

**PARK CITY MUNICIPAL CORPORATION
FACILITY LICENSE AGREEMENT
PARK CITY RECREATION CENTER
1400 SULLIVAN ROAD, PARK CITY, UTAH**

Summit County, State of Utah

THIS AGREEMENT, (hereinafter "Agreement" or "License") dated the ⁶_____ day of
December_____, 2022, by and between **PARK CITY MUNICIPAL CORPORATION**, a Utah
municipal corporation (hereinafter "City" or "Licensor"), and the **SUNDANCE INSTITUTE**, a
Utah non-profit corporation, (hereinafter "Licensee"), whose street address is 1500 Kearns Blvd.,
Suite B110, Park City, Utah 84060, and whose mailing address is P.O. Box 684426, Park City,
Utah 84068.

WITNESSETH:

In consideration of the mutual agreements herein contained:

- A. **Grant of License.** City hereby grants to Licensee, and the Licensee hereby accepts a license for use of the facility described in Paragraph D below (hereinafter "Facility"), subject to the terms and conditions herein set forth.
- B. **Purpose.** The license is granted, and Licensee shall have access to the Facility and shall use the Facility for the purpose of back offices and storage.
- C. **License Period.** This license is granted for a period from December 1, 2022 (6:00 am) through February 17, 2023 (Midnight). In the event of a conflict, the terms of **Exhibit A** shall control.
- D. **Facilities Licensed.** *USE : Storage*
- AREA: Park City Recreation Center
- Entire Building**
- E. **Fees.** All applicable fees for the use of the building have been waived through the Master Festival License and City Services Agreement 2013 Amended and Restated, dated 10/30/13.. In addition to the license fee, Licensee shall remit to City a damage deposit of **Five Hundred Dollars (\$500.00)** as security for any damage to the Facility arising from or connected to Licensee's use of the Facility pursuant to this License.
- F. **Payment Terms.** The damage deposit, totaling **Five Hundred Dollars (\$500.00)** shall become due and payable upon the execution of this Agreement. The damage deposit shall be refunded to Licensee in full upon determination by City that no damage incurred to Facility as a result of this License.

If monies are not paid on or before the due date specified in the Agreement and a copy of the Certificate of Insurance is not received prior to the event, the Agreement is subject to immediate cancellation by the City Manager or his designee without further notice and the deposits heretofore collected will be retained as liquidated damages.

- G. **Insurance and Indemnity.** The Licensee shall indemnify and hold the City and its agents, employees, and officers, harmless from and shall process and defend at its own expense any and all claims, demands, suits, at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, brought against the City arising out of, in connection with, or incident to the execution of this Agreement and/or the Licensee's use of the facility/area or failure to perform any aspect of this Agreement; provided, however, that if such claims are caused by or result from the concurrent negligence of the City, its agents, employees, and officers, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the Licensee; and provided further, that nothing herein shall require the Licensee to hold harmless or defend the City, its agents, employees and/or officers from any claims arising from the sole negligence of the City, its agents, employees, and/or officers. The Licensee expressly agrees that the indemnification provided herein constitutes the Licensee's limited waiver of immunity as an employer under Utah Code Section 34A-2-105; provided, however, this waiver shall apply only to the extent an employee of Licensee claims or recovers compensation from the City for a loss or injury that Licensee would be obligated to indemnify the City for under this Agreement. This limited waiver has been mutually negotiated by the parties, and is expressly made effective only for the purposes of this Agreement.

The Licensee shall procure and maintain for the duration of the Agreement, insurance against claims for public liability, injuries to persons or damage to property which may arise from or in connection with the use of the Facility hereunder by the Licensee, their agents, representatives, employees, invitees or subcontractors. The Licensee shall provide a Certificate of Insurance evidencing insurance written on an occurrence basis with limits as specified in Section 14 of the Master Festival License and City Services Agreement 2013 Amended and Restated, dated 10/30/13, with limits defined as:

- 1) General Liability insurance written on an occurrence basis with limits no less than Two Million Dollars (\$2,000,000) combined single limit per occurrence and Four Million Dollars (\$4,000,000) aggregate for personal injury, bodily injury and property damage. The above can be satisfied by the combination of a primary and excess policy.

