

**AGREEMENT FOR THE MANUFACTURE AND DELIVERY OF A PORTABLE RESTROOM
TRAILER FOR THE ARROWHEAD GOLF CLUB OF THE
WHEATON PARK DISTRICT**

This Agreement is made as of the 1st day of April, 2015 by and between the WHEATON PARK DISTRICT, an Illinois unit of local government ("District") and Comforts of Home Services, Inc., an Illinois corporation ("Vendor"), for the manufacture and delivery of a portable restroom trailer ("Portable Restroom Trailer"). District and Vendor may hereinafter be referred to individually as a "Party" and together as the "Parties".

1. **Contract Documents.** The Contract Documents consist of this (a) Agreement and all documents attached to this Agreement; (b) the bidding documents contained in the Specifications compilation issued by District dated February 4, 2015: District's Instructions to Bidders; the General Requirements; Specifications for the Portable Restroom Trailer; Portable Restroom Trailer Features and Equipment; (c) except as provided herein, Vendor's Bid Proposal to the Board of Park Commissioners, Wheaton Park District, Wheaton, IL 60187 for the Provision of Arrowhead GC-Portable Restroom Trailer dated February 18, 2015 ("Vendor's Proposal"); and (d) Vendor's executed Contractor's Compliance and Certifications Attachment dated February 18, 2015. The Contract Documents taken together form the Contract between the Parties. The Parties hereby understand and agree that any terms and conditions included in Vendor's Proposal are not incorporated as part of this Contract. In the event of any inconsistency or conflict between Vendor's Proposal incorporated herein as indicated in this Section 1, and the Contract, the terms of this Contract shall control.
2. **Work to Be Performed.** Vendor shall fully execute the manufacture, delivery and other work as described, detailed, discussed, scheduled referenced or called for in the Contract Documents, or reasonably inferable from the Contract Documents in order to produce a first-class work product, free of any defects and deficiencies (the "Work") .
3. **Contract Sum and Payment.** District shall pay Vendor the Contract Sum in current funds for the Vendor's proper performance of the Contract. The Contract Sum shall be Thirty Eight Thousand Three Hundred Fourteen and 00/100 Dollars (\$38,314.00), subject to additions and deductions as provided in the Contract Documents. Payment of the Contract Sum shall be made in full following the delivery of the Portable Restroom Trailer in compliance with the Local Government Prompt Payment Act, 50 ILCS 505/1 *et seq.* and only upon inspection and acceptance of the Work by District.
4. **Delivery.** Vendor shall deliver the Portable Restroom Trailer to Arrowhead Golf Club, Wheaton, Illinois on or before May 27, 2015, subject only to delays specifically permitted under the Contract.
5. **Title and Risk of Loss.** Vendor shall not grant rights in or to, or otherwise encumber the Work or any parts of the Work, to, in or by any third parties at any time, that would impair or delay the full exercise by District of any of its rights or remedies under the Contract. Clear and unencumbered title to the Work shall be transferred to District upon acceptance of the Work by District. Title to, and the risk of loss, injury or destruction from any casualty to the Work, regardless of cause, will be the responsibility of Vendor until the Work has been received, inspected and accepted by District.
6. **Acceptance and Rejection.** District will have the right to inspect the Work upon receipt and to reject the nonconforming or damaged Work within ten (10) business days after delivery. District will give notice to Vendor of any rejection of the Work or claim for damages on account of condition, quality or grade of the Work.

Neither inspection nor acceptance by District shall act as District's acceptance of any defects or deficiencies in the Work or for the failure of the Work to conform to the requirements of the Contract and shall not act as a waiver of any rights District has with respect to such defects, deficiencies or failure, including rights under any warranty.

7. Parties' Representatives.

District's representative is:

Neil Dalcero, Building Engineer
Wheaton Park District
26W151 Butterfield Road
Wheaton, IL 60189
Phone: 630-510-5060
Fax: 630-653-5864

Vendor's representative is:

Brad Martin, Owner
Comforts of Home Services Inc.
1551 Arcutt Road
Montgomery, IL 60538
Phone: 630-906-8002
Brad@coHSI.com

Neither Party's representative shall be changed without at least ten days' prior written notice to the other Party.

