and (2) until the amount of "Your" obligation to pay shall have been finally determined by judgment or award against "You" after trial, regulatory proceeding, or arbitration or by written agreement between "You", the claimant, and "Us".

"Your" bankruptcy or insolvency shall not relieve "Us" of "Our" obligations hereunder.

## H. ENTIRE AGREEMENT

By acceptance of the Policy, "You" agree that this Policy embodies all agreements between "You" and "Us" relating to this insurance. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or stop "Us" from asserting any right under the terms of this Policy; nor shall the terms of this Policy be waived or changed, except by endorsement issued to form a part of this Policy signed by "Us".

## I. NEW SUBSIDIARIES/CHANGES IN NAMED INSURED OR YOUR ORGANIZATION

1. During the "Policy Period", if "You" acquire another corporation whose annual revenues are more than twenty-five percent (25%) of "Your Organization's" annual revenues as set forth in its most recent audited financial statements, "You" shall give "Us" written notice of the acquisition containing full details thereof, no later than sixty (60) days after the effective date of such acquisition or creation. Coverage under this Policy for "Wrongful Acts", acts, errors, or omissions committed or allegedly committed by the newly acquired "Subsidiary" or any persons who may become insureds therewith shall be automatic for ninety (90) days after such acquisition or creation or, until the end of the 'Policy Period,' whichever is earlier; after the end of this ninety (90) day period, "We" may agree to add coverage for the newly acquired "Subsidiary" upon such terms, conditions, and limitations of coverage and such additional premium as "We", in "Our" sole discretion, may require.

2. During the "Policy Period", if the "Named Insured" consolidates or merges with or is acquired by another entity, or sells substantially all of its assets to another entity, or a receiver, conservator, trustee, liquidator, or rehabilitator, or any similar official is appointed for or with respect to the "Named Insured", then all coverage under this Policy shall continue for post-transaction "Claims" first made prior to the expiration of the "Policy Period" but only for "Wrongful Acts", acts, errors or omissions that occurred prior to the date of such consolidation, merger or appointment. Coverage under this Policy shall not continue for "Events" that first commence post-transaction but prior to the expiration of the "Policy Period", unless coverage for such "Events" is specifically agreed to by "Us" and provided by endorsement hereto.

3. Should an entity cease to be a "Subsidiary" after the inception date of this Policy, coverage with respect to such entity and its insured persons shall continue as if it was still a "Subsidiary" until the expiration date of this Policy, but only with respect to a "Claim" that arises out of any "Wrongful Act", act, error, or omission committed prior to the date that it ceased to be a "Subsidiary".

4. All notices and premium payments made under this paragraph shall be directed to "Us" through the "Named Insured".

## J. ASSIGNMENT

"Your" interest under this Policy may not be assigned to any other person or organization, whether by operation of law or otherwise, without "Our" written consent. If "You" shall die or be adjudged incompetent, such insurance shall cover "Your" legal representative as "You" would be covered under this Policy.

## K. CANCELLATION AND NON-RENEWAL

This Policy may be cancelled or non-renewed by "You" at any time on request by sending a prior written notice to "Us" stating when thereafter the cancellation will be effective.

1. "We" may not cancel this Policy, except for nonpayment of Premium. If "We" cancel this Policy for non-payment of Premium, "We" will provide "You" with at least twenty (20) days advance written notice.

2. If this Policy is cancelled by "You", "We" shall refund the unearned Premium computed pro-rata. If this Policy is cancelled by "Us", the refund of paid Premium shall be computed pro-rata. Payment or tender of any unearned Premium by "Us" shall not be a condition precedent to the effectiveness of such termination, but such payment shall be made as soon as practicable. No Premium will be refunded where any "Claims" or circumstances have been notified under this Policy.

3. "We" may non-renew this Policy by providing "You" with at least sixty (60) days written notice before the expiration date. If the notice is given less than sixty (60) days before expiration, Coverage will remain in effect until sixty (60) days after notice is mailed. The Premium due for any period of Coverage that extends beyond the expiration date will be determined pro-rata based upon this Policy's total Premium for the expiring Policy Period.

4. Any offer to renew this Policy on terms involving a change in Retentions, Limit of Liability, Premium or other terms or conditions will not constitute a refusal to renew this Policy.

## L. WORDS AND TITLES OF PARAGRAPHS

The titles of paragraphs, section, provisions, or endorsements of or to this Policy are intended solely for convenience and reference, and are not deemed in any way to limit or expand the provisions to which they relate and are not part of the Policy. Whenever the singular form of a word is used herein, the same shall include the plural when required by context.

## M. NAMED INSURED AUTHORIZATION

The "Named Insured" has the right and duty to act on "Your" behalf for:

1. the giving and receiving of notice of cancellation;

2. the payment of premiums, including additional premiums;

3. the receiving of any return premiums;

4. the acceptance of any endorsements added after the effective date of coverage;

5. the payment of any retentions;

6. the receiving of any amounts paid hereunder; and

7. otherwise corresponding with "Us".

## N. REPRESENTATIONS BY YOU

By acceptance of this Policy, "You" agree that the statements contained in the "Application", any application for coverage of which this Policy is a renewal, and any supplemental materials submitted therewith, are "Your" agreements and representations, that they shall be deemed material to the risk assumed by "Us", and that this Policy is issued in reliance upon the truth thereof.

The misrepresentation or non-disclosure of any matter by "You" or "Your" agent in the "Application", any application for coverage of which this Policy is a renewal, or any supplemental materials submitted therewith will render the Policy null and void and relieve "Us" from all liability under the Policy.

## O. SERVICE OF SUIT CLAUSE (U.S.A.)

1. It is agreed that in the event of "Our" failure to pay any amount claimed to be due under this Policy, at "Your" request "We" will submit to the jurisdiction of a court of competent jurisdiction within the United States. Nothing in this clause constitutes or should be understood to constitute a waiver of "Our" rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or seek a transfer of a case to another court as permitted by the laws of the United States or any state in the United States. It is further agreed that service of process in such suit may be made upon "Our" representative, designated in the Policy, and that in any suit instituted against any one of "Us" upon this contract, "We" will abide by the final decision of such court or of any appellate court, in the event of an appeal.

2. "Our" representative designated in the Policy is authorized and directed to accept service of process on "Our" behalf in any such suit and/or upon "Your" request to give a written undertaking to "You" that they will enter a general appearance upon "Our" behalf in the event such a suit shall be instituted.

3. Pursuant to any statute of any state, territory, or district of the United States which makes provision therefore, "We" hereby designate the Superintendent, Commissioner, or Director of Insurance or other officer specified for that purpose in the statute, or his successor in office, as "Our" true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of "You" or any beneficiary hereunder arising out of this Policy, and hereby designate "Our" representative listed in the Policy as the person to whom the said officer is authorized to mail such process or a true copy thereof.

## P. CHOICE OF LAW

Any disputes involving this Policy shall be resolved applying the laws of the state identified in ITEM 10. of the Declarations.

## Q. ARBITRATION

Any controversy arising out of or relating to this policy or the breach, termination or invalidity thereof shall be settled by binding arbitration in accordance with the commercial arbitration rules, but not the authority or jurisdiction, of the American Arbitration Association (herein "AAA") then in effect. "We" and the "Named Insured" shall each appoint an arbitrator. Each arbitrator must be disinterested other than the "Named Insured" or any present or former officers or directors of the Insured. As soon as one party notifies the other of its demand for arbitration and names its arbitrator, the other party agrees to name its arbitrator within thirty (30) days of said notice. Within thirty (30) days of the naming of the second arbitrator, the two arbitrators will select a third arbitrator to be chairman of the panel, other than the "Named Insured" or any present or former officers or directors of the Insured. Should the two arbitrators not be able to agree on a choice of the third, then the Chief Judge of the chosen competent jurisdiction will make the appointment of such third arbitrator. None of the arbitrators may be current or former officers, directors, or employees of the "Named Insured" or "Us." The three arbitrators will comprise the arbitration panel for the purposes of this Policy.

Each party to this policy will submit its case with supporting documents to the arbitration panel within thirty (30) days after appointment of the third arbitrator. However, the panel may agree to extend this period for a reasonable time. Unless extended by the consent of the parties, the majority of the three arbitrators will issue a written decision resolving the controversy before them within thirty (30) days of the time the parties are required to submit their cases and related documentation. The arbitrators' written decision will state the facts reviewed, conclusions reached and the reasons for these conclusions. That decision will be final and binding upon the parties in any court of competent jurisdiction.

Each party will pay the fees and expenses of its arbitrator, unless otherwise agreed by the parties. The remaining costs of arbitration will be shared equally by the parties.

Arbitration will take place in a competent jurisdiction agreed to by the parties.

Any disputes involving this Policy shall be resolved applying the substantive law as designated in ITEM 10. of the Declarations.

In witness whereof, the company has caused this policy to be signed by its President and its Secretary at Oakbrook Terrace, Illinois.

PRESIDENT

SECRETARY

**BCS Insurance Company**
**2 Mid America Plaza, Suite 200**
**Oakbrook Terrace, IL 60181**
**(312) 803-7384**

# CYBER DECEPTION ENDORSEMENT

## CYBER AND PRIVACY LIABILITY POLICY

94.510 (07/19)

This Endorsement, effective at 12:01 a.m. CST, on April 22, 2023 forms part of:

Policy No.: RPS-P-1130263M

Issued to: SchuBemo Holdings, Inc.

Issued by: BCS Insurance Company

**Retention:** The retention for a "Loss" resulting from a "Cyber Deception Event" is as stated in ITEM 4.I.8 of the Declarations. A single retention shall apply to a "Cyber Deception Event" arising out of the same, related, or continuing acts, facts, or circumstances.

**Sublimit:** The most "We" will pay for a "Loss" resulting from a "Cyber Deception Event" is the amount stated in ITEM 3.II.I.8 of the Declarations. Such sub-limit shall be part of and not in addition to the "Policy Aggregate Limit".

For the avoidance of doubt, if a "Cyber Deception Event" arises from the same or a series of related or repeated acts, errors, or omissions or from any continuing acts, errors, or omissions then this shall be considered a single "Event" for the purposes of this policy and furthermore each corresponding retention shall apply separately to the applicable portion of such single "Event", and in no event shall the corresponding retentions be combined to create a larger retention amount than that exists for each corresponding retention.

This Endorsement modifies insurance provided under the following:

**CYBER AND PRIVACY LIABILITY POLICY**

In consideration of the premium required for the Cyber Deception Endorsement, and subject to all of the terms, conditions and exclusions in the Policy referenced above, (except as amended by this Endorsement), the Company hereby agrees to extend coverage to the Insured as follows:

**CYBER DECEPTION**

"We" shall reimburse "Your Organization" for the "Loss of Funds" or for the "Value of Goods" transferred which occur as a direct result of a "Cyber Deception Event" (which follows the "Retroactive Date" on the Declarations) which is notified to "Us" during the "Policy Period".