The Licensee shall increase the limits of such insurance to at least the amount of the Limitation of Judgments described in section 63G-7-604 of the Governmental Immunity Act of Utah, as calculated by the state risk manager every two years as stated in Utah Admin Code R37-4-3.

- 2) Automobile Liability insurance with limits no less than Two Million Dollars (\$2,000,000) each accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of owned, hired, and non-owned motor vehicles combined single limit per accident for bodily injury and property

damage. The above limits can be satisfied by the combination of a primary and excess policy. This policy must not contain any exclusion or limitation with respect to loading or unloading of a covered vehicle.

- 3) Proof of Workers Compensation insurance and Employers Liability coverage with Workers Compensation limits complying with statutory requirements, and Employer's Liability Insurance limits of at least One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) for bodily injury by accident, and One Million Dollars (\$1,000,000) each employee for injury by disease.

The Workers Compensation Policy shall be endorsed with a waiver of subrogation in favor of Park City Municipal Corporation with regards to the License Agreement, its employees, volunteers, agents and subcontractors.

- 4) The Licensor, its officers, officials, employees and volunteers are to be covered as additional insureds on the general liability and auto insurance policies via blanket endorsement, with respect to work performed by or on behalf of the Licensee including materials, parts or equipment, furnished in connection with such work or operations and automobiles owned, leased, hired or borrowed by or on behalf of the Licensee and a copy of the endorsement adding the City as additional insured via blanket endorsement shall be attached to the certificate of insurance. Should any of the above described policies be cancelled before the expiration date thereof, Licensee shall deliver notice to the Licensor within thirty (30) days of cancellation. The Licensor reserves the right to request certified copies of any required policies.
- 5) The Licensee's insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- 6) For any claims related to this License, the Licensee's insurance coverage shall be primary insurance coverage with respect to Park City Municipal Corporation, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Park City Municipal Corporation, its officers, officials, employees or volunteers shall be excess of the Licensee's insurance and shall not contribute to it.

The City shall be named as an additional insured on the insurance policies, with respect to this Agreement and a copy of the endorsement naming the City as an additional insured shall be attached to the Certificate of Insurance. The Certificate of insurance shall warrant that the City shall receive thirty (30) days advance notice of cancellation. The City reserves the right to request certified copies of any required policies. The provisions of this section shall survive the expiration or termination of this Agreement.

H. Anti-Discrimination. In the performance of this License, Licensee shall not discriminate on account of actual or perceived race; color; sex; pregnancy, childbirth, or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability; sexual orientation; gender identity; genetic information; or military status

and incorporate the foregoing provisions in all subcontracts or assignments hereunder and take such actions as may be required to ensure full compliance with the provisions of this policy.

I. **No City Liability.** Except where caused by City's negligence, City shall not be liable for any failure of water supply, natural gas supply, or electrical supply; or for any injury or damage to persons or property caused by gasoline, oil, steam, gas or electricity; or hurricane, tornado, flood, wind or similar storms of natural disturbances; or water, rain or snow which may leak or flow from the street, sewer, gas mains, or from any part of the Facility.

J. **Snow and waste removal.** The City shall maintain regular cleaning, waste and snow and ice removal during the use period. All reasonable efforts will be made to keep the area clear of snow for the remainder of the Festival and use period as reflected in this agreement. However, in the event of a snowstorm, City streets have first priority, and the Recreation Center parking lots and sidewalks have second priority. Licensee also accepts responsibility for removal of any and all vehicles parked in areas other than the designated surface parking lot. Parking is not allowed on grass areas.

K. **Attendance control.** Licensee will be responsible for ensuring that the occupancy limit does not exceed the capacity set by the City Building inspectors for use areas. Licensee will be responsible for monitoring the entrances to the Facility and will ensure that access to all entrances are maintained during operating hours (no entrances or exits can be blocked).

L. **Amendments.** This Agreement cannot be altered except by written instrument, signed by both parties.

M. **Master Festival License.** The Licensee is subject to Park City Municipal Code 4A Special Events, as well as the Master Festival License and annual supplemental plans and City Services Agreement 2013 Amended and Restated, dated 10/30/13, a copy of which is attached hereto as **Exhibit "A"** and incorporated herein by this reference. Licensee hereby agrees and accepts the terms contained therein.