8. Ownership and Use of Documents All title, ownership and copyright privileges to all drawings, plans, specifications and other documents and instruments of service prepared or provided by Vendor and provided by District or persons under contract with District in connection with the Work, in whatever format (collectively, "Project Documents") are and shall at all times be solely in District. Vendor agrees, when requested by District, to execute immediately any documents which evidence and acknowledge in District the ownership of all Project Documents. All Project Documents prepared or furnished by Vendor shall be solely the property of District the time of their preparation and shall be immediately turned over to the District upon the suspension or termination of the Work or the termination of Vendor in accordance with this Agreement. Reproducible copies of Project Documents shall, to the extent not previously delivered, be delivered promptly to District upon demand and thereafter may be used by District in whole or in part or in modified form for such purposes as District may deem advisable, without further employment of or payment of additional compensation to Vendor or anyone retained by Vendor. Notwithstanding the foregoing, Vendor retains the right to use standard design elements and details included in Project Documents prepared or furnished by Vendor which are neither unique to District or related to the business of District. Under no circumstances shall Vendor have any rights to use any Project Documents prepared or furnished by District or other persons under contract with District, other than the limited right to use such documents in connection with the performance by Vendor of the Work of this Project.

9. No Infringement. Vendor warrants that the Portable Restroom Trailer does not, and all parts thereof do not, infringe on any copyrights, patent rights, trade secrets or other proprietary rights of any third party. Vendor agrees to indemnify, defend and hold District harmless from and against any loss, cost, damage, liability, or expense (including attorney's fees and other reasonable litigation expenses) suffered or incurred by District in connection with any such infringement claim by any third party, provided however that District permits Vendor all available information, assistance and authority to

enable Vendor to do so. Vendor further warrants that if District is enjoined from using the Portable Restroom Trailer due to an actual or claimed infringement of any patent right or copyright or other property right or for any other reason, then at Vendor's option, Vendor shall promptly either: (i) procure for District, at Vendor's expense, the right to continue using the Portable Restroom Trailer; or (ii) replace or modify the Portable Restroom Trailer, at Vendor's expense but in a manner acceptable to District in its sole discretion, so that the Portable Restroom Trailer becomes non-infringing. Notwithstanding the foregoing, Vendor makes no warranty and has no obligation with respect to the infringement of any third party proprietary rights contained in any Contract Documents provided by District and required by District to be used by Vendor in the performance of the Work.

10. Termination. District may terminate this Agreement as follows:

- a. The District may, at any time, terminate the Agreement in whole or in part for the District's convenience and without cause. Termination by the District under this section shall be by a notice of termination delivered to the Vendor specifying the extent of the termination and the effective date. Upon receipt of a notice of termination, the Vendor shall immediately, in accordance with instructions from the District: (1) cease operation as specified in the notice; (2) place no further orders; (3) enter into no further subcontracts for materials, labors, services or facilities except as necessary to complete continued portions of the Work; (4) terminate all subcontracts and orders to the extent they relate to the Work terminated; (5) proceed to complete the performance of Work not terminated; and, (6) take actions that may be necessary or that the District may direct, for the protection and preservation of the terminated Work. The Vendor shall recover payment for approved and properly performed Work completed prior to the effective date of termination and for proven, out-of-pocket costs with respect to materials and equipment ordered but not used by the Vendor for the Work prior to receipt of the notice of termination. Vendor shall not be entitled to damages or lost profits resulting from termination for convenience under this Section.
- b. If Vendor fails to perform the Work as provided in the Contract Documents, or otherwise breaches or defaults under any provision of this Agreement and does not remedy such failure, breach or default within three (3) business days after demand by District to take corrective action, or in the event of repeated or multiple failures or defaults by Vendor, District may terminate this Agreement and enter into an agreement with another vendor or vendors for the provision of the Work. In such event, District shall not be liable to Vendor for all or any portion of the Contract Sum and Vendor shall not be entitled to any damages or any form of equitable relief including but not limited to specific performance. Vendor shall be liable to District and shall pay District promptly upon demand the increased cost to District of obtaining the services of substitute Vendor(s), including, without limitation, the cost of labor and materials associated with the preparation of bid documents, advertising and attorney's fees.
- c. If Vendor is adjudged as bankrupt, or if Vendor makes a general assignment for the benefit of Vendor's creditors, or if a receiver is appointed on account of Vendor's