**A. DEFINITIONS:**

"Account" means any bank account held in the name of "Your Organization" or value stored in the form of cryptocurrency;

"Client" means any individual or entity to whom "You" are contracted to perform services or supply goods;



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"Cyber Deception" means the intentional misleading of "You" by means of a dishonest misrepresentation of a material fact contained or conveyed within an electronic or telephonic communication(s) and which relied upon by "You" believing it to be genuine.

"Cyber Deception Event" means:

1. The good faith transfer by "You" of "Your Organization's" funds or the transfer of "Your Goods", in lieu of payment, to a third party as a direct result of a "Cyber Deception", whereby "You" were directed to transfer "Goods" or pay funds to a third party under false pretenses; or

2. The theft of "Your Organization's" funds as a result of an unauthorized intrusion into or "Security Compromise" of "Your" "Computer System" directly enabled as a result of a "Cyber Deception".

Solely with respect to this Endorsement, the definition of "Event" is amended to include a "Cyber Deception Event".

"Goods" means those products supplied by "You" to a "Client" under a contract.

"Loss of Funds" means the loss of money from "Your" "Account", or the loss of money held on behalf of "Your" customers or clients. "Loss of Funds" shall not include:

1. Any fees, fines or charges assessed against "You" or any expenses "You" incur as a result of any "Cyber Deception Event"; or

2. The cost of "Your" time in identifying and rectifying the "Cyber Deception Event".

Solely with respect to this Endorsement, the definition of "Loss" is amended to include "Loss of Funds".

"Value of Goods" means the cost price of those "Goods" excluding:

1. Any element of profit to "Your Organization"; or

2. Any tax which "You" may be able to recover as a result of "Goods" being misappropriated by way of the "Cyber Deception Event".

Solely with respect to this Endorsement, the definition of "Loss" is amended to include the "Value of Goods".

**B. NOTICE OF CYBER DECEPTION EVENT**

If any "Cyber Deception Event" occurs, then as soon as reasonably practicable after "Your" Chief Executive Office, Finance Director, General Counsel, or Risk Manager or their functional equivalents becomes aware of such "Cyber Deception Event", "You" shall notify "Us" by forwarding notice to the persons named in Item 8. of the Declarations and giving as much details as possible of the following:

1. Specific details of the acts, facts, or circumstances that gave rise to the "Cyber Deception Event";

2. Possible amounts potentially covered under this policy that may result or have resulted from the acts, facts or circumstances;

3. Details regarding how "You" first became aware of the acts, facts, or circumstances; and

4. The "Computer Network" security and event logs, which provide evidence of the alleged incident.



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Any subsequent "Cyber Deception Event" arising out of such acts, facts, or circumstances which is the subject of the written notice will be deemed to be a "Cyber Deception Event" at the time written notice complying with the above requirements was first given to "Us".

## C. EXCLUSIONS

"We" shall not be liable for any "Cyber Deception Event" arising out of:

1. Any "Cyber Deception Event", which was first committed or occurred prior to the "Retroactive Date";
2. Any "Cyber Deception Event" notified to and accepted by a previous insurer under an insurance policy of which this policy is a renewal or replacement;
3. Any "Loss of Funds" or "Value of Goods" arising out of or caused by:
   a. The wear and tear, drop in performance, progressive or gradual deterioration, or aging of electronic equipment and other property or "Hardware" used by "You";
   b. Failure by "You" or those acting on "Your" behalf to maintain any computer, computer network or network, computer software, or any other equipment;
   c. Failure or gradual deterioration of overhead transmission, distribution lines or subterranean insulation or cabling;
   d. "Your" knowing use of illegal or unlicensed programs that are in violation of provisions or laws referring to software protection; or
   e. The existence, emission, or discharge of any electromagnetic field, electromagnetic radiation, or electromagnetism that actually or allegedly affects the health, safety, or condition of any person or the environment or that affects the value, marketability, condition, or use of any property.
4. Gambling, pornography, prizes, awards, coupons, or the sale or provision of prohibited, restricted, or regulated items including, but not limited to, alcoholic beverages, tobacco, or drugs.

## D. CANCELLATION AND NONRENEWAL

"You" may not cancel the coverage afforded by this Endorsement unless "You" cancel this entire Policy pursuant to Section IX. K. of this Policy, in which case the entire premium paid for this Endorsement shall be fully earned and non-refundable if notice of any "Cyber Deception Event" or other circumstances actually or potentially covered under this Endorsement has been given to "Us".



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**(312) 803-7384**

# NUCLEAR INCIDENT EXCLUSION CLAUSE-LIABILITY-DIRECT (BROAD) (U.S.A.)

94.102 (01/15)

This Endorsement, effective at 12:01 a.m. CST, on April 22, 2023 forms part of:

Policy No.: RPS-P-1130263M

Issued to: SchuBemo Holdings, Inc.

Issued by: BCS Insurance Company

For attachment to insurances of the following classifications in the U.S.A., its Territories and Possessions, Puerto Rico and the Canal Zone:

Owners, Landlords and Tenants Liability, Contractual Liability, Elevator Liability, Owners or Contractors (including railroad) Protective Liability, Manufacturers and Contractors Liability, Product Liability, Professional and Malpractice Liability, Storekeepers Liability, Garage Liability, Automobile Liability (including Massachusetts Motor Vehicle or Garage Liability),

not being insurances of the classifications to which the Nuclear Incident Exclusion Clause-Liability-Direct (Limited) applies.

This Policy* does not apply:

I. Under any Liability Coverage, to injury, sickness, disease, death or destruction:

(a) 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 or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) 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.

II. Under any Medical Payments Coverage, or under any Supplementary Payments Provision relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

III. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if:

(a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;

(b) 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

(c) the injury, sickness, disease, death or destruction arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the ning, 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 (c) applies only to injury to or destruction of property at such nuclear facility.



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IV. As used in this endorsement:

"hazardous properties" include 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 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 (1) containing by-product material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof; "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. With respect to injury to or destruction of property, the word "injury" or "destruction" includes all forms of radioactive contamination of property.

NOTE: As respects policies which afford liability coverages and other forms of coverage in addition, the words underlined should be amended to designate the liability coverage to which this clause is to apply.

It is understood and agreed that, except as specifically provided in the foregoing to the contrary, this clause is subject to the terms, exclusions, conditions and limitations of the Policy to which it is attached.

**BCS Insurance Company**
**2 Mid America Plaza, Suite 200**
**Oakbrook Terrace, IL 60181**
**(312) 803-7384**

# RADIOACTIVE CONTAMINATION EXCLUSION CLAUSE-LIABILITY DIRECT (U.S.A.)

94.103 01/15

This Endorsement, effective at 12:01 a.m. CST, on April 22, 2023 forms part of:

Policy No.: RPS-P-1130263M

Issued to: SchuBemo Holdings, Inc.

Issued by: BCS Insurance Company

When attached to the Policy, (in addition to the appropriate Nuclear Incident Exclusion Clause-Liability-Direct) provides worldwide coverage.

In relation to liability arising outside the U.S.A., its Territories or Possessions, Puerto Rico or the Canal Zone, this Policy does not cover any liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.

All other terms and conditions of this Policy shall remain unchanged.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.



Powered by LLOYDS

**BCS Insurance Company**
**2 Mid America Plaza, Suite 200**
**Oakbrook Terrace, IL 60181**
**(312) 803-7384**

# MISSOURI AMENDATORY ENDORSEMENT

94.801 MO (07 19)

This Endorsement, effective at 12:01 a.m. CST, on 04/22/2023 forms part of:

Policy No.: RPS-P-1130263M

Issued to: SchuBemo Holdings, Inc.

This endorsement modifies insurance provided under the following:

**CYBER AND PRIVACY LIABILITY POLICY**

The following changes are made to the policy:

I. Section **IX. TERMS AND CONDITIONS**, paragraph **G. ACTION AGAINST US** is replaced by the following:

**G. ACTION AGAINST US**

No action shall lie against "Us" or "Our" representatives unless, as a condition precedent thereto: (1) there shall have been full compliance with all terms of this insurance; and (2) until the amount of "Your" obligation to pay shall have been finally determined either by judgment or award against "You" after trial, regulatory proceeding, arbitration or by written agreement between "You", the claimant, and "Us". The action must be brought within ten (10) years after the date on which the direct physical loss or damage occurred.

"Your" bankruptcy or insolvency shall not relieve "Us" of "Our" obligations hereunder.

II. Section **IX. TERMS AND CONDITIONS**, paragraph **K. CANCELLATION AND NON-RENEWAL** is replaced by the following:

**K. CANCELLATION AND NON-RENEWAL**

This Policy may be cancelled or non-renewed by "You" at any time on request by sending a prior written notice to "Us" stating when thereafter the cancellation will be effective.

1. "We" may not cancel this Policy, except for nonpayment of Premium. If "We" cancel this Policy for non-payment of Premium, "We" will provide "You" with at least twenty (20) days advance written notice at the mailing address shown in the Policy. The notice of cancellation shall include the actual reason for cancellation. Proof of mailing of the notice of cancellation shall be sufficient proof of notice.
2. If this Policy is cancelled by "You", "We" shall refund the unearned Premium computed pro rata. If this Policy is cancelled by "Us", the refund of paid Premium shall be computed pro-rata. Payment or tender of any unearned Premium by "Us" shall not be a condition precedent to the effectiveness of such termination, but such payment shall be made as soon as practicable. No Premium will be refunded where any "Claims" or circumstances have been notified under this Policy.
3. "We" may non-renew this Policy by providing "You" with at least sixty (60) days written notice before the expiration date. The notice shall be mailed or delivered to the address shown in the Policy, and shall include the actual reason for non-renewal. Proof of mailing of the notice of non- renewal shall be sufficient proof of notice. If the notice is given less than sixty (60) days before expiration, Coverage will remain in effect until sixty (60) days after notice is mailed. The Premium due for any period of coverage that extends beyond the expiration date will be determined pro- rata based upon this Policy's total Premium for the expiring Policy Period.
4. Any offer to renew this Policy on terms involving a change in Retentions, Limit of Liability, Premium or other terms or conditions will not constitute a refusal to renew this Policy. However, if "We" offer renewal of this Policy which



Powered by LLOYDS

includes an increase in premium of twenty-five percent (25%) or more collectively for all Policies "We" issue to you for all lines of business, "We" will provide "You" and the agent of record with a "premium alteration requiring notification" notice at least sixty (60) days prior to the expiration date of the Policy. Such notice will be mailed or delivered to "You" at the mailing address shown in the Policy. If we fail to deliver this notice on a timely basis, "You" shall have the option of continuing the Policy for the remainder of the notice period plus an additional thirty (30) days at the premium rate of the expiring Policy.