N. **Notice.** Written notices under this agreement shall be given by first class mail, addressed to:

If to City: Park City Municipal Corporation
Special Event Manager
P.O. Box 1480
Park City, Utah 84060

If to Licensee: Sundance Institute
PO Box 684426
Park City, Utah 84068

O. **Applicable Laws.** Licensee shall obey all laws, ordinances, and regulations regarding use and occupancy of the Facility. Licensee acknowledges that smoking is prohibited in the Facility.

P. **Revocation.** If City determines that Licensee has breached the terms of this Agreement, or any other Federal, State, or Local Law, City may immediately revoke the License granted herein. If monies are not paid on or before the due date specified in the Agreement and a copy of the Certificate of Insurance is not received prior to the event, the Agreement is subject to immediate cancellation by the City Manager or his designee without further notice and the deposits heretofore collected will be retained as liquidated damages. If the breach occurs while Licensee is using the Facility, Licensee shall immediately leave the Facility and fees shall be prorated for any time paid for that was not used.

Q. **Counterparts.** This License may be executed in counterparts, each of which deemed an original and all of which together will count as one and the same instrument.

R. **Electronic Signatures.** Each party agrees that the signature of the parties included in this License, whether affixed on an original document manually or later electronically transmitted or whether affixed by electronic signature through an electronic signature system such as DocuSign, are intended to authenticate this writing and create a legal and enforceable agreement between the parties hereto.

IN WITNESS WHEREOF, the parties have executed this instrument or caused it to be executed by their representative duly authorized, the 6 day of December, 2022.

PARK CITY MUNICIPAL CORPORATION,
a Utah municipal corporation
Post Office Box 1480
Park City, UT 84060

DocuSigned by:
Matt Dias
D5D5222E88E248E...
Matt Dias, City Manager

Approved as to Form:

DocuSigned by:
Mark Harrington
B7478B7734C7490...
City Attorney's Office

DS
LR

SUNDANCE INSTITUTE, a Utah non-profit
corporation

Post Office Box 684426

Park City, Utah 84068

By: DocuSigned by:
Betsy Wallace

AD5A3B6607E34A4...

Name Printed:
Betsy Wallace

Title:
Managing Director

EXHIBIT "A"

Sundance Film Festival Master Festival License and City Services Agreement 2013 Amended
and Restated

<https://www.parkcity.org/home/showpublisheddocument/69410/637412157810770000>

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**BLANKET ADDITIONAL INSURED**

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

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

A. SECTION II – COVERED AUTOS LIABILITY COVERAGE, A. Coverage, 1. Who Is An Insured is amended by adding the following:

The following are also "insureds":

Any person or organization for whom you are required by an "insured contract" to procure "bodily injury" or "property damage" liability insurance arising out of the operation of a covered "auto" with your permission. However, this additional insurance does not apply to:

1. The owner or anyone else from whom you hire or borrow a covered "auto." This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own;
 2. Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household;
 3. Anyone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is yours;
 4. Anyone other than your "employees," partners (if you are a partnership), members (if you are a limited liability company), or a lessee or borrower or any of their "employees," while moving property to or from a covered "auto"; or
 5. A partner (if you are a partnership), or a member (if you are a limited liability company) for covered "auto" owned by him or her or a member of his or her household.
- B.** The "insured contract" must be in effect during the policy period shown in the Declarations and must have been executed prior to the "bodily injury" or "property damage".
- C.** This person or organization is an "insured" only to the extent you are liable due to your ongoing operations for that "insured", whether the work is performed by you or for you, and only to the extent you are held liable for an "accident" occurring while a covered "auto" is being driven by you or one of your employees.
- D.** There is no coverage provided to this person or organization for "bodily injury" to its employees or for "property damage" to its property.
- E.** Coverage for this person or organization shall be limited to the extent of your negligence or fault according to the applicable principles of comparative negligence or fault.
- F.** The defense of any claim or "suit" must be tendered by this person or organization as soon as practicable to all other insurers which potentially provide insurance for such claim or "suit".
- G.** A person's or organization's status as an "insured" under this endorsement ends when your operations for that "insured" are completed.

- H.** The coverage extended to any additional insured by this endorsement is limited to, and subject to all terms, conditions, and exclusions of the Coverage Part to which this endorsement is attached.