insolvency, or if any provision of the bankruptcy law is invoked by or against Vendor, then notwithstanding any other rights or remedies granted District, District may, without prejudice to any other right or remedy, (i) immediately terminate the retention of Vendor to perform the Work and/or (ii) finish or cause to be finished Vendor's Work by whatever method and by whichever persons District deems expedient and in this case Vendor and its successors, representatives, receivers or assigns shall be obligated to cooperate fully with District by all commercially reasonable means necessary in order to obtain proper and prompt completion of the Work. In such case, Vendor shall not be entitled to receive any payment until the Work is completed. If the unpaid balance of the Contract Sum exceeds (1) the expenses of completing the Work, including compensation for additional managerial and administrative services, legal fees and court costs, plus (2) District's losses and damages because of Vendor's default, such excess shall be paid to Vendor. If such expense plus District's losses and damages shall exceed such unpaid balance, Vendor shall pay the difference to District promptly on demand and District may resort to any other rights or remedies District may have by law or under this Agreement.

11. Correction of Deficiencies. If Vendor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a three (3) day period after receipt of written notice from District to commence and continue correction of such default or neglect with diligence and promptness, District may, without prejudice to other remedies District may have, correct such deficiencies. In such case District shall deduct from payments then or thereafter due Vendor the cost of correcting such deficiencies, including compensation to District for any and all expenses related thereto. If payments then or thereafter due Vendor are not sufficient to cover such amounts, Vendor shall pay the difference to District.

The rights and remedies of District stated in this Agreement shall be in addition to and not in limitation of, any other rights of District granted in the other Contract Documents or at law or in equity.

12. Tax Exemption. District is exempt from the Illinois Retailer's Occupational Tax, the Illinois Use Tax and the Federal Excise Tax as an exempt entity under the Internal Revenue Code. District shall provide Vendor with District's tax exemption identification number, for use by Vendor with this Project only.

13. Vendor's Representations. Vendor hereby specifically acknowledges and declares, and the execution of this Agreement by Vendor is a representation of Vendor that the Contract Documents are full and complete, are sufficient to have enabled Vendor to determine the cost and time for completion of the Work and that the Contract Documents are sufficient to enable it to perform the Work indicated therein, in accordance with applicable laws and regulations, and otherwise to fulfill all its obligations hereunder, including, but not limited to, Vendor's obligation to properly perform the Work for an amount not in excess of the Contract Sum on or before the delivery date established in the Contract.

Vendor represents and warrants that prior to submitting its bid proposal it has carefully studied and compared the Contract Documents with each other and with information furnished by District and has reported to District errors, inconsistencies or omissions discovered. Vendor shall not be liable to District

for damage resulting from errors, inconsistencies or omissions in the Contract Documents that could not have been discovered by a reasonably prudent and experienced Vendor upon careful examination of the Contract Documents. If Vendor performs any manufacturing or other activity involving an error, inconsistency or omission in the Contract Documents that Vendor recognized or reasonably should have recognized upon careful inspection of the Contract Documents prior to submission of its bid proposal and of which Vendor failed to notify District prior to performance of the Work or portion thereof to which the claimed error, inconsistency or omission relates, Vendor shall assume complete responsibility for such performance and shall bear the full amount of the attributable costs for correction.

Vendor further represents that it has full right, title and authority to transfer the Portable Restroom Trailer to the Park District and that such transfer, upon delivery to District, shall not be subject to the right or interest of any third party whatsoever.