This notice requirement does not apply if "We" offer to renew the Policy without such an increase in premium or "You" fail to pay a premium due or any advance premium "We" require for renewal.

For purposes of this provision, "premium alteration requiring notification" means an annual increase in premium of twenty-five percent (25%) or more, exclusive of premium increases due to a change in "Your" operations which increases either the hazard insured against or the individual loss characteristics,

5. Your Right to Loss Information

   If this Policy is canceled or non-renewed, "You" have the right to receive, on "Your" written request, a statement of the "Claims" history for this Policy for:

   a. The three years prior to the date of cancellation or non-renewal; or
   b. Total experience, if the Policy has been in effect less than three years prior to the date of cancellation or non-renewal.

   We will send this statement of "Claims" history within thirty (30) days of receipt of your written request.

III. Section **IX. TERMS AND CONDITIONS**, paragraph **Q. ARBITRATION** is replaced by the following:

**Q. ARBITRATION**

The "Named Insured" and "We" may voluntarily agree to resolve any controversy arising out of or relating to this policy or the breach, termination or invalidity thereof through binding arbitration in accordance with the commercial arbitration rules, but not the authority or jurisdiction, of the American Arbitration Association (herein "AAA") then in effect. "We" and the "Named Insured" shall each appoint an arbitrator. Each arbitrator must be disinterested other than the "Named Insured" or any present or former officers or directors of the Insured. As soon as both parties agree to arbitration and one party names its arbitrator, the other party agrees to name its arbitrator within thirty (30) days of said notice. Within thirty (30) days of the naming of the second arbitrator, the two arbitrators will select a third arbitrator to be chairman of the panel, other than the "Named Insured" or any present or former officers or directors of the Insured. Should the two arbitrators not be able to agree on a choice of the third, then the Chief Judge of the chosen competent jurisdiction will make the appointment of such third arbitrator. None of the arbitrators may be current or former officers, directors, or employees of the "Named Insured" or "Us." The three arbitrators will comprise the arbitration panel for the purposes of this Policy.

Each party to this policy will submit its case with supporting documents to the arbitration panel within thirty (30) days after appointment of the third arbitrator. However, the panel may agree to extend this period for a reasonable time. Unless extended by the consent of the parties, the majority of the three arbitrators will issue a written decision resolving the controversy before them within thirty (30) days of the time the parties are required to submit their cases and related documentation. The arbitrators' written decision will state the facts reviewed, conclusions reached and the reasons for these conclusions. That decision will be final and binding upon the parties in any court of competent jurisdiction.

Each party will pay the fees and expenses of its arbitrator, unless otherwise agreed by the parties. The remaining costs of arbitration will be shared equally by the parties.

Arbitration will take place in the county of the Named Insured's residence or place of business unless the Named Insured has no residence or place of business, then the arbitration will be held at the circuit court of Cole County.

Any disputes involving this Policy shall be resolved applying the substantive law as designated in ITEM 10. of the Declarations.

IV. The following is added to Section **IX. TERMS AND CONDITIONS**:

**MISSOURI PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION COVERAGE LIMITATIONS**

1. Subject to the provisions of the Missouri Property and Casualty Insurance Guaranty Association Ace (to be referred to as the Act), if "We" are a member of the Missouri Property and Casualty Guaranty Association (to be referred to as the Association), the Association will pay "Claims" covered under the Act if "We" become insolvent.
2. The Act contains various exclusions, conditions and limitations that govern a claimant's eligibility to collect payment from the Association and affect the amount of any payment. The following limitations apply, subject to all other provisions of the Act:
   a. "Claims" covered by the Association do not include a "Claim" by or against an insured of an insolvent insurer, if the insured has a net worth of more than $25 million on the later of the end of the insured's most recent fiscal year or December 31 st of the year next preceding the date the insurer becomes insolvent, provided that an insured's net worth on such date shall be deemed to include the aggregate net worth of the insured and all of its affiliates as calculated on a consolidated basis.
   b. Payments made by the Association for covered "Claims" will include only that amount of each "Claim" which is less than three-hundred thousand United States Dollars ($300,000 USD).

      However, the Association will not:

      1) Pay an amount in excess of the applicable Limit of Insurance of the policy from which a "Claim" arises; or

      2) Return to an insured any unearned premium in excess of twenty-five thousand United States Dollars ($25,000 USD).

   These limitations have no effect on the coverage "We" will provide under this policy.

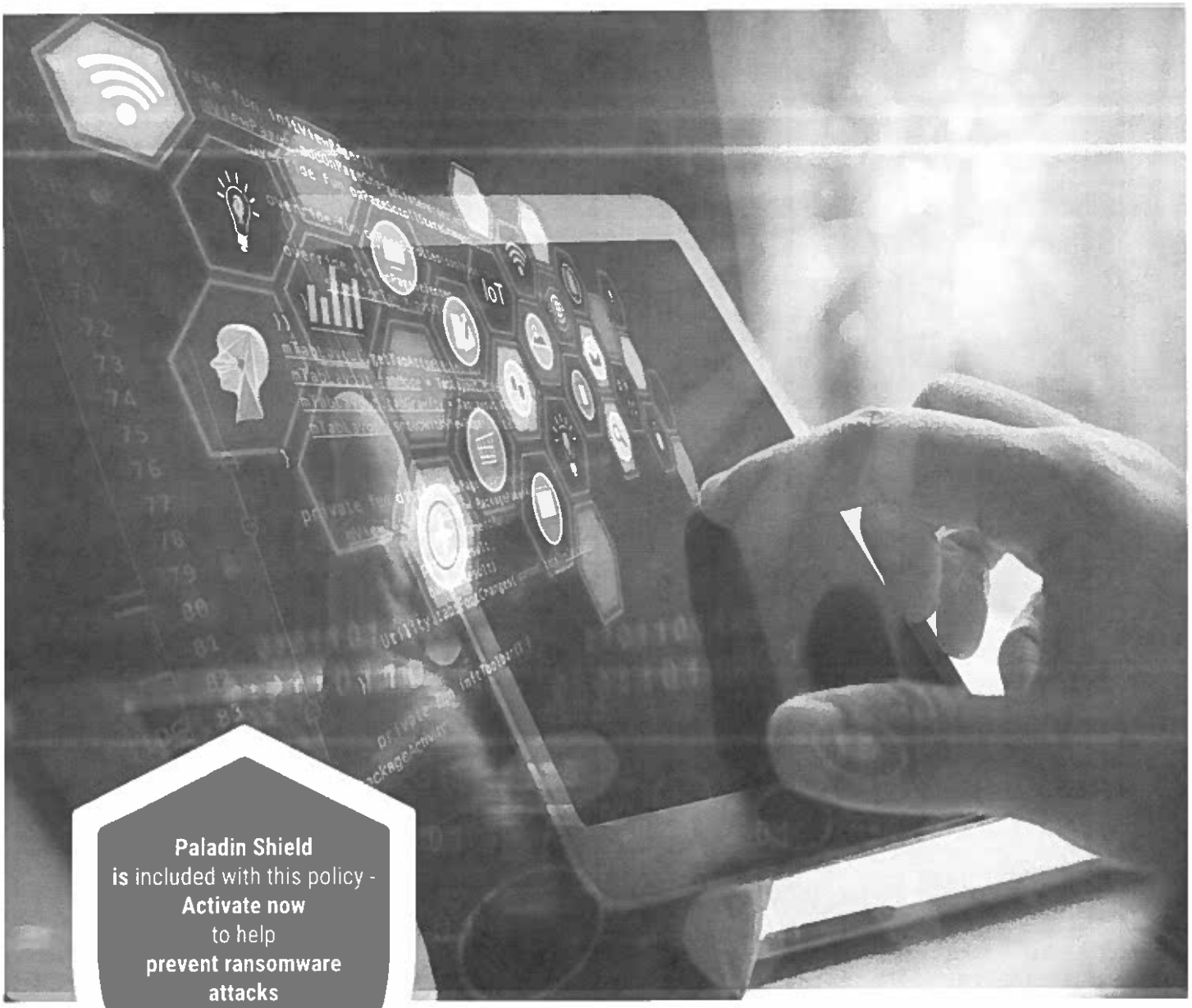
All other terms and conditions of this Policy shall remain unchanged.

This endorsement forms a part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein.

BCS

POWERED BY LLOYD'S

# CYBER INSURANCE POLICY



**Paladin Shield**
**is** included with this policy -
**Activate now**
to help
**prevent ransomware attacks**

See next page for details

RPS RISK PLACEMENT SERVICES

BCS

Shield your organization against cybercrime to help maintain the best cyber coverage and rates

# Activate Shield

**https://bcs.meetpaladin.com**

**Takes just a few minutes. No installation or IT savvy required.**

## ~~$500/mo~~

**No cost to you. No hidden fees or charges.**

## INSTANT BENEFITS

### Continous Monitoring

Monitor the entry points cybercriminals frequently use to deploy ransomware

### Proactive Alerts

Receive timely alerts on vulnerabilities and issues cybercriminals are actively exploiting

### Cyber Expertise

Talk with an expert to understand the high-impact low-hanging fruit that can drastically reduce risk

### Easy Anti-Phishing Toolkit

Enhance email security, network protection, and your team's ability to identify cybercrime

Toggle the features you want on with just a click - no complex configuration required

### Learn More

Call Paladin at 1-800-418-8593.

In just 15 minutes, a Paladin expert can get your company set with the protections that fit your business.

Paladin Shield

# Shield employees to stop ransomware in its tracks.

**Automated security training and seamless critical protections make your employees resilient, smarter, and safer.**

## Key Features

**Email Security**
Identify emails containing phishing, ransomware, and financial fraud

**Vulnerability Monitoring**
Monitor threats and critical vulnerabilities

**Network Defense**
Block sites that deliver ransomware or steal sensitive information

**Compliance Reporting**
Generate security compliance certificates

**Security Training**
Train employees with short videos and simulated phishing emails

**Human Support**
Phone, Chat, E-mail Support

MARKET PRICE

**~~$500/mo~~ Included with your BCS Cyber policy**

- Lightweight design works with Windows, Mac, Office365, Outlook, GSuite
- No access to network files
- Sets up in minutes with no IT expertise required.
- No impact on system performance

**Enter your policy number at** https://bcs.meetpaladin.com/
**or call** 1-800-418-8593 **to learn more.**

### About Paladin Shield

Paladin Shield was built from the ground-up to make advanced cybersecurity practical. Its continuously updated threat intelligence blocks tens of millions of malicious pages and IP addresses aggregated from industry-trusted sources and proprietary research. Shield's proprietary AI is continuously trained utilizing data from the latest attacks and losses.

