

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement") is entered into this _____ day of _____, 2016, by and between the **POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY**, a public body corporate and politic created pursuant to Part III of Chapter 163, Florida Statutes (the "Licensor"), hereinafter referred to as "CRA," whose address for purposes of notice under this Agreement is 100 West Atlantic Boulevard, Room 276, Pompano Beach, Florida, 33060 and **CITY OF POMPANO BEACH**, a Florida municipal corporation, hereinafter referred to as "LICENSEE," and whose address is 100 West Atlantic Boulevard, Pompano Beach, Florida, 33060.

WITNESSETH

WHEREAS, the CRA is the owner of certain real property located at 41 NE 1st Street, Pompano Beach, Florida, known as the Bailey Contemporary Arts ("BaCA") as more particularly described in Exhibit "A" attached hereto and incorporated herein (the "Premises"); and

WHEREAS, LICENSEE, pursuant to its Public Art Master Plan is completing a multi-year Mosaic Team Project (the "Project"); and

WHEREAS, LICENSEE would like to use studio space at BaCA ("Studio Space") and the BaCA kiln (the "Kiln") for the Project's lead artist and five apprentices to work and fabricate mosaic and ceramic tiles for a period of four years beginning October 2016; and

WHEREAS, the CRA and LICENSEE desire to enter into this Agreement to set forth the duties and obligations relating to the Studio Space, the Kiln, and the Premises.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions contained in this Agreement and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. **PREMISES.** CRA licenses to LICENSEE non-exclusive use of the Studio Space delineated in Exhibit "A," attached hereto and made a part hereof, together with non-exclusive use of the kiln (the "Kiln"). Non-exclusive use means that the CRA will use its best efforts to make the Studio Space and the Kiln available to LICENSEE as needed; however, LICENSEE acknowledges that such use is available on a first come, first served basis and may be affected by long-term leases and use of the space by other artists.

2. **PURPOSE.** The Studio Space and the Kiln shall be used for the fabrication of mosaic and ceramic tiles as provided for in the LICENSEE'S Public Art Master Plan and referred to as the Project. Use of the Studio Space and the Kiln for any other purposes by any artist or any apprentice who works on the Project during the Term is strictly prohibited.

3. TERM. The term of this Agreement is for the period of four (4) years commencing October 1, 2016. The term may be extended by mutual agreement of the parties.

4. FEE. There shall be no fee associated with LICENSEE'S use of the Studio Space.

5. ACCEPTANCE OF STUDIO SPACE. LICENSEE acknowledges that it has made a thorough and complete inspection of the Studio Space, is fully advised of the condition, nature of construction and state of repair, and fully accepts the Studio Space, the Kiln, and the Premises in the present "as in" condition.

6. NO LIENS CREATED. LICENSEE covenants and agrees that LICENSEE has no power to incur any indebtedness giving a right to a lien of any kind or character upon the right, title or interest of CRA in and to the Studio Space or the Premises. Should any such lien be filed against CRA, LICENSEE shall discharge the same within thirty (30) days thereafter by paying the same or by filing a bond, or otherwise as permitted by law. LICENSEE shall not be deemed to be the agent of CRA under any term, paragraph, condition or covenant of this Agreement.

7. TAXES AND EXPENSES. Except as otherwise provided in this License Agreement, LICENSEE shall not be obligated to pay real and personal property taxes, tangible or intangible taxes, sales taxes, assessments, utilities, insurance premiums, occupational licenses and other similar expenses for the Premises.

8. OPERATION.

Hours. LICENSEE agrees that the Studio Space will only be used by a lead artist and five apprentices in connection with the Project. Pursuant to the Project terms, the apprentices are required to work a minimum of five hours per week. The lead artist does not have a minimum of required hours.

Project Supervision. At all times, LICENSEE shall be responsible for supervising each artist and all apprentices associated with the Project who will actually be occupying the Studio Space and conducting the Project.

Mosaic Team Project Restrictions. Use of the Studio Space and the Kiln is expressly restricted to the Project on behalf of the City of Pompano Beach. No private use of the Studio Space and the Kiln is permitted by any artist or any apprentices who work on the Project during the Term. LICENSEE shall be responsible for compliance with all terms and conditions of this License Agreement by each artist and each apprentice who works on the Project during the Term.