14. Warranties. Vendor warrants to District that materials and equipment furnished under the Contract will be of the best quality and new, that the Work will be free from defects and deficiencies, that neither the methods used by Vendor in the manufacture or installation of any material, part, components of the Work or any other action taken by Vendor in the performance of the Work should nullify or impair any manufacturer's or supplier's warranty and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. Vendor's warranty excludes remedy for damage or defect caused by District's abuse, modifications not executed by Vendor, improper or insufficient maintenance, improper operation or normal wear and tear under normal usage. Liability or refusal of a subcontractor or supplier responsible for the defective material, component, equipment or Work to correct the same shall not excuse Vendor from performing under the warranty. If required by District, Vendor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

All warranties shall include labor and materials and shall be signed by the manufacturer or subcontractor as the case may be and countersigned by Vendor. All warranties shall be addressed to District and delivered to District upon delivery of the Work. Except as otherwise provided in this Agreement, all warranties shall become effective on the date of delivery to District, and shall run for an 18 month period, unless a longer period is provided for in the Contract Documents or by law. Where warranties overlap, the more stringent requirement shall govern. Vendor shall repair and replace, as determined by District, any defects or deficiencies at no charge to the Park District during any warranty period.

Vendor shall correct any portion of the Work deficiently or defectively performed, and replace defective or nonconforming materials, even though such deficiency, defect or nonconformity may be discovered more than one year after delivery and acceptance of the Work by District, if the correction is of a latent defect and arises from poor workmanship or improper materials or is required to be made to workmanship or materials covered by Vendor or Subcontractors contrary to District's request or to requirements specifically expressed in the Contract Documents and was therefore not visible for inspection by District at the time the Work was performed. Final acceptance shall occur only after the Portable Restroom Trailer has been delivered, inspected and accepted by District.

No warranty herein shall be deemed waived upon District's inspection and acceptance of delivery of the concession Trailer.

15. **Indemnification and Hold Harmless.** To the fullest extent permitted by law, Vendor shall waive any right of contribution and shall indemnify and hold harmless District, its park commissioners, officers, agents, volunteers, employees and consultants from and against any and all claims, damages, losses and expenses, of whatsoever nature, including but not limited to attorneys' fees, court costs and economic damages, arising out of or incidental to or resulting from or in connection with the performance of the Work, provided that any such claim, damage, loss or expense is caused in whole or in part by any wrongful or negligent act or omission of Vendor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to the District. In the event that Vendor is requested but refuses to honor the indemnity obligations hereunder, then Vendor shall, in addition and not in limitation to all other obligations, pay the cost of bringing any such action, including without limitation attorneys' fees and court costs, to the District. Vendor shall similarly protect, indemnify and hold and save harmless the District, its officers, officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of Vendor's breach of any of its obligations under, or Vendor's default of, any provision of the Agreement.

16. **Insurance Requirements.** Vendor shall provide and maintain insurance as follows:

A. **Commercial General and Umbrella Liability Insurance**

Vendor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project/location.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to Owner.

B. **Business Auto and Umbrella Liability Insurance**

Vendor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto including owned, hired and non-owned autos.

Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

C. Workers Compensation Insurance

Vendor shall maintain workers compensation and employers liability insurance. The commercial umbrella and/or employers liability limits shall not be less than

\$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

Vendor waives all rights against District and its officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to Vendor's activities.

D. General Insurance Provisions

1. Evidence of Insurance

Vendor shall furnish District with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.

All certificates shall provide for 30 days' written notice to District prior to the cancellation or material change of any insurance referred to therein. Written notice to District shall be by certified mail, return receipt requested.

Failure of District to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of District to identify a deficiency from evidence that is provided shall not be construed as waiver of Vendor's obligation to maintain such insurance.

District shall have the right, but not the obligation, of prohibiting Vendor from entering the premises until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by District.

Failure to maintain the required insurance may result in termination of this Contract at District's option.

Vendor shall provide certified copies of all insurance policies required above within 10 days of District's written request for said copies.

2. Acceptability of Insurers

For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, District has the right to reject insurance written by an insurer it deems unacceptable.

3. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to District. At the option of District, Vendor may be asked to eliminate such deductibles or self-insured retentions as respects District, its officers, officials, employees, volunteers and agents or required to procure a bond guaranteeing payment of losses and other related costs including but not limited to investigations, claim administration and defense expenses.

4. Subcontractors

Vendor shall require each subcontractor employed by Vendor to purchase and maintain insurance of the type specified above. When requested by District, Vendor shall furnish copies of certificates of insurance evidencing coverage for each subcontractor.