# RPS Cyber Incident Roadmap

**This incident road map applies to BCS and Lloyd's Policyholders Only via RPSSmallbusiness.com**

RISK PLACEMENT SERVICES

## What your business should do in the event of a Privacy/Security/Data Breach Incident.

Your business has **experienced a privacy/security incident.** Taking immediate action by following the steps here will help you avoid litigation and ensure regulatory compliance and customer confidence.

**1 CALL: Baker Hostetler at 866.288.1705**
**You will need the following:**

- Names/numbers of internal contacts for IT, HR, legal.
- What type of cyber/privacy event?
- What type of information was compromised?
- Is your system accessible?
- How many people involved?

**Who is Baker Hostetler?**

- Breach response law firm and your first point of contact to help you navigate immediate steps to be taken.
- Baker Hostetler will be your "breach coach" throughout the incident.
- Baker Hostetler will notify Atheria Law, the coverage counsel representing the insurer, on your behalf.

**There is no charge for this initial call with Baker Hostetler who will advise of next steps, which could involve determining any of the following:**

- Is formal engagement with Baker Hostetler necessary from a legal perspective, and to preserve attorney client privilege?
- Should we engage a computer forensics firm to negotiate a ransomware incident on your behalf, and/or determine the existence, cause and scope of the security incident.
- Do we need to hire a public relations firm?
- Do we need to notify any of the affected parties? Customers? Employees? State Attorneys General and regulators? The media?
- Do we need to engage additional resources such as a call center or provide credit monitoring to affected individuals?

**2 After your discussion with Baker Hostetler, you will receive a call from Atheria Law PC.**

- Atheria is the law firm that handles coverage matters on behalf of the insurance company.
- Atheria is responsible for issues concerning coverage applicability, retentions, payments, reimbursements, etc.
- Baker Hostetler will have already notified Atheria of your privacy/security/data breach incident to satisfy the notice requirements of your insurance policy.

**3 EMAIL: Your insurance broker**

- Emailing your broker ensures that they are aware of developments in the incident, enabling them to be an additional resource for you.

**The Incident Response Plan will be managed by Baker Hostetler on your behalf from start to resolution.**

**Goals throughout:**

- Ensure compliance with applicable state and/or federal privacy laws.
- Return to operational normalcy as soon as possible.
- Ensure customer confidence and preserve brand reputation for your organization.

## Privacy/Security/Data Breach Litigation

Your business has **received litigation** concerning a privacy/security incident.

→

**EMAIL:**

- **Atheria Law at rpscyber@atherialaw.com.**
- **Your insurance broker**

Email all relevant information concerning the lawsuit

→ **Defense Counsel appointed** →

Close litigation

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 03/04/2024

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

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

**PRODUCER**
Jennifer Robinson
c/o Arthur J. Gallagher Risk Management Services
47 East Robinson Street; Suite 200
Orlando, FL 32801

CONTACT NAME:
PHONE (A/C, No, Ext): (407) 481-9363 FAX (A/C, No): (407)481-9969
E-MAIL ADDRESS:

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Zurich-American Insurance Company | 16535 |
| INSURER B : | |
| INSURER C : | |
| INSURER D : | |
| INSURER E : | |
| INSURER F : | |

**INSURED**
G&A Outsourcing, LLC dba: G&A Partners Alt. Emp: American Ramp Company
17220 Katy Freeway Suite 350
Houston, TX 77094

**COVERAGES** **CERTIFICATE NUMBER:** 24TX0381114684 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| | COMMERCIAL GENERAL LIABILITY | | | | | | EACH OCCURRENCE | $ |
| | CLAIMS-MADE / OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ |
| | | | | | | | MED EXP (Any one person) | $ |
| | | | | | | | PERSONAL & ADV INJURY | $ |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ |
| | POLICY / PRO-JECT / LOC | | | | | | PRODUCTS - COMP/OP AGG | $ |
| | OTHER: | | | | | | | $ |
| | AUTOMOBILE LIABILITY | | | | | | COMBINED SINGLE LIMIT (Ea accident) | $ |
| | ANY AUTO | | | | | | BODILY INJURY (Per person) | $ |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| | UMBRELLA LIAB / OCCUR | | | | | | EACH OCCURRENCE | $ |
| | EXCESS LIAB / CLAIMS-MADE | | | | | | AGGREGATE | $ |
| | DED / RETENTION $ | | | | | | | $ |
| A | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N<br>(Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below | N / A | | WC 16-90-372-04 | 03/01/2024 | 03/01/2025 | X PER STATUTE / OTH-ER | |
| | | | | | | | E.L. EACH ACCIDENT | $ 1,000,000 |
| | | | | | | | E.L. DISEASE - EA EMPLOYEE | $ 1,000,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ 1,000,000 |
| | | | | Location Coverage Period: | 03/01/2024 | 03/01/2025 | Client# 010884-MO | |

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

Coverage is provided for only those co-employees of, but not subcontractors to:
American Ramp Company
601 McKinley Ave
Joplin, MO 64801

PROJECT: Beach and Peach Urban Bike Park

**CERTIFICATE HOLDER**

City of Jacksonville
214 N. Hogan St., 4th Floor
Jacksonville, FL 32202

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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DocuSign Envelope ID: D5555EA5-0174-4407-B765-4555064B1FBF6



Sourcewell

**Solicitation Number: #112420**

# CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and American Ramp Company, Inc., 601 S. McKinley Avenue, Joplin, MO 64801 (Vendor).

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Skatepark, Bike Park, and Pump Track Solutions with Related Equipment, Accessories, and Services from which Vendor was awarded a contract.

Vendor desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

## 1. TERM OF CONTRACT

A. EFFECTIVE DATE. This Contract is effective upon the date of the final signature below.

B. EXPIRATION DATE AND EXTENSION. This Contract expires December 28, 2024, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended up to one additional one-year period upon request of Sourcewell and with written agreement by Vendor.

C. SURVIVAL OF TERMS. Articles 11 through 14 survive the expiration or cancellation of this Contract.

## 2. EQUIPMENT, PRODUCTS, OR SERVICES

A. EQUIPMENT, PRODUCTS, OR SERVICES. Vendor will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Vendor's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new/current model. Vendor may offer close-out or refurbished Equipment or Products if they are clearly indicated in Vendor's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. WARRANTY. Vendor warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Vendor warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Vendor's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the Vendor's warranty will be passed on to the Participating Entity.

C. DEALERS, DISTRIBUTORS, AND/OR RESELLERS. Upon Contract execution, Vendor will make available to Sourcewell a means to validate or authenticate Vendor's authorized dealers, distributors, and/or resellers relative to the Equipment, Products, and Services related to this Contract. This list may be updated from time-to-time and is incorporated into this Contract by reference. It is the Vendor's responsibility to ensure Sourcewell receives the most current version of this list.

## 3. PRICING

All Equipment, Products, or Services under this Contract will be priced as stated in Vendor's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. SHIPPING AND SHIPPING COSTS. All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Vendor must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable

time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

Vendor must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcewell may declare the Vendor in breach of this Contract if the Vendor intentionally delivers substandard or inferior Equipment or Products. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Vendor as soon as possible and the Vendor will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

B. SALES TAX. Each Participating Entity is responsible for supplying the Vendor with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Vendor may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Vendor determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

## 4. PRODUCT AND PRICING CHANGE REQUESTS

Vendor may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Contract Administrator. This form is available from the assigned Sourcewell Contract Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing

restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will become an amendment to this Contract and be incorporated by reference.

## 5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Vendor understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Vendor is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Vendor's employees may be required to perform work at government-owned facilities, including schools. Vendor's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

## 6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically, a Participating Entity will issue an order directly to Vendor. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration of this Contract; however, Vendor performance, Participating Entity payment, and any applicable warranty periods or other Vendor or Participating Entity obligations may extend beyond the term of this Contract.

Vendor's acceptable forms of payment are included in Attachment A. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM. Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Vendor, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entitles may require the use of a Participating Addendum; the terms of which will be worked out directly between the Participating Entity and the Vendor. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. SPECIALIZED SERVICE REQUIREMENTS. In the event that the Participating Entity requires service or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in this Contract, the Participating Entity and the Vendor may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

D. TERMINATION OF ORDERS. Participating Entities may terminate an order, in whole or in part, immediately upon notice to Vendor in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the goods to be purchased;
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements; or
3. Vendor commits any material breach of this Contract or the additional terms agreed to between the Vendor and a Participating Entity.

E. GOVERNING LAW AND VENUE. The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

## 7. CUSTOMER SERVICE

A. PRIMARY ACCOUNT REPRESENTATIVE. Vendor will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Participating Entity inquiries; and
- Business reviews to Sourcewell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Vendor must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

## 8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Vendor must provide a contract sales activity report (Report) to the Sourcewell Contract Administrator assigned to this Contract. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Vendor must submit a report indicating no sales were made).

The Report must contain the following fields:

- Customer Name (e.g., City of Staples Highway Department);
- Customer Physical Street Address;
- Customer City;
- Customer State/Province;
- Customer Zip Code;
- Customer Contact Name;
- Customer Contact Email Address;
- Customer Contact Telephone Number;
- Sourcewell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcewell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Vendor.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Vendor will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Vendor may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Vendor will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Vendor's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Vendor agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Vendor is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

## 9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Vendor's Authorized Representative is the person named in the Vendor's Proposal. If Vendor's Authorized Representative changes at any time during this Contract, Vendor must promptly notify Sourcewell in writing.

## 10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. AUDIT. Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant this Agreement are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. ASSIGNMENT. Neither the Vendor nor Sourcewell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement. Such consent will not be unreasonably withheld.

C. AMENDMENTS. Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.

D. WAIVER. If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.

E. CONTRACT COMPLETE. This Contract contains all negotiations and agreements between Sourcewell and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22, the terms of Articles 1-22 will govern.

F. RELATIONSHIP OF THE PARTIES. The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their

respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

## 11. LIABILITY

Vendor must indemnify, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the performance of this Contract by the Vendor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications.

## 12. GOVERNMENT DATA PRACTICES

Vendor and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Contract.

If the Vendor receives a request to release the data referred to in this article, the Vendor must immediately notify Sourcewell and Sourcewell will assist with how the Vendor should respond to the request.