9. OPERATING COSTS.

A. LICENSEE agrees to pay promptly all operating costs incurred as a result of LICENSEE's use of the Studio Space and the Kiln, which are not by this Agreement an expense of CRA.

B. LICENSEE shall deposit all garbage and trash generated by its operations on a daily basis in enclosed containers located on the Premises. LICENSEE shall provide for removal, at LICENSEE's cost, of any garbage and trash that does not fit within the enclosed containers located on the Premises. Said garbage and trash shall be properly disposed and not be left on the Premises.

10. IMPROVEMENTS.

A. Any improvements to the Studio Space by LICENSEE shall only be done by properly licensed persons in accordance with federal, state, and local laws and ordinances.

B. LICENSEE and any subcontractors shall be responsible for obtaining and paying for all required permits.

11. REPAIRS, MAINTENANCE AND SURRENDER.

A. LICENSEE agrees at its expense to keep, maintain, and clean the Studio Space and the Kiln after every use, except as provided otherwise herein, in the same state of repair and condition as existed on the date of commencement of this Agreement, reasonable wear and tear expected. Such maintenance shall include, but not be limited to, cleaning windows, wiping tables, chairs, and equipment and washing floors.

B. LICENSEE shall be responsible for maintaining and repairing all improvements to the Studio Space at its own cost.

C. LICENSEE at its expense agrees to deliver to CRA, upon the termination of this Agreement, the entire Studio Space, including any improvements and non-moveable fixtures, in the same state of repair and condition as existed on the date of commencement of this Agreement, reasonable wear and tear expected.

D. CRA shall make all interior repairs related to CRA's use, exterior repairs, including repairs of the roof and sidewalks, as well as repairs as required because of water entering the Premises from the roof or other parts of the building or from other causes not under the control of LICENSEE. CRA shall maintain the exterior and interior of the building in good condition. CRA shall maintain the exterior of the premises so as to maintain the value of the capital asset in a manner consistent with generally accepted landlord/tenant responsibilities. LICENSEE shall promptly report, in writing, to CRA any defective or dangerous conditions known to LICENSEE.

E. CRA shall not be liable to LICENSEE for damage to property of LICENSEE resulting from CRA's acts, omissions or neglect in the maintenance and operation of the demised premises and facilities. Property of the LICENSEE includes property of each artist and each apprentice who works on the Project during the Term.

12. POSSESSION. As indicated in Paragraph 1 above, use of the Studio Space and the Kiln is non-exclusive. LICENSEE shall give the CRA as much advance notice as possible of its need to use the Studio Space or the Kiln.

13. RETENTION OF RECORDS AND RIGHT TO ACCESS. LICENSEE shall maintain during the term of this Agreement all records relating to use of the Studio Space or the Premises, including records created by each artist and each apprentice during the Term, in accordance with all state and local laws relating to public records.

14. INSURANCE. Throughout the term of this Agreement, LICENSEE shall maintain liability insurance in the type and amounts set forth in Exhibit "C" attached hereto. CRA acknowledges that because LICENSEE is a municipal corporation, LICENSEE may have the option of self-funding the required insurance coverage and providing the CRA with a Certificate of Self-Insurance which meets the required limits.

15. ASSIGNMENT AND SUBLEASING. The LICENSEE shall not, without prior approval of the CRA, assign or transfer this Agreement nor any share, part or interest in it, nor any of the rights or privileges granted by it, nor enter into any contract requiring or permitting the doing of anything under this Agreement by an independent contractor unless otherwise expressly provided in this Agreement. LICENSEE further agrees that it shall not enter into any agreement of any nature, formal or informal, concerning other business activities at the Premises, with any individual, partnership or corporation without prior approval of CRA, it being understood that the only activity that LICENSEE may conduct directly or indirectly, alone or through others, on, upon or from said demised premises and facilities located there, be they demised to the others or under the control of CRA, is as authorized under the terms of this Agreement.