5. Additional Insureds. The Park District, its commissioners, officers, employees and agents shall be named as additional insureds on all insurance policies.

17. Performance of the Contract. Vendor agrees to perform all Work in a good and workmanlike manner. Time is of the essence of the Contract. Vendor, on receipt of this Agreement executed by District, shall immediately place orders for materials and otherwise commence performance of the Contract. No claim for extras shall be allowed unless such claim is first submitted in writing to District and approved in writing by an authorized agent of District.

18. Cleaning Up. Vendor shall keep the Project site and surrounding area free from accumulation of waste materials or rubbish caused by performance of the Work. At completion of any portion of the Work, Vendor shall remove from and about the site waste materials, rubbish, Vendor's tools, equipment, machinery and surplus materials. If the Vendor fails to clean up as provided in the Contract Documents, the District may do so and the cost thereof shall be charged to the Vendor.

19. Safety of Persons and Property

A. The Vendor shall take reasonable precautions for the health and safety of, and shall provide reasonable protection to prevent damage, injury or loss to:

- i. employees engaged in the Work and other persons who may be affected thereby; and
- ii. the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Vendor or the Vendor's Subcontractors or Sub-subcontractors.

- B. The Vendor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.
- C. The Vendor shall promptly remedy damage and loss to Park District property caused in whole or in part by the Vendor, a subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Vendor is responsible, except to the extent said damage or loss is attributable to acts or omissions of the District or anyone directly or indirectly employed by the District, or by anyone for whose acts the District may be liable, and not attributable to the fault or negligence of the Vendor.

20. **Extension of Time.** Extension of time provided for the completion of the Work shall be Vendor's sole remedy for delay unless the same shall have been caused by acts constituting intentional interference by District with Vendor's performance of the Work and where to the extent that such acts of District continue after Vendor's written notice to District of such interference. District's exercise of any of its rights under the Contract, regardless of the extent or number of changes, or District's exercise of any of its remedies of suspension of the Work, or requirement of correction or re-execution of any defective Work, shall not under any circumstances be construed as intentional interference with Vendor's performance of the Work.

21. **Compliance with Laws.** All materials, supplies and equipment provided under this Contract must comply with all federal, state, county and local laws, ordinances, rules, regulations and orders that in any manner affect the production, sale, transportation and handling of the product or service contained herein. Vendor shall be responsible for obtaining all permits and license required to perform its obligations under this Contract. Lack of knowledge on the part of the Vendor will in no way be cause for release of this obligation. The Park District reserves the right to terminate any contract and pursue any other legal remedies deemed necessary if it becomes aware of violation of any laws on the part of the Vendor.

22. **Independent Contractor.** It is understood and agreed that the relationship of Vendor to District shall be that of an independent contractor. Nothing contained herein or inferable herefrom shall be deemed or construed to (1) make Vendor the agent, servant, or employee of District, or (2) create any partnership, joint venture, or other association between District and Vendor. Vendor is solely responsible for the means and methods used to perform the Work. Any direction or instruction by District in respect of the Work shall relate to the results District desires to obtain from the Work, and shall in no way affect Vendor's independent contractor status as described herein.

23. **Miscellaneous:**

- a. **No Third Party Beneficiary.** This Agreement is entered into solely for the benefit of the Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person and/or entity who is not a Party to this Agreement or to acknowledge, establish or impose any legal duty to any third party.

b. **Waivers.** Waiver of any of the terms of this Agreement shall not be valid unless in writing and signed by the Party claimed to be bound thereby. The failure of District to enforce the provisions of this Agreement or require performance by Vendor of any of the provisions, shall not be construed as a waiver of such provisions or affect the right of District to thereafter enforce the provisions of this Agreement. Waiver of any breach of this Agreement shall not be held to be a waiver of any other or subsequent breach. Nothing contained in or implied from this Agreement shall constitute a waiver by District of any right, privilege, defense or immunity afforded to it under applicable law, including but not limited to the Illinois Local Governmental and Governmental Employees Tort Immunity Act.

c. **Non-Assignability.** This Agreement is non-assignable in whole or part by Vendor, and any assignment shall be void without prior written consent of District.