## 13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License*. During the term of this Contract:
   a. Sourcewell grants to Vendor a royalty-free, worldwide, non-exclusive right and license to use theTrademark(s) provided to Vendor by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Vendor.
   b. Vendor grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Vendor's Trademarks in advertising and promotional materials for the purpose of marketing Vendor's relationship with Sourcewell.
2. *Limited Right of Sublicense*. The right and license granted herein includes a limited right of each party to grant sublicenses to its and their respective distributors, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

3. *Use; Quality Control.*

a. Sourcewell must not alter Vendor's Trademarks from the form provided by Vendor and must comply with Vendor's removal requests as to specific uses of its trademarks or logos.

b. Vendor must not alter Sourcewell's Trademarks from the form provided by Sourcewell and must comply with Sourcewell's removal requests as to specific uses of its trademarks or logos.

c. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's Trademarks only in good faith and in a dignified manner consistent with such party's use of the Trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

4. As applicable, Vendor agrees to indemnify and hold harmless Sourcewell and its Participating Entities against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Participating Entities by any person on account of the use of any Equipment or Products by Sourcewell or its Participating Entities supplied by Vendor in violation of applicable patent or copyright laws.

*5. Termination.* Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of vendors which may be used until the next printing). Vendor must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

B. PUBLICITY. Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. MARKETING. Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Materials should be sent to the Sourcewell Contract Administrator assigned to this Contract.

D. ENDORSEMENT. The Vendor must not claim that Sourcewell endorses its Equipment, Products, or Services.

## 14. GOVERNING LAW, JURISDICTION, AND VENUE

Minnesota law governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state court in Todd County or federal court in Fergus Falls, Minnesota.

## 15. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

## 16. SEVERABILITY

If any provision of this Contract is found to be illegal, unenforceable, or void then both Sourcewell and Vendor will be relieved of all obligations arising under such provisions. If the remainder of this Contract is capable of performance, it will not be affected by such declaration or finding and must be fully performed.

## 17. PERFORMANCE, DEFAULT, AND REMEDIES

A. PERFORMANCE. During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Vendor may escalate the resolution of the issue to a higher level of management. The Vendor will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending*. Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed will be borne by the Vendor.

B. DEFAULT AND REMEDIES. Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

Written notice of default and a reasonable opportunity to cure must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

## 18. INSURANCE

A. REQUIREMENTS. At its own expense, Vendor must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*
Workers' Compensation: As required by any applicable law or regulation.
Employer's Liability Insurance: must be provided in amounts not less than listed below:
Minimum limits:
$500,000 each accident for bodily injury by accident
$500,000 policy limit for bodily injury by disease
$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Vendor will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.
Minimum Limits:
$1,000,000 each occurrence Bodily Injury and Property Damage
$1,000,000 Personal and Advertising Injury
$2,000,000 aggregate for Products-Completed operations
$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Vendor will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.
Minimum Limits:
$1,000,000 each accident, combined single limit

4. *Umbrella Insurance*. During the term of this Contract, Vendor will maintain umbrella coverage over Workers' Compensation, Commercial General Liability, and Commercial Automobile.

Minimum Limits:
$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Professional Liability*. During the term of this Contract, Vendor will maintain coverage for all claims the Vendor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Vendor's professional services required under this Contract.

Minimum Limits:
$2,000,000 per claim or event
$2,000,000 – annual aggregate

6. *Network Security and Privacy Liability Insurance*. During the term of this Contract, Vendor will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Vendor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:
$2,000,000 per occurrence
$2,000,000 annual aggregate

Failure of Vendor to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Vendor must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Contract Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Vendor to provide certificates of insurance, in no way limits or relieves Vendor of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Vendor agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Vendor's commercial

general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Vendor, and products and completed operations of Vendor. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. WAIVER OF SUBROGATION. Vendor waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Vendor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Vendor or its subcontractors. Where permitted by law, Vendor must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

## 19. COMPLIANCE

A. LAWS AND REGULATIONS. All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. LICENSES. Vendor must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with Sourcewell and Participating Entities.

## 20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Vendor certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Vendor declares bankruptcy, Vendor must immediately notify Sourcewell in writing.

Vendor certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Vendor further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

## 21. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may also require additional requirements based on specific funding specifications. Within this Article, all references to "federal" should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Vendor's Equipment, Products, or Services with United States federal funds.

A. EQUAL EMPLOYMENT OPPORTUNITY. Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. § 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The equal opportunity clause is incorporated herein by reference.

B. DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148). When required by federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report

all suspected or reported violations to the federal awarding agency. Vendor must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of $150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Vendor certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R.

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§180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Vendors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Vendor must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Vendor further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Vendor must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Vendor must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Vendor agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

## 22. CANCELLATION

Sourcewell or Vendor may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Vendor's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcewell

DocuSigned by:
By: Jeremy Schwartz
C0FD2A139D06489...
Jeremy Schwartz
Title: Director of Operations & Procurement/CPO

Date: 12/21/2020 | 6:39 AM CST

American Ramp Company, Inc.

DocuSigned by:
By: Heather Ogden
1EE609FC26EF45C...
Heather Ogden
Title: Senior Project Manager

Date: 12/18/2020 | 12:21 PM PST

Approved:

DocuSigned by:
By: Chad Coauette
7E42B8F817A64CC...
Chad Coauette
Title: Executive Director/CEO

Date: 12/21/2020 | 7:45 AM CST

# RFP 112420 - Skatepark, Bike Park, and Pump Track Solutions with Related Equipment, Accessories, and Services

## Vendor Details

| | |
|---|---|
| Company Name: | AMERICAN RAMP COMPANY INC |
| Does your company conduct business under any other name? If yes, please state: | Progressive Bike Ramps |
| Address: | 601 S. McKinley Avenue<br>Joplin, MO 64801 |
| Contact: | Heather Ogden |
| Email: | heather@americanrampcompany.com |
| Phone: | 417-206-6816 |
| Fax: | 417-206-6816 |
| HST#: | 35-2353308 |

## Submission Details

| | |
|---|---|
| Created On: | Tuesday November 17, 2020 16:21:59 |
| Submitted On: | Tuesday November 24, 2020 15:51:23 |
| Submitted By: | Heather Ogden |
| Email: | heather@americanrampcompany.com |
| Transaction #: | 089feccc-a745-487f-bbcb-fdebd078f1ed |
| Submitter's IP Address: | 69.92.90.122 |

## Specifications

### Table 1: Proposer Identity & Authorized Representatives

**General Instructions** (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Please do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; mark "NA" if the question does not apply to you (preferably with an explanation).

| Line Item | Question | Response * |
|---|---|---|
| 1 | Proposer Legal Name (and applicable d/b/a, if any): | American Ramp Company, Inc. |
| 2 | Proposer Address: | 601 S. McKinley Avenue<br>Joplin, MO 64801 |
| 3 | Proposer website address: | www.americanrampcompany.com |
| 4 | Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract): | Heather Ogden<br>Senior Project Manager<br>heather@americanrampcompany.com<br>(417) 206-6816 |
| 5 | Proposer's primary contact for this proposal (name, title, address, email address & phone): | Heather Ogden<br>Senior Project Manager<br>heather@americanrampcompany.com<br>(417) 206-6816 |
| 6 | Proposer's other contacts for this proposal, if any (name, title, address, email address & phone): | Jonathon Hunter<br>Vice President<br>john@americanrampcompany.com<br>(417) 206-6816 |

### Table 2: Company Information and Financial Strength

| Line Item | Question | Response * |
|---|---|---|

| | | | |
|---|---|---|---|
| 7 | Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services. | American Ramp Company is the premier global action sports development company. Serving municipalities, camps, and private individuals throughout the world with turnkey design, manufacturing and construction services. At American Ramp Company we strive to provide excellent customer service, quality equipment and products to our valued customers.<br><br>American Ramp Company is the result of one skateboarder's dream to do what he loved. The son of missionaries growing up in a remote part of Southeast Asia, ARC founder and president, Nathan Bemo was always looking for a place to skateboard, and if he could not find a place, he made a place. Starting American Ramp Company out of his garage 23 years ago, it is Nathans passion for skateboard and action sports that has positioned ARC as a world class designer and builder of action sports facilities. To this day, Nathan is very active in our design department simply because he loves designing obstacles and park layouts that skaters and bikers want to ride. ARC is the only action sports contractor in the world that offers every skate and bike park build method. This puts ARC in a unique position to approach our customers as experts with solutions and not as a salesperson that only has one agenda to push. Our belief is that every community has users who are drawn to individual focused action sports over team sports. It is our mission to be a resource to any community who makes a commitment to invest in safe and fun infrastructure for skaters and bikers.<br><br>For more than 20 years, we have built and maintained constant focus on enriching the life of all end users of our parks by providing high end parks that entire families can enjoy together. We employ the most talented and qualified individuals in the business who are each dedicated to producing the absolute best product for our customers. At American Ramp Company we are a family.<br><br>We believe that communities need challenging and safe places to gather and recreate. Our passion is focused on action sports as designers, builders and participants. Getting people outside and active on a consistent basis changes lives, and changing lives helps to change the world. | * |
| 8 | What are your company's expectations in the event of an award? | American Ramp Company has held a Sourcewell contract for several years and our goal has always been to develop relationships with new and existing Sourcewell customers. We will continue to utilize Sourcewell as our primary procurement vehicle. We will continue to encourage non-members to join Sourcewell and purchase direct utilizing the Sourcewell contract if awarded. We have a dedicated manager to oversee our Sourcewell contract who has familiarized themselves with every aspect of the Sourcewell contract and is available to assist our sales team in the event that our customers have any questions regarding purchasing direct using Sourcewell. ARC is very comfortable with Sourcewell and are confident that it is the best option to serve our customers. | * |
| 9 | Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response. | Please review the attached confidential financial statements demonstrating our strength and stability. Also attached you will find a letter of credit from our financial institution, a letter from our bonding agent regarding our bonding capacity, as well as a variety of reference letters from some of our customers.<br><br>Note: The financial statements submitted are intended only for the submittal of this bid and is confidential material that is NOT for public viewing | * |
| 10 | What is your US market share for the solutions that you are proposing? | Because we offer a variety of products and solutions across the Action Sports landscape our market share varies within each segment. For skatepark design and construction we would consider ourselves to hold the largest share of the market for all of the various construction methods and that share would make up roughly 15% of the entire US skatepark market.<br><br>When it comes to Pumptrack we hold over 50% of the market for hard surface Pumptrack and over 75% of the modular pumptrack market. This 75% market share also extends to manufactured bike park equipment. | * |
| 11 | What is your Canadian market share for the solutions that you are proposing? | Our Canadian market share for manufactured skatepark equipment equals well over 50% of the market. We also have over 50% of the modular pumptrack market and around 25% of the built-on site hard surface pumptrack market share. | * |
| 12 | Has your business ever petitioned for bankruptcy protection? If so, explain in detail. | No | * |

| | | |
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| 13 | How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization.<br>a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned?<br>b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party? | American Ramp Company would be best described as a manufacturer and service provider. ARC employs a captive sales force with fourteen factory direct sales people whose sole focus is toward the sale of ARC products and services. Our Action Sports Sales Specialists cover the entire US and Canada collectively by normally spending 50% of their time meeting customers face to face. ARC also has a department of business development specialists who spend 100% of their time developing new relationships by researching projects and calling potential customers and qualifying them for our sales force. |
| 14 | If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP. | American Ramp Company maintains all necessary certifications required to do business in all 50 states in the U.S, as well as Canada. ARC holds several contractor's licenses throughout the US as required and ensures that all subcontractors involved on our projects have proper licensing and comply with local and state laws regarding their registrations or licenses. American Ramp Company is also an approved vendor and holds local business' licenses in many cities in US and Canada as required as well. |
| 15 | Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years. | Not Applicable |