16. LAWS AND ORDINANCES. LICENSEE agrees to comply with all applicable state statutes, Broward County and City ordinances, and any safety requirements of all federal, state and local governments. LICENSEE shall maintain all required licenses from governmental agencies in full force and effect during the term of this Agreement.

17. INDEMNIFICATION AGAINST CLAIMS AND WAIVER. To the extent permitted by law, the LICENSEE and the CRA shall at all times indemnify, hold harmless and defend, one another, including each other's respective agents and employees from and against all claims, suits, actions, damages or causes of action arising during the term of this Agreement by reason of the service(s) to be performed, including costs, reasonable attorneys' fees and expenses incurred in or by reason of the defense of any such claim, suit or action, and the investigation thereof. LICENSEE's indemnification includes each artist and each apprentice who works on the Project during the Term.

Both parties acknowledge and agree they would not enter into this Agreement but for the foregoing indemnification and that their entering into this Agreement shall constitute good and valuable consideration for this indemnification. These provisions shall survive the expiration or earlier termination of this Agreement.

Nothing in this Agreement shall be deemed to affect the rights, privileges and immunities of either party as set forth in Section 768.28, Florida Statutes.

18. OWNERSHIP AT TERMINATION. All non-moveable fixtures, alterations, improvements, structures, additions and modifications of every kind now existing or later erected, installed or placed within the Studio Space or the Premises shall, at the end of the Term or earlier termination of this Agreement, for any reason, be and become the property of CRA and shall be left in good condition and repair, ordinary wear and tear excepted, unless CRA at its option requires LICENSEE to remove all or a portion of same. In such event, LICENSEE at its sole expense shall promptly remove same. LICENSEE further agrees at its sole expense to promptly repair and restore all portions of the Studio Space or the applicable Premises to good condition upon such removal. A fixture is defined as an article which was a chattel, but which, by being physically annexed or affixed to the Premises by LICENSEE and incapable of being removed without structural or functional damage to the Premises, becomes a part and parcel of them. Non-fixture property personally owned by LICENSEE at the expiration of the Term or earlier termination of this Agreement, for any reason, shall continue to be owned by LICENSEE, and at the time of such expiration or earlier termination, LICENSEE at its option, may remove all such property, provided LICENSEE is not then in default of any covenant or condition of this Agreement; otherwise, all property shall remain on the Premises until the damages suffered by CRA from any such default have been ascertained and compensated. Any damage to the Premises caused by the removal by LICENSEE of any such property shall be repaired by LICENSEE immediately at its expense.

19. DEFAULT. It is agreed that upon any default by LICENSEE in keeping and performing any and all terms and conditions of this Agreement to be kept and performed by LICENSEE, CRA may, at its option, declare this Agreement terminated and may, after thirty (30) days written notice to LICENSEE to cure such default, re-enter and take possession of the Studio Space and terminate this Agreement immediately. The power granted in this paragraph to the CRA is in addition to any other rights or remedies which CRA may have under the existing laws of the State of Florida with regard to the removal of tenants, distress or other legal recourse. All rights and remedies available to CRA may be exercised concurrently or separately.

20. NON-WAIVER. The failure of CRA to insist upon the strict performance of any of the covenants, conditions and agreements of this Agreement in any one or more instances shall not be construed as a waiver or relinquishment in the future of any such covenants, conditions and agreements, or as a waiver of any other covenants, conditions and agreements.

21. DAMAGE TO PREMISES. In the event the Studio Space or the Premises or the building of which the Premises are a part shall be damaged or destroyed by fire or other casualty, the same may be promptly repaired or rebuilt by CRA at its expense as soon as funds are available, but CRA shall not be obligated to repair, rebuild, restore or replace any fixtures, equipment, displays or other property installed by LICENSEE or others pursuant to this Agreement. The CRA will not be liable for damage to the Studio Space, the Kiln or the Premises.

A. CRA may elect, at its sole option, not to repair or reconstruct the Studio Space, the Kiln or the Premises and upon written notice of such election from CRA to LICENSEE the obligation of LICENSEE, shall cease and this Agreement shall thereupon terminate. However, if CRA does not give notice of termination, LICENSEE's obligation shall

abate during the existence of any damage or other casualty which renders the demised premises unsuitable for LICENSEE in continued operation of business.