d. **Choice of Law and Venue.** This Agreement is governed by the laws of the State of Illinois. Any suit or action arising under this Agreement shall be commenced in the Circuit Court of DuPage County, Illinois, but only after exhausting all possible administrative remedies. In any suit or action arising under this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs of litigation. Vendor, its successors or assigns shall maintain no suit or action against the District on any claim based upon or arising out of this Agreement or out of anything done in connection with this Agreement unless such action shall be commenced within one year of the termination of this Agreement. Vendor acknowledges that each provision of this Agreement is important and material to the business and success of the District, and agrees that any breach of any provision of this Agreement is a material breach of the Agreement and may be cause for immediate termination of this Agreement. In the event of a breach, Vendor shall also pay to the District all damages (including, but not limited to, compensatory, incidental, consequential, and punitive), which arise from the breach, together with interest, costs, and the District's reasonable attorneys' fees.

e. **Headings.** The headings for each paragraph of this Agreement are for convenience and reference purposes only and in no way define, limit or describe the scope or intent of said paragraphs or of this Agreement nor in any way affect this Agreement.

f. **Severability.** If any provision of this Agreement is declared invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect, to the extent not affected by the invalid or unenforceable provision.

g. **Notice.** All notices, approvals, consents, requests for information and other communications required or permitted to be given by this Agreement shall be in writing and shall be deemed to have been duly given to a party if (i) actually received by the Representative of the Party as evidenced by a receipt signed by such Representative or (ii) if mailed, within three calendar days after the date it is sent by either registered or certified mail, or if sent by overnight courier, on the weekday after it is delivered to such overnight courier, in each case addressed to the respective Representatives of District or Vendor, as the case may be, at the respective address provided in paragraph 7 above.

h. **Entire Agreement.** This Agreement contains the entire understanding and agreement between the Parties, and no statement, promise or inducement made by either Party that is not contained in this written Agreement shall be valid or binding.

i. **Amendment.** No amendment or modification shall be made to this Agreement unless it is in writing and signed by both Parties are dated a date subsequent to the date of this Agreement.

IN WITNESS WHEREOF, each Party has caused this Agreement to be executed by a duly authorized officer thereof effective as of the 13th day of April, 2015.

VENDOR, Comforts of Home Services Inc. WHEATON PARK DISTRICT

By: Daniel Fischer

As Its: Sales Manager

Attest: [Signature]

As Its: _____

By: [Signature]
Executive Director

Attest: [Signature]

As Its: Executive Assistant



COMFOFH-01

HBCT09

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

4/14/2015

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 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 License # 0564249
Heffernan Insurance Brokers
5100 SW Macadam, Suite 440
Portland, OR 97239

CONTACT
NAME:
PHONE
(A/C, No, Ext): 1 (503) 226-1320
E-MAIL
ADDRESS:

FAX
(A/C, No): 1 (503) 226-1478

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A : Great American E&S Insurance Company

37532

INSURER B : ALLIED Property and Casualty Insurance Company

42579

INSURER C : Commerce & Industry Insurance Company

19410

INSURER D :

INSURER E :

INSURER F :

INSURED

Comforts of Home Services Inc
1551 Aucutt Rd.
Montgomery, IL 60538

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	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X		PL443363702	06/09/2014	06/09/2015	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			ACP7863445149	06/09/2014	06/09/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			BE031235043	06/09/2014	06/09/2015	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Portable Restroom Trailer for the Wheaton Park District, Arrowhead Golf Club. As respects the General Liability policy, Wheaton Park District is included as additional insured per the attached form AES3206 05-10.

CERTIFICATE HOLDER

CANCELLATION

Wheaton Park District
102 E. Wesley St.
Wheaton, IL 60187

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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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SPECIALTY PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The following is a summary of the Limits of Insurance and additional coverage provided by this endorsement. For complete details on specific coverages, consult the Policy contract wording.