## Table 3: Industry Recognition & Marketplace Success

| Line Item | Question | Response * |
|---|---|---|
| 16 | Describe any relevant industry awards or recognition that your company has received in the past five years | *Griffin Bike Park, Terre Haute, IN – 2017 NRPA National Facility or Park Design Award<br><br>*Festival Fields Park, Avondale, AZ – 2020 APRA Outstanding Facility of the Year for Population 10,001-100,000 Award<br><br>*Lake Cunningham Bike Park, San Jose, CA – 2018 American Public Works Association Project of the Year<br><br>*Sedona Bike Skills Park, Sedona, AZ – 2019 APRA Outstanding Facility for Populations under 10,000 Award<br><br>*Mansel Carter Oasis Park, Queen Creek, AZ – 2019 APRA Outstanding Facility for Populations 10,001-100,000 Award<br><br>*Ronald Reagan Sports Park, Temecula, CA – 2020 APWA/IE Small Project of the Year Award<br><br>*Featured in Several Parks and Recreation Magazines as well as industry related magazines |
| 17 | What percentage of your sales are to the governmental sector in the past three years | 85% of sales are with government entities generally including state county and municipal agencies as well as a variety of parks commissions. Roughly 5% of our business is with the federal government and about 10% private |
| 18 | What percentage of your sales are to the education sector in the past three years | 12. Historically less than 1% of our sales are in the public education sector. With the increase in school sponsored cycling teams we are beginning to see a demand emerge for bike focused infrastructure on school property. In mid-2020 we kicked off a campaign to develop sales channels for schools with our bike focused products. |
| 19 | List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years? | Buy Board – Contract No. 592-19<br>Sales:<br>2020 through 10/31/2020: $110,882.39<br>2019: $0.00<br>2018: $70,110.18<br>2017: $0.00<br><br>PA Costars – Contract No. 014-002<br>Sales:<br>2020 through 10/31/2020: $0.00<br>2019: $0.00<br>2018: $0.00<br>2017: $0.00<br><br>State of New Jersey Purchasing Contract – Contract No. 16-FLEET-00129<br>Sales:<br>2020 through 10/31/2020: $0.00<br>2019: $0.00<br>2018: $0.00<br>2017: $194,044.06<br><br>Sourcewell – Contract No. 030117-ARC<br>Sales:<br>2020 through 10/31/2020: $1,591,033.15<br>2019: $870,472.71<br>2018: $ 2,550,829.90<br>2017: $1,634,285.65<br><br>CMAS – Contract No. 4-19-78-0034B<br>No project performed under CMAS Contract at time of bid |
| 20 | List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years? | GSA Contract No. GS-03F-064GA<br>2020 through 10/31/2020: $0.00<br>2019: $147,000.00<br>2018: $127,400.00<br>2017: $0.00 |

## Table 4: References/Testimonials

Line Item 21. Supply reference information from three customers who are eligible to be Sourcewell participating entities.

| Entity Name * | Contact Name * | Phone Number * | |
|---|---|---|---|
| City of Norman<br>Parks and Recreation Department | James Briggs, Park Planner II | 405-366-5480 | * |
| City of Salina<br>Parks and Recreation Department | Chris Cotten, Director | 309-212-4796 | * |
| City of Newtown<br>Parks and Recreation<br>Department | Amy Mangold, Director | 203-270-4342 | * |
| NYC Parks | Martin Maher, Brooklyn Commissioner | 718-965-8920 | |
| City of Fort Atkinson<br>Parks and Recreation Department | Scott Lastusky, Former Director | 920-988-9007 | |

## Table 5: Top Five Government or Education Customers

**Line Item 22. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.**

| Entity Name | Entity Type * | State / Province * | Scope of Work * | Size of Transactions * | Dollar Volume Past Three Years * | |
|---|---|---|---|---|---|---|
| City of Norman | Government | Oklahoma - OK | *Bike Park Design<br>*Custom Built Bike Park with Trails and PBR Equipment<br>*Skatepark Design<br>*Custom onsite construction of concrete/shotcrete skatepark that included a custom hyprid half pipe.<br>*Custom Rockwork and Paved trails around Blake Baldwin Skatepark<br>*Custom Sign for Blake Baldwin Skatepark | 2018: $237,232.70<br>2019: $ 985,620.00<br>2020: $ 3,500.00 | $1,226,352.70 | * |
| City of Rogers | Government | Arkansas - AR | *Bike Park and Asphalt Pump Track Design<br>*Custom Asphalt Pump Track Construction<br>*Manufacture and Installation of PBR Features in Bike Park<br>*Trail Construction | 2020: $626,000.00<br>2020: $85,000.00<br>2020: $16,500.00 | $ 727,500.00 | * |
| City of Las Vegas | Government | Nevada - NV | *Asphalt Pump Track Design and CD's<br>*Asphalt Pump Track Construction<br>*Design, Manufacturing and Installation of three Pro Series Skateparks | 2019: $18,200.00<br>2020: $201,788.00<br>2020: $490,000.00 | $ 709,988.00 | * |
| City of Reno | Government | Nevada - NV | *Design and CD's of Skatepark<br>* Stamped Construction Documents<br>*Pre-cast Skatepark Manufacture and Installation<br>*Manufacture of PBR Features for Bike Park | 2017: $5,000.00<br>2017: $15,000.00<br>2017: $ 219,344.53<br>2017: $4,900.00<br>2018: $266,153.23<br>2019: $11,721.88 | $522,119.64 | * |
| Miami Parking Authority | Non-Profit | Florida - FL | *Design, CD's and Construction of custom concrete/skatepark located under I-5 Freeway | 2019: $ 1,100,000.00 | $1,100,000.00 | * |

## Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcewell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party),

and any overlap between the sales and service functions.

| Line Item | Question | Response * |
|---|---|---|
| 23 | Sales force. | American Ramp Company can assist our customers through every level of park development all within our own in-house team members. ARC employs a captive sales team which is structured to operate within designated regions. Currently, we have the following in house sales staff members:<br><br>• Two In-house Sales Representatives for East Coast<br>• Two In-house Sales Representatives for Central Region<br>• Three In-house Sales Representatives for West Coast<br>• Three In-house Sales Representatives for Canada<br>• Three In-house Sales Representatives for International<br>• One In-house Sales Representative for Maintenance Products<br>• Two In-house Business Development Team Members<br><br>At the sales level our team is actively working with over 3,000 individual clients who are at different stages of project development. We normally attend every state's park and recreation conference and tradeshow to make ourselves available to our current customers and to develop new relationships. This past year that has proven difficult, so we have attended the ones we are able to attend and have had hundreds of meetings with our clients virtually. On a normal basis our sales team spend approximately 50% of their time on the road meeting with our clients to advance the progress of their projects. |
| 24 | Dealer network or other distribution methods. | We have non-exclusive relationships with many dealers who have customers that are interest in our services and products. Our dealers will ask that we assist them in providing action sports solutions to their customers since those recreation segments are outside of their depth. Most of these dealer relationships are with Play Power dealers and reps which make the Sourcewell conversation very clean since they too carry a Sourcewell contract. Sales through these dealer relationships represent less than 5% of our total sales as most of our projects are worked factory direct through our captive sales force. |
| 25 | Service force. | Customer service and warranty service is all handled completely in our office by our customer support and installation staff. The parks and recreation market is a very connected one so we understand the importance of customer experience and want to control every aspect of that directly. We have more than 30 trained equipment installers, onsite construction crew members and maintenance staff to be able to deliver the highest quality parks to any customer. Our dedicated maintenance staff has the ability to handle warranty claims and provide ongoing maintenance options to our customers on a very quick turnaround because it is all handled directly from our corporate headquarters. |
| 26 | Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises. | While we are working on a project, we assign a Project Manager that is directly responsible for continuing communication on a regular basis with the customer. We strive to make sure that we are providing them with whatever they need to continue success while moving to completion of their project. We have recently implemented the use of Buildertrend Software that allows us to give the customer access to daily reports, photographs, weather reports, schedule and many other items to ensure they are constantly informed of what is happening on their project. Once a project is completed we take a proactive approach to the customer and project installation by contacting them at least twice a year to check in and make sure that everything is going well and that they are happy with the work that we did. This approach serves two purposes, customer satisfaction, but also helps ARC maintain relationships for future work with our clients. |
| 27 | Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States. | American Ramp Company has been actively utilizing a Sourcewell contract for more about 10 years. Throughout that time, we have served clients in 35 states with sales over Ten million since our contract was originally awarded. We have made it our goal to double that figure over the next contract life and reach more than Twenty Million in the next four years. ARC believes that Sourcewell purchasing vehicle for the customers we serve which is why we actively promote our Sourcewell with all new and existing customers and display that we hold a current Sourcewell contract at all of tradeshows we attend in the United States and Canada. |
| 28 | Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada. | Our Canadian sales team has been excited about the headway that Sourcewell has been making towards the use of the contract in the Canadian market. We have an office in Ontario with Canadian sales and installation team members. Our team is willing to help the contract propagate in Canada and educate all of the customers and contacts that we have on the value of using the Sourcewell contract. |
| 29 | Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract. | There are no areas in the United States or Canada that American Ramp Company will not fully be able to serve through our Sourcewell contract. |

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|---|---|---|---|
| 30 | Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract? | N/A - We will fully service Sourcewell members in every sector. | * |
| 31 | Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories. | There would be no restrictions. We have served customers in Hawaii, Alaska and US Territories throughout our history. We also serve Canadian customers located in remote regions, military bases, International municipalities, and dealers located anywhere in the world. Shipping terms and costs may vary based on locations. We will provide a quote for freight and delivery time at the time of estimate to the customer. | * |