22. NOTICE. The parties to this Agreement shall be contacted at the following addresses:

CRA: Executive Director
Pompano Beach CRA
100 West Atlantic Boulevard, Room 276
Pompano Beach, Florida 33060

LICENSEE: City Manager
City of Pompano Beach
510 NE 8th Street
Pompano Beach, FL 33060

23. RIGHT TO ENTER. CRA may enter the Studio Space and the Premises at any time, so long as the same does not unduly interfere with the LICENSEE's conduct of its regular occupancy. In the event of an emergency, CRA shall not be required to give LICENSEE notice prior to entering the Studio Space.

24. SIGNAGE. LICENSEE, may, at its own expense, erect or place a sign for the advertising of the Project at the Premises so long as same complies with all applicable governmental rules, regulations, and ordinances, including the City's Sign Code and so long as LICENSEE obtains prior written approval from the CRA as to size, location and content. Thereafter, LICENSEE shall maintain said sign in a good state of repair, and shall repair any damage to the sign.

25. INSPECTION. CRA reserves the right to inspect the Studio Space and the Premises at all reasonable hours in order to ensure compliance with this Agreement and with leasing rules and regulations in force from time to time and posted in visible locations or given to LICENSEE. LICENSEE agrees to observe those rules and regulations in connection with the use of the property and LICENSEE's obligations and responsibilities under this Agreement.

26. RISK OF LOSS. CRA shall not be liable for any loss by reason of damage, theft or otherwise to the tools, equipment, contents, belongings and personal effects of the LICENSEE or LICENSEE's agents, employees, guests or visitors, including each artist and each apprentice who works on the Project during the Term, located in or about the property, or for damage or injury to LICENSEE or LICENSEE's agents, employees, guests or visitors, including each artist and each apprentice who works on the Project during the Term.

27. SUCCESSORS. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

28. TERMINATION. This Agreement may be terminated without cause by either party with (30) day's written notice.

29. PARAGRAPH HEADINGS. Paragraph headings of this Agreement are not part of the substance of this Agreement and shall have no effect upon the construction or interpretation of any terms, conditions or part of this Agreement.

30. CONFLICT. In the event of any conflict or inconsistency between the terms of this Agreement and the LICENSEE's Public Art Master Plan or the Mosaic Team Project, the terms of this Agreement shall control.

31. GOVERNING LAW. This Agreement shall be construed and enforced according to the laws of the State of Florida, notwithstanding conflict of law provisions of the State of Florida.

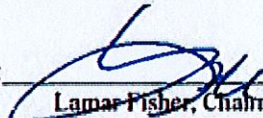
32. SEVERABILITY. The unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid or illegal.

IN WITNESS WHEREOF, the parties hereto have duly executed this License Agreement on the day and year first above written.

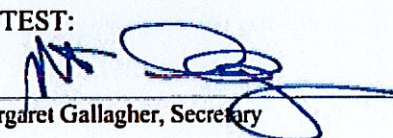
Signed, Sealed and Witnessed
In the Presence of:

**POMPANO BEACH COMMUNITY
REDEVELOPMENT AGENCY**

Betty J. Manes
Print Name: Betty J. Manes

By: 
Lamar Fisher, Chairman

Margaret Gallagher
Print Name: Margaret Gallagher

ATTEST:

Margaret Gallagher, Secretary

[Signature]
Print Name: Norwood Tami

EXECUTIVE DIRECTOR:
Redevelopment Management Associates, LLC
a Florida limited liability company

By: [Signature]
CHRIS BROWN (Print Name),
a managing member

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 20 day of Sept, 2016 by LAMAR FISHER as Chairman of the Pompano Beach Community Redevelopment Agency, who is personally known to me.

NOTARY'S SEAL:



CATHERINE TRENKLE
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE839199
Expires 9/30/2016

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA

CATHERINE TRENKLE
(Name of Acknowledger Typed, Printed or Stamped)

EE839199
Commission Number

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 23rd day of Sept, 2016 by MARGARET GALLAGHER, Secretary of the Pompano Beach Community Redevelopment Agency, who is personally known to me.