In addition, coverage shall not exceed the terms and conditions that are required by the terms of the written agreement to add any "insured," or to procure insurance.

- I.** The following additional exclusions apply:

The insurance afforded to any person or organization as an "insured" under this endorsement does not apply to "loss":

1. Which occurs prior to the date your contract is effective with such person or organization;
2. Arising out of the sole negligence of any person or organization that would not be an "insured" except for this endorsement; or
3. Which occurs after you returned the leased or rented "auto" to the lessor or the policy period ends, whichever occurs first.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**GENERAL LIABILITY DELUXE ENDORSEMENT:
HUMAN SERVICES**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE

It is understood and agreed that the following extensions only apply in the event that no other specific coverage for the indicated loss exposure is provided under this policy. If such specific coverage applies, the terms, conditions and limits of that coverage are the sole and exclusive coverage applicable under this policy, unless otherwise noted on this endorsement. The following is a summary of the Limits of Insurance and additional coverages provided by this endorsement. For complete details on specific coverages, consult the policy contract wording.

| Coverage Applicable | Limit of Insurance | Page # |
|---|---------------------------|---------------|
| Extended Property Damage | Included | 2 |
| Limited Rental Lease Agreement Contractual Liability | \$50,000 limit | 2 |
| Non-Owned Watercraft | Less than 58 feet | 2 |
| Damage to Property You Own, Rent, or Occupy | \$30,000 limit | 2 |
| Damage to Premises Rented to You | \$1,000,000 | 3 |
| HIPAA | Clarification | 4 |
| Medical Payments | \$20,000 | 5 |
| Medical Payments – Extended Reporting Period | 3 years | 5 |
| Athletic Activities | Amended | 5 |
| Supplementary Payments – Bail Bonds | \$5,000 | 5 |
| Supplementary Payment – Loss of Earnings | \$1,000 per day | 5 |
| Employee Indemnification Defense Coverage | \$25,000 | 5 |
| Key and Lock Replacement – Janitorial Services Client Coverage | \$10,000 limit | 6 |
| Additional Insured – Newly Acquired Time Period | Amended | 6 |
| Additional Insured – Medical Directors and Administrators | Included | 7 |
| Additional Insured – Managers and Supervisors (with Fellow Employee Coverage) | Included | 7 |
| Additional Insured – Broadened Named Insured | Included | 7 |
| Additional Insured – Funding Source | Included | 7 |
| Additional Insured – Home Care Providers | Included | 7 |
| Additional Insured – Managers, Landlords, or Lessors of Premises | Included | 7 |
| Additional Insured – Lessor of Leased Equipment | Included | 7 |
| Additional Insured – Grantor of Permits | Included | 8 |
| Additional Insured – Vendor | Included | 8 |
| Additional Insured – Franchisor | Included | 9 |
| Additional Insured – When Required by Contract | Included | 9 |
| Additional Insured – Owners, Lessees, or Contractors | Included | 9 |
| Additional Insured – State or Political Subdivisions | Included | 10 |

| | | |
|---|---------------|----|
| Duties in the Event of Occurrence, Claim or Suit | Included | 10 |
| Unintentional Failure to Disclose Hazards | Included | 10 |
| Transfer of Rights of Recovery Against Others To Us | Clarification | 10 |
| Liberalization | Included | 11 |
| Bodily Injury – includes Mental Anguish | Included | 11 |
| Personal and Advertising Injury – includes Abuse of Process, Discrimination | Included | 11 |

A. Extended Property Damage

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection **2. Exclusions**, Paragraph **a.** is deleted in its entirety and replaced by the following:

a. Expected or Intended Injury

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

B. Limited Rental Lease Agreement Contractual Liability

SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection **2. Exclusions**, Paragraph **b. Contractual Liability** is amended to include the following:

- (3) Based on the named insured’s request at the time of claim, we agree to indemnify the named insured for their liability assumed in a contract or agreement regarding the rental or lease of a premises on behalf of their client, up to \$50,000. This coverage extension only applies to rental lease agreements. This coverage is excess over any renter’s liability insurance of the client.

C. Non-Owned Watercraft

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection **2. Exclusions**, Paragraph **g. (2)** is deleted in its entirety and replaced by the following:

- (2) A watercraft you do not own that is:
- (a) Less than 58 feet long; and
 - (b) Not being used to carry persons or property for a charge;

This provision applies to any person, who with your consent, either uses or is responsible for the use of a watercraft. This insurance is excess over any other valid and collectible insurance available to the insured whether primary, excess or contingent.