Subjects of Insurance

Non-Owned Watercraft up to 51 feet

Non-Owned Aircraft Chartered with Crew

Medical Expenses – \$5,000 Limit

Medical Expenses – Completed Operations – Dental Services

Who Is an Insured:

- Fellow Employee Coverage
- Broadened Named Insured

Additional Insured – Ongoing Operations (Subject to Exclusions)

Additional Insured – Vendors (Subject to Exclusions)

Fire Legal Liability – \$300,000 Limit

Broad Notice of Occurrence

Unintentional Errors or Omissions

Waiver of Subrogation

Non-Employee Discrimination

Incidental Malpractice Liability

Contractual Liability for Railroad Exposures

The following amends the **Commercial General Liability Coverage Part**:

NON-OWNED WATERCRAFT

SECTION I - COVERAGES, Coverage A Bodily Injury and Property Damage Liability, 2. Exclusions, g. Aircraft, Auto or Watercraft, {2}, is deleted and replaced with the following:

This exclusion does not apply to:

- (2) a watercraft that you do not own that is:
 - (a) less than 51 feet long; and
 - (b) not being used to carry persons or property for a charge;

NON-OWNED AIRCRAFT

The following is added to **SECTION I – COVERAGES, Coverage A Bodily Injury and Property Damage Liability, 2. Exclusions, g. Aircraft, Auto or Watercraft**:

This exclusion does not apply to:

- (6) An aircraft in which you have no ownership interest and that you have chartered with crew.

MEDICAL PAYMENTS

Unless **Coverage C Medical Payments**, or the Products–Completed Operations Hazard has been excluded from this Policy, the following applies:

SECTION I – COVERAGES, Coverage C Medical Payments, 2.f. is deleted and replaced with the following:

f. Products – Completed Operations Hazard

Included within the "products–completed operations hazard."

However, this exclusion does not apply to expenses for dental services.

SECTION III – LIMITS OF INSURANCE - 7., is deleted entirely and replaced with the following:

- 7. Subject to paragraph 5. above, the Medical Expense Limit is the most we will pay under Coverage C for all medical expenses because of "bodily injury" sustained by any one person, is the greater of:
 - a. \$5,000 any one Person; or
 - b. the Medical Expense Limit shown in the Declarations.

WHO IS AN INSURED

SECTION II – WHO IS AN INSURED is deleted entirely and replaced with the following:

- 1. If you are designated in the Declarations as:
 - a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
 - c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
2. Each of the following is also an insured:
- a. Your "volunteer workers" only while performing duties related to the conduct of your business, and your "employees," other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" is an insured for:
 - (1) "Personal and advertising injury":
 - (a) to you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
 - (b) to the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of paragraph (1)(a) above;
 - (c) for which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraphs (1)(a) or (1)(b) above; or
 - (2) "Bodily injury" or "Personal and advertising injury"
 - (a) arising out of "incidental medical malpractice" due to his or her providing or failing to provide professional health care services. However, this exclusion does not apply to nurses, emergency medical technicians or paramedics who are employed by you to provide medical or paramedical services.
 - (3) "Property damage" to property:
 - (a) owned, occupied or used by,
 - (b) rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by

you, any of your "employees," "volunteer workers," any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).
 - b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
 - c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) with respect to liability arising out of the maintenance or use of that property; and

- (2) until your legal representative has been appointed.
- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.
- 3. Any organization that you own at the inception of this Policy, or any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain during the policy period majority ownership or majority interest, will qualify as a Named Insured if:
 - a. there is no other similar insurance available to that organization; and
 - b. the first Named Insured shown in the Declarations has the responsibility of placing insurance for that organization; and
 - c. that organization is incorporated or organized under the laws of the United States of America.

However:

- (1) coverage under this provision 3. is afforded only until the next occurring annual anniversary of the beginning of the policy period shown in the Declarations, or the end of the policy period, whichever is earlier; and
- (2) coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- (3) coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

ADDITIONAL INSURED - ONGOING OPERATIONS

The following is added to **SECTION II – WHO IS AN INSURED – SECTION 2.:**

- e. Any person or organization (called additional insured) that you are required to add as an additional insured on this Policy under:
 - (1) a written contract or agreement or;
 - (2) an oral contract or agreement where a certificate of insurance showing that person or organization as an additional insured has been issued;however the written or oral contract must be:
 - (a) currently in effect or becoming effective during the term of this Policy; and
 - (b) executed prior to the "bodily injury," "property damage," "personal injury," or "advertising injury" which first manifests on or after the date of the inception of this policy period, as shown in the Declarations Page of the Policy but prior to the earlier of the date of expiration or cancellation of this Policy.