NOTARY'S SEAL:



CATHERINE TRENKLE
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE839199
Expires 9/30/2016

[Signature]
NOTARY PUBLIC, STATE OF FLORIDA

CATHERINE TRENKLE
(Name of Acknowledger Typed, Printed or Stamped)

EE839199
Commission Number

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 23rd day of Sept, 2016, by CHRIS BROWN, as Managing Member of Redevelopment Management Associates, LLC on behalf of the limited liability company. He/she is ~~personally known to me~~ or who has produced _____ (type of identification) as identification.

NOTARY'S SEAL:



CATHERINE TRENKLE
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE839199
Expires 9/30/2016

Catherine Trenkle
NOTARY PUBLIC, STATE OF FLORIDA

CATHERINE TRENKLE
(Name of Acknowledger Typed, Printed or Stamped)

EE839199
Commission Number

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“LICENSEE”

Witnesses:

CITY OF POMPANO BEACH

BY: _____
Lamar Fisher, Mayor

BY: _____
Gregory P. Harrison, City Manager

Attest:

Asceleta Hammond, City Clerk

Approved as to Form:

Mark E. Berman, City Attorney

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2016 by **LAMAR FISHER** as Mayor, **GREGORY P. HARRISON** as City Manager, and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY’S SEAL:

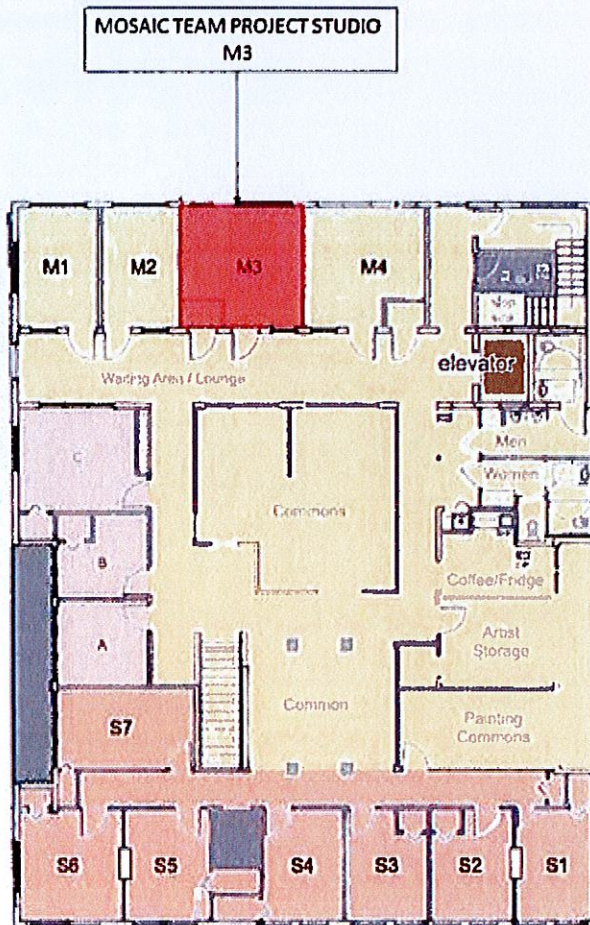
NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

EXHIBIT "A"

THE WEST 68 FEET OF THE EAST 101 FEET OF LOT 10, LESS THE NORTH 10 FEET THEREOF, OF THE TOWN OF POMPANO, BEING A RESUBDIVISION OF LOT 15, OF THE SUBDIVISION OF SECTION 35, TOWNSHIP 48 SOUTH, RANGE 42 EAST, ACCORDING THE PLAT THEREOF, RECORDED IN PLAT BOOK "B", PAGE 76, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA (AND SUBJECT TO THE RIGHT OF WAY FOR N.E. 1ST STREET; SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA.



Bailey Contemporary Arts - 41 NE 1st Street - Pompano Beach, FL 33060

EXHIBIT "B"

INSURANCE REQUIREMENTS

LICENSEE shall not commence services under the terms of this Agreement until certification or proof of insurance detailing terms and provisions has been received and approved in writing by the CITY's Risk Manager who can be reached by phone (954 786-5555) or email (eddie.beecher@copbfl.com) should you have any questions regarding the terms and conditions set forth in this Article. Proof of the insurance coverage required hereunder shall be mailed to Risk Management, PO Box 1300, Pompano Beach, FL 33061.