D. Damage to Property You Own, Rent or Occupy

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE

LIABILITY, Subsection **2. Exclusions**, Paragraph **j. Damage to Property**, Item **(1)** is deleted in its entirety and replaced with the following:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property, unless the damage to property is caused by your client, up to a \$30,000 limit. A client is defined as a person under your direct care and supervision.

E. Damage to Premises Rented to You

1. If damage by fire to premises rented to you is not otherwise excluded from this Coverage Part, the word "fire" is changed to "fire, lightning, explosion, smoke, or leakage from automatic fire protective systems" where it appears in:

- a. The last paragraph of **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Subsection **2. Exclusions**; is deleted in its entirety and replaced by the following:

Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III – LIMITS OF INSURANCE**.

- b. **SECTION III – LIMITS OF INSURANCE**, Paragraph 6. is deleted in its entirety and replaced by the following:

Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems while rented to you or temporarily occupied by you with permission of the owner.

- c. **SECTION V – DEFINITIONS**, Paragraph 9.a., is deleted in its entirety and replaced by the following:

A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

2. **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Subsection **4. Other Insurance**, Paragraph **b. Excess Insurance**, **(1) (a) (ii)** is deleted in its entirety and replaced by the following:

That is insurance for fire, lightning, explosion, smoke, or leakage from automatic fire protective systems for premises rented to you or temporarily occupied by you with permission of the owner;

3. The Damage To Premises Rented To You Limit section of the Declarations is amended to the greater of:

- a. \$1,000,000; or
- b. The amount shown in the Declarations as the Damage to Premises Rented to You Limit.

This is the most we will pay for all damage proximately caused by the same event, whether such damage results from fire, lightning, explosion, smoke, or leaks from automatic fire protective systems or any combination thereof.

F. HIPAA

SECTION I – COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, is amended as follows:

1. Paragraph **1. Insuring Agreement** is amended to include the following:

We will pay those sums that the insured becomes legally obligated to pay as damages because of a “violation(s)” of the Health Insurance Portability and Accountability Act (HIPAA). We have the right and the duty to defend the insured against any “suit,” “investigation,” or “civil proceeding” seeking these damages. However, we will have no duty to defend the insured against any “suit” seeking damages, “investigation,” or “civil proceeding” to which this insurance does not apply.

2. Paragraph **2. Exclusions** is amended to include the following additional exclusions:

This insurance does not apply to:

- a. **Intentional, Willful, or Deliberate Violations**

Any willful, intentional, or deliberate “violation(s)” by any insured.

- b. **Criminal Acts**

Any “violation” which results in any criminal penalties under the HIPAA.

- c. **Other Remedies**

Any remedy other than monetary damages for penalties assessed.

- d. **Compliance Reviews or Audits**

Any compliance reviews by the Department of Health and Human Services.

3. **SECTION V – DEFINITIONS** is amended to include the following additional definitions:

- a. “Civil proceeding” means an action by the Department of Health and Human Services (HHS) arising out of “violations.”
- b. “Investigation” means an examination of an actual or alleged “violation(s)” by HHS. However, “investigation” does not include a Compliance Review.
- c. “Violation” means the actual or alleged failure to comply with the regulations included in the HIPAA.

G. Medical Payments – Limit Increased to \$20,000, Extended Reporting Period

If **COVERAGE C MEDICAL PAYMENTS** is not otherwise excluded from this Coverage Part:

1. The Medical Expense Limit is changed subject to all of the terms of **SECTION III - LIMITS OF INSURANCE** to the greater of:
 - a. \$20,000; or
 - b. The Medical Expense Limit shown in the Declarations of this Coverage Part.
2. **SECTION I – COVERAGES, COVERAGE C MEDICAL PAYMENTS**, Subsection 1. **Insuring Agreement**, a. (3) (b) is deleted in its entirety and replaced by the following:
 - (b) The expenses are incurred and reported to us within three years of the date of the accident.

