

Mandatory Addendum

to

PAYMENT AGREEMENT

By and between us

National Union Fire Insurance Company of Pittsburgh, Pa.

On behalf of itself and all its affiliates including, but not limited to:

**American Home Assurance Company
The Insurance Company of the State of Pennsylvania
Commerce and Industry Insurance Company
Chartis Property Casualty Company
Illinois National Insurance Co.
Chartis Casualty Company
Granite State Insurance Company
New Hampshire Insurance Company**

(Company, “we”, “us” or “our”)

and You, our Client

City of Rockville

This Addendum is attached to and forms a part of the Payment Agreement entered into between Company and Client as of the ____ day of _____ 200_ .

1. The section entitled **WHO HAS AGREED TO THIS AGREEMENT?**, is deleted and replaced with the following:

This Agreement is between:

- *You*, the organization(s) named as “our Client” in the *Schedule*, and
- *us*, the insurers set forth above as “Company”, “we,” “us” and “our” in this Addendum.

2. The section entitled **WHICH WORDS HAVE SPECIAL MEANINGS IN THIS AGREEMENT? 8. - Your Payment Obligation**, is deleted and replaced with the following:

“Your Payment Obligation” means the amounts that *You* must pay *us* for the insurance and services in accordance with the terms of the *Policies*, this Agreement, and any similar primary casualty insurance policies and agreements with *us* incurred before the inception date hereof. Such amounts shall include, but are not limited to, any of the following, including any portions thereof not yet due and payable:

- the premiums and premium surcharges, taxes and assessments,
- *Deductible Loss Reimbursements*,

- any amount that we may have paid on *Your* behalf because of any occurrence, accident, offense, claim or suit with respect to which *You* are a self-insurer,
- any other fees, charges, or obligations as shown in the *Schedule* or as may arise as *You* and we may agree from time to time,
- costs and expenses incurred by any third party administrator,
- any penalties or charges incurred as a result of your failure to cooperate in the completion of an actual premium audit.

Loss Reserves: *Your Payment Obligation* includes any portion of the premiums, premium surcharges, *Deductible Loss Reimbursements* or other obligations that we shall have calculated on the basis of our reserves for *Loss* and *ALAE*. Those reserves shall include specific reserves on known *Losses* and *ALAE*, reserves for incurred but not reported *Losses* and *ALAE*, and reserves for statistically expected development on *Losses* and *ALAE* that have been reported to *us*. Any *Loss* development factors we apply in determining such reserves will be based on our actuarial evaluation of relevant statistical data including, to the extent available and credible, statistical data based upon *Your* cumulative *Loss* and *ALAE* history.

Taxes, Assessments and Surcharges: The taxes, assessments and surcharges shown on the *Schedule* are based upon our knowledge of the current law in the states involved. If the law changes, or a rate or assessment changes, or a new surcharge is imposed, or a state reinterprets its law, any additional taxes, assessments and surcharges will become part of *Your Payment Obligation*.

3. The section entitled: **WHAT ELSE SHOULD YOU KNOW ABOUT YOUR PAYMENT OBLIGATION?** is amended to include the following:

We will contract with a Third Party Administrator (TPA) that *You* select for the adjustment of *Your* claims under the Policies provided that we consent to *Your* selection in advance. Our relationship with the TPA will be governed by a Claims Service Agreement (CSA) between *us* and the TPA, a copy of which will be made available to *You* upon *Your* request. Any TPA *You* select must meet all of our licensing requirements. Should we terminate the CSA at *Your* request or should the TPA no longer meet our service standards, we will enter into a CSA with another TPA. We will exercise good faith consistent with usual and customary commercial practice before we change one TPA to another TPA. Any amounts we pay to any TPA on *Your* behalf shall be considered part of *Your Payment Obligation*, and shall include, but not be limited to the following: cost of adjusting expense at new TPA; costs or losses incurred as a result of claims handling conduct of prior TPA, including fines and penalties; fines and penalties for failure to submit accurate data to regulatory bureaus; data transfer expense; costs to retrieve or recreate information not properly maintained by prior TPA; and costs to set up new escrow account.

4. The section entitled: **WHEN MUST YOU PAY YOUR PAYMENT OBLIGATION?** is amended to include the following:

All payments are due by the due date stated in the *Schedule*, or as respects Additional Payments, within 30 days of the later of the Invoice, Notice or Bill date or *Your* evidenced receipt date of the Invoice, Notice or Bill for each such Additional Payment. If payment is not made when due, interest will accrue on the unpaid balance daily after

the due date at the Prime Rate then in effect at Citibank, N.A., NY, NY, plus 150 basis points.

5. The section entitled: **WHAT ABOUT COLLATERAL?** is amended to include the following:

Collateral Exchange:

At our sole discretion we may approve *Your* substitution or exchange of one form or instrument of collateral for another. Any replacement collateral must be in a form and drawn on a bank or insurer acceptable to *us*. If the original collateral was in the form of cash on which interest was being earned, a substitution may result in a change to the interest rate. We will not approve *Your* substitution or exchange of collateral if *You* are in Default of any of the terms of this Agreement or have triggered any applicable Financial Covenants, Tests or Minimum Credit Ratings shown in the Schedule.

6. The section entitled: **HOW WILL DISAGREEMENTS BE RESOLVED? ARBITRATION PROCEDURES - How Arbitrators Must Be Chosen**, is deleted and replaced with the following:

How arbitrators must be chosen: *You* must choose one arbitrator and we must choose another. They will choose the third. If *You* or we refuse or neglect to appoint an arbitrator within 30 days after written notice from the other party requesting it to do so, or if the two arbitrators fail to agree on a third arbitrator within 30 days of their appointment, either party may make application only to a court of competent jurisdiction in the City, County, and State of New York. Similarly, any action or proceeding concerning arbitrability, including motions to compel or to stay arbitration, may be brought only in a court of competent jurisdiction in the City, County, and State of New York.

7. The section entitled: **ARE YOU AUTHORIZED TO MAKE THIS AGREEMENT?** Is amended to include the following:

This Agreement together with the Schedules, Addenda, Policies and any related agreements between *You* and *us*, constitute the basis for a program of insurance coverage. We would not have entered into any of them without *Your* agreement on all of them. For that reason, *You* should review all such documents together when making any accounting, tax or legal determinations relating to the insurance program.

IN WITNESS WHEREOF, the parties hereto have caused this Addendum to be executed by their duly authorized representatives.

For **National Union Fire Insurance Company of Pittsburgh, Pa.**,

On behalf of itself and its affiliates first listed above:

In New York, New York,

This _____ day of _____, _____,

Signed by _____

Typed Name

Title

For *You*, our Client

In _____,
This ____ day of _____,
Signed by _____
Typed Name _____
Title _____