## Table 7: Marketing Plan

| Line Item | Question | Response * |
|---|---|---|
| 32 | Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response. | Every project quote that we send out will have verbiage encouraging that the purchase is made through the Sourcewell contract. We will have information and links on our customer facing digital marketing materials like our website as well as include that we hold a Sourcewell contract on industry publications. Often, we do continuing education sessions and lunch and learns where we include information about procurement and specifically how using Sourcewell is the most efficient method for project procurement. We have attached some examples of marketing material as well as tradeshow handouts and catalogs that show that we carry a Sourcewell contract. |
| 33 | Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness. | American Ramp Company uses technology and digital data to enhance marketing effectiveness in the following ways:<br><br>Website:<br>Our dedicated marketing team works to ensure that our website remains up to date and relevant to customer needs. We analyze what the customers in our industry are searching for and use data and metadata to steer our messaging both in content and delivery method.<br><br>Social Media:<br>American Ramp Company is currently on Facebook, Instagram and You Tube. Our goal on these platforms is to provide our customers with information on our current parks that will add value in seeing where we are building and what our finished products look like. Social media is also a fun and interesting way to share with others the joy that the end users are being provided because of the different products and services we bring to communities.<br><br>E-Blast:<br>American Ramp Company frequently sends out E-blasts to all surrounding customers when we have a new park opening, are attending a local tradeshow, introducing a new product, and many other reasons. We feel that E-blasts are a successful email marketing tool that can raise awareness of our business and products to keep us on the minds of existing and potential customers. |
| 34 | In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process? | We anticipate that Sourcewell will continue to play a strong role in ensuring their members are aware of American Ramp Company's awarded contract and will navigate members to our Sourcewell Awarded Vendor page which will provide them all of the details on our contract award and contact information.<br><br>Sourcewell has already played a very active role in promoting our previous contracts by assisting our sales division on conference calls to help explain the many benefits and ease of contracting through Sourcewell. They have been very active in helping our sales force answer any questions that our customers who haven't become members of Sourcewell that they may have which makes it much more successful in getting them to become new Sourcewell members.<br><br>We have already integrated Sourcewell into our sales process by developing a marketing strategy that promotes our contract among members. We will continue to encourage Sourcewell members and nonmembers the advantages of purchasing through Sourcewell in an effort to save them valuable time and money. |
| 35 | Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it. | American Ramp Company does not offer online sales through our website because of the nature of the products and services we provide. Most of our products and services require initial legwork including design which would not be effectively performed through online ordering services. We work with our customers and their communities to develop designs and then supply them with the best possible end product based on the feedback from the customer and their end users.<br><br>However, we work with our customers in any way needed to make the procurement process meet their needs. We offer procurement through many various forms including purchase orders, credit cards and P-Cards.<br><br>Because we work with many government entities, all these forms of procurement are very common to us.<br><br>There is no additional cost to Sourcewell members for using this process. |

## Table 8: Value-Added Attributes

| Line Item | Question | Response * |
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|---|---|---|
| 36 | Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply. | At the time of project installation, we offer an opportunity for our customer to have staff trained on equipment maintenance by our installation crew lead. This is a service that we provide at no extra cost to the customer. |
| 37 | Describe any technological advances that your proposed products or services offer. | Our design and engineering team work to stay of the cutting edge of the action sports industry when it comes to the development of new products and facilities. We also look for ways to integrate technology and multimedia into the park experience. For example, we have developed the ability for a facility user to access a "How to use this equipment" video while at the park by scanning a QR code on interpretive signage. |
| 38 | Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each. | At American Ramp Company we take pride in our commitment to providing the highest quality projects possible. As a leader in the action sports industry we recognize that it is our responsibility to set an example as an environmentally conscientious company. We have invested considerable time and resources identifying aspects of our business that we can alter in order to maximize our customer satisfaction while minimizing our environmental impact. American Ramp Company has always looked for ways to decrease our carbon footprint. We hold firm to the belief that focusing on building the highest quality, longest lasting skateparks will insure minimum environmental impact. By building skateparks right the first time we guarantee resources are not needlessly being used to replace or repair.<br><br>Our industry did not have baseline environmental standards and for that reason we took the lead to develop initiatives and with one other skatepark company founded Green Skate. As one of the founding members of Green Skate we have adopted a policy to evaluate environmental impact of every decision we make. Green Skate is an initiative set forth to create baseline standards for sustainability in the production of skateparks. Below are a few of the critical objectives of Green Skate.<br><br>Green Skate Initiatives<br>• Use recycled and recyclable productions – Utilize resources that are recyclable and/or composed of recycled materials<br><br>• Practice Lean Manufacturing – Identify any areas of waste and excess. Maximize efficiency and accuracy of work force, energy and materials. Manufacture equipment when ordered so energy and materials are not being wasted on inventory storage.<br><br>• Seek Environmentally Sensitive Partners and Suppliers – Team up with vendors and business partners that are taking their own steps to protect our environment and natural resources. We seek out vendors and suppliers that are operationally proximal to avoid trucking raw materials over a long distance.<br><br>• Employee Culture – Encourage employees to constantly evaluate their work processes and identify areas that can be improved to increase efficiency and environmental sustainability.<br><br>ARC also employs LEED Accredited individuals that help keep focus on environmental sustainability within the company. |
| 39 | Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors. | While American Ramp Company does not hold any third-party issued eco-labels, ratings or certifications, all of the steel used in our products are recycled steel. We also utilize recycled concrete when possible as base and fill material in our onsite parks and work with various suppliers of surfacing that utilizes recycled material. American Ramp Company has also recently used Basalt rebar in place of traditional steel rebar on a project that we completed this past year and are looking into utilizing this product more in the future. |
| 40 | Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response. | American Ramp Company is identified as a Small Business Entity (SBE) and does currently hold a State of Missouri Minority Owned Business Enterprise certificate.<br><br>Please see a copy of this certificate attached to this response. |

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| 41 | What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities? | American Ramp Company offers turn-key solutions to its customers. Being the only true one stop shop for the Action Sports segment of the recreation industry, we are able to serve our customers at every level of any project. This assistance spans all areas of project development including fundraising, community awareness, and project development. Any time a customer contacts our office during normal business hours someone will answer the phone. Every staff member that answers our phones during the course of the day are trained on asking the proper questions to ensure that they are transferred to the appropriate person to help with whatever they need. This we feel is an added value to our customer service because they get to speak to a live person at the time of their initial call.<br><br>Because we have had a Sourcewell contract for over 10 years our staff is uniquely prepared to help Sourcewell members, and customers interested in becoming members, navigate the procurement process using the contract. | * |

## Table 9: Warranty

**Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.**

| Line Item | Question | Response * | |
|---|---|---|---|
| 42 | Do your warranties cover all products, parts, and labor? | Yes, our warranty typically covers all materials and labor. | * |
| 43 | Do your warranties impose usage restrictions or other limitations that adversely affect coverage? | Repairs required due to neglect, abuse, accident, vandalism, use of products other than the intended purpose and acts of nature or God are not warrantied. The warranty does not cover any modifications, additions, or changes to the equipment unless approved in writing by American Ramp Company. | * |
| 44 | Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs? | Because we have multiple crews that are mobilized throughout the US and Canada, we can very quickly respond to any warranty issues. Since these crews are already in the region, we do not charge our customer for any travel related expenses. | * |
| 45 | Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair? | American Ramp Company covers all regions and have crews that can perform warranty work anywhere in the United States and Canada. | * |
| 46 | Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer? | Our warranty extends as applicable to any product or service that is listed under our contract, including any product that we would offer by others. | * |
| 47 | What are your proposed exchange and return programs and policies? | An exchange program is not offered, if something is wrong or a customer is unsatisfied with a product our warranty covers that item and we will replace it at no cost to the customer. There is a 30% restocking fee if the customer wants to return a park. All of the shipping and logistics are handled through our office and often carried by our crews. | * |
| 48 | Describe any service contract options for the items included in your proposal. | Our products have an industry leading warranty and are manufactured to be as maintenance free as possible. However, we do have an annual maintenance inspection program available to our customers. With the annual maintenance inspection program, we will send out on of our trained supervisors to do a thorough walk through their park and identify any necessary items that should be addressed. If the park is within our warranty timeline, most of these items can be addressed immediately. If work outside of warranty is needed, we can then take all the photo documentation and reports back to our office where our service department will write up a detailed report and provide a quote to make necessary repairs. | * |

## Table 10: Payment Terms and Financing Options

| Line Item | Question | Response * | |
|---|---|---|---|
| 49 | What are your payment terms (e.g., net 10, net 30)? | We have a wide variety of payment terms depending on the product and/or service we are providing.<br><br>Because the majority of our projects are very large in nature our terms are 50% at the time of order and 50% upon shipping of the equipment. Most of these projects we work with Net 30 terms.<br><br>American Ramp Company also performs large inground concrete skateparks and asphalt pump track and generally invoice those using progress billing that we submit to the customer at different project milestones much like most construction projects.<br><br>American Ramp Company will talk through payment terms with our customers and determine which payment structure works best for them and their project. | * |
| 50 | Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions? | ARC has partnered with National Cooperative Leasing (NCL) to offer Sourcewell members a complete suite of finance solutions. NCL is a current Sourcewell financing contract holder and is an industry expert in municipal financing solutions. NCL will offer leasing terms from 12-120 months on transactions from $5,000.00 and up. Traditional leasing and financing programs will be offered along with programs specifically designed for schools and governmental entities including tax-exempt municipal leases and a purchase order only program.<br><br>There is no ownership, common ownership, or control between ARC and NCL. | * |
| 51 | Briefly describe your proposed order process. Include enough detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the Sourcewell participating entities' purchase orders. | Sourcewell members will issue purchase orders directly to American Ramp Company with the Sourcewell contract number included on the PO. American Ramp will then entire the sales as a Sourcewell sale in their sales tracking system, which is used to create, manage and report quarterly to Sourcewell.<br><br>Our overall order process provides multiple check points so that nothing is missed in the process of our customers placing an order. Each customer works directly with a sales professional from their region. Once they work through what type of equipment, park or services they would like to procure a contract or purchase order and order form are completed. Once that is done so it is entered into our online system with all of the information for each order which then automatically generates an internal email to all department managers. The accounting department immediately enters the job into our online accounting system and the file is sent to our manufacturing department. | * |
| 52 | Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process? | Yes, we will work with our customers in any way needed to make the procurement process meet their needs. There is no additional cost to Sourcewell members for using a P-Card. | * |

## Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as desribed in the RFP, the template Contract, and the Sourcewell Price and Product Change Request Form.