H. Athletic Activities

SECTION I – COVERAGES, COVERAGE C MEDICAL PAYMENTS, Subsection 2. **Exclusions**, Paragraph e. **Athletic Activities** is deleted in its entirety and replaced with the following:

e. Athletic Activities

To a person injured while taking part in athletics.

I. Supplementary Payments

SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGE A AND B are amended as follows:

1. b. is deleted in its entirety and replaced by the following:
 1. b. Up to \$5000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these.
- 1.d. is deleted in its entirety and replaced by the following:
 1. d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1,000 a day because of time off from work.

J. Employee Indemnification Defense Coverage

SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGES A AND B the following is added:

We will pay, on your behalf, defense costs incurred by an “employee” in a criminal proceeding occurring in the course of employment.

The most we will pay for any “employee” who is alleged to be directly involved in a criminal proceeding is \$25,000 regardless of the numbers of “employees,” claims or “suits” brought or persons or organizations making claims or bringing “suits.”

K. Key and Lock Replacement – Janitorial Services Client Coverage**SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is

amended to include the following:

We will pay for the cost to replace keys and locks at the “clients” premises due to theft or other loss to keys entrusted to you by your “client,” up to a \$10,000 limit per occurrence and \$10,000 policy aggregate.

We will not pay for loss or damage resulting from theft or any other dishonest or criminal act that you or any of your partners, members, officers, “employees”, “managers”, directors, trustees, authorized representatives or any one to whom you entrust the keys of a “client” for any purpose commit, whether acting alone or in collusion with other persons.

The following, when used on this coverage, are defined as follows:

a. "Client" means an individual, company or organization with whom you have a written contract or work order for your services for a described premises and have billed for your services.

b. "Employee" means:

(1) Any natural person:

(a) While in your service or for 30 days after termination of service;

(b) Who you compensate directly by salary, wages or commissions; and

(c) Who you have the right to direct and control while performing services for you; or

(2) Any natural person who is furnished temporarily to you:

(a) To substitute for a permanent "employee" as defined in Paragraph (1) above, who is on leave; or

(b) To meet seasonal or short-term workload conditions;

while that person is subject to your direction and control and performing services for you.

(3) "Employee" does not mean:

(a) Any agent, broker, person leased to you by a labor leasing firm, factor, commission merchant, consignee, independent contractor or representative of the same general character; or

(b) Any "manager," director or trustee except while performing acts coming within the scope of the usual duties of an "employee."

c. "Manager" means a person serving in a directorial capacity for a limited liability company.

L. Additional Insureds

SECTION II – WHO IS AN INSURED is amended as follows:

1. If coverage for newly acquired or formed organizations is not otherwise excluded from this

Coverage Part, Paragraph **3.a.** is deleted in its entirety and replaced by the following:

- a. Coverage under this provision is afforded until the end of the policy period.
2. Each of the following is also an insured:
- a. **Medical Directors and Administrators** – Your medical directors and administrators, but only while acting within the scope of and during the course of their duties as such. Such duties do not include the furnishing or failure to furnish professional services of any physician or psychiatrist in the treatment of a patient.
 - b. **Managers and Supervisors** – Your managers and supervisors are also insureds, but only with respect to their duties as your managers and supervisors. Managers and supervisors who are your “employees” are also insureds for “bodily injury” to a co-“employee” while in the course of his or her employment by you or performing duties related to the conduct of your business.

This provision does not change Item 2.a.(1)(a) as it applies to managers of a limited liability company.

- c. **Broadened Named Insured** – Any organization and subsidiary thereof which you control and actively manage on the effective date of this Coverage Part. However, coverage does not apply to any organization or subsidiary not named in the Declarations as Named Insured, if they are also insured under another similar policy, but for its termination or the exhaustion of its limits of insurance.
- d. **Funding Source** – Any person or organization with respect to their liability arising out of:
 - (1) Their financial control of you; or
 - (2) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