LICENSEE is responsible to deliver to the CITY's Risk Manager for his timely review and written approval/disapproval Certificates of Insurance which evidence that all insurance required hereunder is in full force and effect and which name on a primary basis, the CRA as an additional insured on all such coverage.

Throughout the term of this Agreement, CRA, by and through the CITY'S Risk Manager, reserve the right to review, modify, reject or accept any insurance policies required by this Agreement, including limits, coverages or endorsements. CRA reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.

Failure to maintain the required insurance shall be considered an event of default. The requirements herein, as well as CRA's review or acceptance of insurance maintained by LICENSEE, are not intended to and shall not in any way limit or qualify the liabilities and obligations assumed by LICENSEE under this Agreement.

Throughout the term of this Agreement, LICENSEE and all other agents hereunder, shall, at their sole expense, maintain in full force and effect, the following insurance coverages and minimum limits described herein, including endorsements.

A. Worker's Compensation Insurance covering all employees and providing benefits as required by Florida Statute, Chapter 440, regardless of the size of the company (number of employees) or the state in which the work is to be performed or of the state in which LICENSEE is obligated to pay compensation to employees engaged in the performance of the work. LICENSEE further agrees to be responsible for employment, control and conduct of its employees and for any injury sustained by such employees in the course of their employment.

B. Liability Insurance.

(1) Naming the CRA and the CITY as an additional insureds as their interests may appear, on General Liability Insurance only, relative to claims which arise from LICENSEE's negligent acts or omissions in connection with LICENSEE's performance under this Agreement.

(2) Such Liability insurance shall include the following checked types of insurance and indicated minimum policy limits.

Type of Insurance**Limits of Liability**

GENERAL LIABILITY: Minimum \$200,000 Per Occurrence and \$300,000 Per Aggregate

* Policy to be written on a claims incurred basis

XX	comprehensive form	bodily injury and property damage
XX	premises - operations	bodily injury and property damage
XX	explosion & collapse hazard	
	underground hazard	
XX	products/completed operations hazard	bodily injury and property damage combined
XX	contractual insurance	bodily injury and property damage combined
XX	broad form property damage	bodily injury and property damage combined
XX	independent contractors	personal injury
XX	personal injury	
XX	alcohol sales	

AUTOMOBILE LIABILITY: Minimum \$200,000 Per Occurrence and \$300,000 Per Aggregate. Bodily injury (each person) bodily injury (each accident), property damage, bodily injury and property damage combined.

XX comprehensive form
XX owned
XX hired
XX non-owned

REAL & PERSONAL PROPERTY

XX comprehensive form Agent must show proof they have this coverage.

EXCESS LIABILITY Minimum per Occurrence and Aggregate

___	other than umbrella	bodily injury and property damage combined	\$1,000,000	\$1,000,000
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PROFESSIONAL LIABILITY

		Per Occurrence	Aggregate
___	* Policy to be written on a claims made basis	\$1,000,000	\$1,000,000

C. Employer's Liability. LICENSEE or other agents shall, for the benefit of their employees, provide, carry, maintain and pay for Employer's Liability Insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) per employee, Five Hundred Thousand Dollars (\$500,000) per aggregate.

D. Policies: Whenever, under the provisions of this Agreement, insurance is required of the LICENSEE, the LICENSEE shall promptly provide the following:

- (1) Certificates of Insurance evidencing the required coverage;
- (2) Names and addresses of companies providing coverage;
- (3) Effective and expiration dates of policies; and
- (4) A provision in all policies affording CRA thirty (30) days written notice by a carrier of any cancellation or material change in any policy.

E. Insurance Cancellation or Modification. Should any of the required insurance policies be canceled before the expiration date, or modified or substantially modified, the issuing company shall provide thirty (30) days written notice to the CRA.

F. Waiver of Subrogation. LICENSEE hereby waives any and all right of subrogation against the CRA, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then LICENSEE shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy not specifically prohibiting such an endorsement, or voids coverage should LICENSEE enter into such an agreement on a pre-loss basis.