| Line Item | Question | Response * | |
|---|---|---|---|
| 53 | Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response. | Each individual component will be listed using line item pricing. All pricing that is being extended to Sourcewell members is factory direct pricing, which means no middleman mark up. This factory direct relationship automatically saves the 20-30% commissions that would typically be applied and added to the price by a 3rd party supplier. In addition to the factory direct pricing ARC will be offering an additional 7% discount off the factory direct pricing, giving Sourcewell members access to pricing lower than any other pricing in market, published or unpublished. Individual Sku's are listed for manufactured components on the attached price list. Onsite construction price line items do not contain sku numbers. | * |
| 54 | Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range. | Most of our customer interaction is factory direct, and this will be the same in the case of a Sourcewell sale. This means that our list price is manufacturer direct pricing and does not have the 30% marked up MSRP when working through a third-party rep agency. That factory direct pricing is then discounted an additional 7% to Sourcewell members giving Sourcewell members the best possible price for our products and services. | * |
| 55 | Describe any quantity or volume discounts or rebate programs that you offer. | There are no quantity or volume discounts or rebate programs at the time of this offering. | * |
| 56 | Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request. | Our objective in this RFP response is to provide a turn-key solution by including all conceivable aspects of a skatepark, bike park or pump track project under this contract. Items such as sound dampening material, installation, etc. will have percentage cost pricing.<br><br>For any components that are not specifically called out in this price list we will provide a quote for the requested service as new needs arise. Because the components to build a skatepark, bike park or pump track vary drastically, it would be virtually impossible to include every non-standard component in our price list. Our price list is meant to be interpreted as "Standard" components meaning that a certain feature may have differing dimensions with a different price. | * |
| 57 | Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer. | Our response covers all components typically associated with our projects. The only cost that is not clearly defined in our proposal would be installation costs on projects located within prevailing wage states. In states with prevailing wage laws we do not use the percentage cost pricing method, but rather quote the installation out based on the applicable rate schedule that would apply but only for the installation amount the product price is fixed by the contract. | * |
| 58 | If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program. | Once the final design is complete and all components are determined for each project, our shipping department gets multiple competitive rates from our shipping partners. Because we are based in the center of the US and ship a lot of freight, we are able to provide very cost-effective shipping solutions. | * |
| 59 | Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery. | In the instance of Hawaii and Alaska, we ship to the port and have the products sent by boat. Shipping to most regions of Canada are the same procedure as when we ship within the US. None of these logistics are the responsibility of the customer and are handled directly by our shipping department. These types of shipments are common practice for us as we do a lot of international business. | * |
| 60 | Describe any unique distribution and/or delivery methods or options offered in your proposal. | Our team has shipped and installed skate, bike and pump track components in nearly 40 countries and every environment, so unique to us is a relative term. To date we have been able to comply with customer requests in any situation that we have encountered and intend to continue that trend. We don't offer any specifically unique distribution or delivery methods. | * |

## Table 12: Pricing Offered

| Line Item | The Pricing Offered in this Proposal is: * | Comments |
|---|---|---|
| 61 | c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments. | |

## Table 13: Audit and Administrative Fee

| Line Item | Question | Response * |
|---|---|---|
| 62 | Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell. | As soon as an order is placed, the first stop that it makes is in our contract managers office. She thoroughly goes through the pricing and verifies everything in accordance with Sourcewell pricing. Once she verifies the pricing, she then places the sale on our internal sales report and includes all information including which purchasing program is used to place the order. She then keeps individual reports for each purchasing program where the data is entered as well. For our current Sourcewell contract, we use the report that was provided to us by Sourcewell to report our sales. At the end of each quarter all sales are double check and verified on the sales report and the administrative fee is issued for the projects that have been completed and paid in full. |
| 63 | Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.) | Two Percent of gross sales. |

## Table 14A: Depth and Breadth of Offered Equipment Products and Services

| Line Item | Question | Response * |
|---|---|---|
| 64 | Provide a detailed description of the equipment, products, and services that you are offering in your proposal. | American Ramp Company offers everything necessary for design and build services for skateparks, bike parks and pump tracks. American Ramp Company offers pre-cast concrete, modular skatepark equipment (wood, steel, hybrid), bike park equipment, modular pump track equipment, bicycle playground equipment, trail construction, on-site concrete skatepark construction, and on-site construction of asphalt pump tracks. American Ramp Company provides full turn-key service of any type of skate, bike or pump track project including all demolition, excavation, drainage, forming, rebar, shotcrete, flatwork, and much more depending on the project needs. All designs produced by ARC are custom based on what the customer would like, their budget, the site selected as well as community input from meetings and surveys conducted by our design team. |
| 65 | Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services. | The categories listed, Skateparks, Bike Parks and Pumptracks, capture most every type of product/service that we offer. |

## Table 14B: Depth and Breadth of Offered Equipment Products and Services

Indicate below if the listed types of equipment, products, and services are offered within your proposal. Provide additional comments in the text box provided, as necessary.

| Line Item | Category or Type | Offered * | Comments | |
|---|---|---|---|---|
| 66 | Skateparks | ◉ Yes<br>○ No | American Ramp Company provides every skatepark build option and pricing for each is available and included in this proposal. | * |
| 67 | Bike Parks | ◉ Yes<br>○ No | American Ramp Company offers turn-key design and build of every type of bike park product and facility including segments created by us like bicycle playgrounds. | * |
| 68 | Pump Tracks | ◉ Yes<br>○ No | All pump track construction methods are available through American Ramp Company including products that are exclusive to ARC like modular pump tracks. | * |
| 69 | Design-build services, site assessment, site preparation, installation, maintenance or repair, and warranty programs. | ◉ Yes<br>○ No | We offer turn-key planning, design, consultation, and everything needed leading up to project construction and during construction we also perform all aspects of the project in house from site work through completion of the project.<br><br>We also provide facility management, programming and maintenance/repair solely by our staff. | * |

## Table 15: Industry Specific Questions

| Line Item | Question | Response * |
|---|---|---|
| 70 | If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract. | Sales Revenue:<br><br>We track our sales revenue on a monthly, quarterly and annual basis to show whether our sales are increasing/declining to Sourcewell members. This has also been tracked internally since the initial award of our first contract and this information is used internally by our sales team when they are initiating communication with a future customer who is interested in Sourcewell.<br><br>Number of Sales:<br><br>American Ramp Company tracks the number of sales with detailed sales reports on a monthly, quarterly and annual bases to track the number of sales to Sourcewell Customers. This has also been tracked internally since the initial award of our first contract and this information is used internally by our sales team when they are initiating communication with a future customer who is interested in Sourcewell.<br><br>Those are just a couple of examples of how we track to see if we are having success with the contract. If we see our revenue and number of sales drop, we will take the time to identify the problem and take all necessary steps to correct the issue. |
| 71 | Describe the methods or techniques that impact the durability or longevity of your product. | Because we self-perform nearly 100% of every aspect of a project, we can make sure that the quality meets our expectation. Our inhouse Director of Engineer and our Quality Control Manger have both been with our company for just shy of 20 years. Every project has 3 levels of quality checks that it goes through before the installation crew arrives onsite. Maintaining an experienced team who understand and maintain a level of excellence has been the key to outputting products that last. In-fact our most popular product comes with a 20-year warranty and we have had installations that are still in use from our first year in business, 23 years ago. |
| 72 | Describe any unique advancements offered by your firm, including examples related to product safety, product longevity and life cycle costs. | Our team is always looking for ways to improve our products and processes. This is done with a focus on performance, safety, and aesthetics. For example, we re-engineered both our bike and skatepark product lines in a way that eliminated any fasteners in the riding surface. This change eliminates a potential hazard of a fastener backing out and causing injury, but also gives the product a higher aesthetic value. The removal of this critical maintenance area is also a big benefit to the customer.<br><br>Another great example is something we recently developed; a special surface fork bike parks called P3 Cycle Surface. This new surfacing solution will dramatically cut down on maintenance for customers while also creating a more consistent and safer riding surface for users. |
| 73 | Describe how your offering addresses the needs of user's safety, well-being, and range or level of accessibility? | Our team works directly with clients from the beginning of a project to address the needs and goals identified. A focus for our company is to provide facilities that serve the broadest user group possible. Our passion is in action sports as designers, builders, and users ourselves, so we believe it is our responsibility to make action sports environments that are welcoming, engaging, and inclusive. Whether it is a bike park, skatepark or pump track, we believe getting people outside and active on a consistent basis changes lives, and changing lives helps to change the world. |
| 74 | Describe any unique advantage that your product offers in relation to design-build, manufacturing, climate variations, and community aesthetics. | Our company offers a turn-key solution for the planning, design, and construction of Skateparks, Pumptracks and Bike Parks. We feel that we have the most experienced and diversely qualified team in the action sports industry. On top of our experience we have the advantage of executing every aspect of a project inhouse, without the need to outsource. This means we can directly ensure a quality product/project, delivered in an efficient timeframe. |

## Table 16: Exceptions to Terms, Conditions, or Specifications Form

**Line Item 75.** NOTICE: To identify any exception, or to request any modification, to the Sourcewell template Contract terms, conditions, or specifications, a Proposer must submit the exception or requested modification on the **Exceptions to Terms, Conditions, or Specifications Form** immediately below. The contract section, the specific text addressed by the exception or requested modification, and the proposed modification must be identified in detail. Proposer's exceptions and proposed modifications are subject to review and approval of Sourcewell and will not automatically be included in the contract.

| Contract Section | Term, Condition, or Specification | Exception or Proposed Modification |
|---|---|---|
| N/A | N/A | No Exceptions Taken |
| | | |
| | | |
| | | |
| | | |
| | | |

**Documents**

**Ensure your submission document(s) conforms to the following:**

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.

2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.

3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.

4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."

- Financial Strength and Stability - ARC 2018 2019 2020 Financials.pdf - Tuesday November 24, 2020 15:13:04
- Marketing Plan/Samples - ARC Tradeshow Handout.pdf - Tuesday November 24, 2020 15:22:33
- WMBE/MBE/SBE or Related Certificates - MBE Certificate.pdf - Tuesday November 24, 2020 15:20:25
- Warranty Information - Warranty Statements.pdf - Tuesday November 24, 2020 15:19:31
- Pricing - 2020 Sourcewell Price List.pdf - Tuesday November 24, 2020 15:35:55
- Additional Document - ARC_Catalog.pdf - Tuesday November 24, 2020 15:24:21

## PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.

2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.

3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.

4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor's objectivity in performing the contract is, or might be, impaired.

5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.

6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.

7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.

8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.

9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.

10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.

11. Proposer its employees, agents, and subcontractors are not:

    a. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: https://www.treasury.gov/ofac/downloads/sdnlist.pdf;

    b. Included on the government-wide exclusions lists in the United States System for Award Management found at: https://www.sam.gov/portal/3; or

    c. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated

by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

☑ By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Heather Ogden, Senior Project Manager, American Ramp Company, Inc.

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

○ **Yes** ◉ **No**

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column **"I have reviewed this addendum"** below to acknowledge each of the addenda.

| File Name | I have reviewed the below addendum and attachments (if applicable) | Pages |
|---|---|---|
| **Addendum_2_Skatepark Bike Park and Pump Track Solutions_RFP 112420**<br>Thu October 29 2020 09:47 AM | ☑ | 3 |
| **Addendum_1_Skatepark Bike Park and Pump Track Solutions_RFP 112420**<br>Fri October 9 2020 04:18 PM | ☑ | 1 |