- e. **Home Care Providers** – At the first Named Insured's option, any person or organization under your direct supervision and control while providing for you private home respite or foster home care for the developmentally disabled.
- f. **Managers, Landlords, or Lessors of Premises** – Any person or organization with respect to their liability arising out of the ownership, maintenance or use of that part of the premises leased or rented to you subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any “occurrence” which takes place after you cease to be a tenant in that premises; or
 - (2) Structural alterations, new construction or demolition operations performed by or on behalf of that person or organization.
- g. **Lessor of Leased Equipment – Automatic Status When Required in Lease Agreement With You** – Any person or organization from whom you lease equipment when you and such person or organization have agreed in writing in a contract or agreement that such person or organization is to be added as an additional insured on your policy. Such person or

organization is an insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

- h. Grantors of Permits** – Any state or political subdivision granting you a permit in connection with your premises subject to the following additional provision:
- (1)** This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with the premises you own, rent or control and to which this insurance applies:
 - (a)** The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures;
 - (b)** The construction, erection, or removal of elevators; or
 - (c)** The ownership, maintenance, or use of any elevators covered by this insurance.
- i. Vendors** – Only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:
- (1)** The insurance afforded the vendor does not apply to:
 - (a)** "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
 - (b)** Any express warranty unauthorized by you;
 - (c)** Any physical or chemical change in the product made intentionally by the vendor;
 - (d)** Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
 - (e)** Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - (f)** Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
 - (i) The exceptions contained in Sub-paragraphs (d) or (f); or
 - (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
- (2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing.
- j. **Franchisor** – Any person or organization with respect to their liability as the grantor of a franchise to you.
- k. **As Required by Contract** – Any person or organization where required by a written contract executed prior to the occurrence of a loss. Such person or organization is an additional insured for "bodily injury," "property damage" or "personal and advertising injury" but only for liability arising out of the negligence of the named insured. The limits of insurance applicable to these additional insureds are the lesser of the policy limits or those limits specified in a contract or agreement. These limits are included within and not in addition to the limits of insurance shown in the Declarations
- i. **Owners, Lessees or Contractors** – Any person or organization, 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 when required by a contract.

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:

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

m. State or Political Subdivisions – Any state or political subdivision as required, subject to the following provisions:

- (1) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit, and is required by contract.
- (2) This insurance does not apply to:
 - (a) "Bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
 - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard."

M. Duties in the Event of Occurrence, Claim or Suit

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, Paragraph 2. is amended as follows:

a. is amended to include:

This condition applies only when the "occurrence" or offense is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

b. is amended to include:

This condition will not be considered breached unless the breach occurs after such claim or "suit" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

N. Unintentional Failure To Disclose Hazards

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, 6. **Representations** is amended to include the following:

It is agreed that, based on our reliance on your representations as to existing hazards, if you should unintentionally fail to disclose all such hazards prior to the beginning of the policy period of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

O. Transfer of Rights of Recovery Against Others To Us

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, 8. **Transfer of Rights of**

Recovery Against Others To Us is deleted in its entirety and replaced by the following:

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

Therefore, the insured can waive the insurer's rights of recovery prior to the occurrence of a loss, provided the waiver is made in a written contract.

P. Liberalization

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, is amended to include the following:

If we revise this endorsement to provide more coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.

Q. Bodily Injury – Mental Anguish

SECTION V – DEFINITIONS, Paragraph 3. Is deleted in its entirety and replaced by the following:

"Bodily injury" means:

- a. Bodily injury, sickness or disease sustained by a person, and includes mental anguish resulting from any of these; and
- b. Except for mental anguish, includes death resulting from the foregoing (Item a. above) at any time.

R. Personal and Advertising Injury – Abuse of Process, Discrimination

If **COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY COVERAGE** is not otherwise excluded from this Coverage Part, the definition of "personal and advertising injury" is amended as follows:

1. **SECTION V – DEFINITIONS**, Paragraph 14.b. is deleted in its entirety and replaced by the following:

- b. Malicious prosecution or abuse of process;

2. **SECTION V – DEFINITIONS**, Paragraph 14. is amended by adding the following:

Discrimination based on race, color, religion, sex, age or national origin, except when:

- a. Done intentionally by or at the direction of, or with the knowledge or consent of:
 - (1) Any insured; or
 - (2) Any executive officer, director, stockholder, partner or member of the insured;
- b. Directly or indirectly related to the employment, former or prospective employment, termination of employment, or application for employment of any person or persons by an insured;

- c. Directly or indirectly related to the sale, rental, lease or sublease or prospective sales, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured; or
- d. Insurance for such discrimination is prohibited by or held in violation of law, public policy, legislation, court decision or administrative ruling.

The above does not apply to fines or penalties imposed because of discrimination.