With respect to the insurance afforded such additional insured, the following additional provisions apply:

- (1) that person or organization is only an additional insured with respect to liability arising out of:
 - (a) premises or equipment you own, rent, lease, or occupy; or

- (b) your ongoing operations performed for that additional insured by or for you.

The insurance provided to such additional insured does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard."

- (2) The Limits of Insurance applicable to any such additional insured are those specified in the written contract or agreement or in the Declarations for this Policy, whichever are less and are subject to the terms and conditions of this Coverage Form. These Limits of Insurance are inclusive of and not in addition to the Limits of Insurance shown in the Declarations.
- (3) A person's or organization's status as an additional insured under this endorsement ends 30 days after your operations or agreement for that additional insured are completed or cease, or the expiration of this Policy, whichever is earlier.

The insurance provided to any additional insured does not apply to "bodily injury," "property damage," "personal injury," or "advertising injury" arising out of an architect's, engineer's, or surveyors' rendering of or failure to render any professional services including:

- (1) the preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; and
- (2) supervisory, inspection, or engineering services.

It is further agreed that this insurance shall be primary and noncontributory, but only in the event of the Named Insured's sole negligence.

ADDITIONAL INSURED - VENDORS

The following is added to **SECTION II – WHO IS AN INSURED – 2:**

- f. Any person or organization (referred to below as vendor), but 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, unless 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 by the vendor in full compliance with the manufacturer's written instructions 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.
- (h) "bodily injury" or "property damage" arising out of the sole negligence of the vendors for its own acts or omission of those of its employees or anyone else acting on its behalf.

However, this exclusion does not apply to:

- (1) the exceptions contained in subparagraphs (d) or (f); or
 - (2) 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 such products.
- (3) It is further agreed that this insurance shall be primary and noncontributory, but only in the event of the Named Insured's sole negligence.

FIRE LEGAL LIABILITY

SECTION III – LIMITS OF INSURANCE – 6., is deleted and replaced by the following:

6. Subject to paragraph 5. above, the Damage to Premises Rented to You Limit shown in the Declarations, for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, while rented to you or temporarily occupied by you with the permission of the owner, is the greater of:
- a. \$300,000 any One Premises; or
 - b. the Damage to Premises Rented to You Limit shown in the Declarations.

DUTIES IN THE EVENT OF OCCURRENCE, OFFENSE, CLAIM OR SUIT

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS – 2. Duties in the Event of Occurrence, Offense, Claim or Suit:**

- e. Knowledge of any "occurrence," offense, claim or suit by any agent, servant or employee of the Named Insured does not in itself constitute knowledge by the Insured unless notice of such injury, claim or suit shall have been received by an officer, manager, risk manager, authorized employee, or partner of a Named Insured.

UNINTENTIONAL ERRORS OR OMISSIONS

The following is added to **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS – 6. Representations:**

- d. If you unintentionally fail to disclose any hazards existing at the inception date of this Policy, we will not deny coverage under this Coverage Form because of such failure. However, this does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

WAIVER OF SUBROGATION

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS – 8., is deleted and replaced with the following:

8. Transfer or Rights of Recovery Against Others to Us

- a. 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 those rights. At our request, the Insured will bring "suit" or transfer those rights to us and help us enforce those rights.
- b. If required by a written "insured contract" executed prior to the occurrence or offense, we waive any right of recovery we have against any person or organization named in such "insured contract," because of payments we make for injury or damage arising out of your ongoing operations or "your work" for that person or organization.

NON EMPLOYMENT DISCRIMINATION LIABILITY

Unless **Coverage B Personal and Advertising Injury Liability** is excluded from this Policy, the following applies:

The following is added to **SECTION V – DEFINITIONS, 14. "Personal and advertising injury"**:

- h. discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of the Insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury" and not directly or indirectly related to the employment, prospective employment or termination of employment of any person or persons by any insured.

INCIDENTAL MALPRACTICE LIABILITY

The following is added to **SECTION V – DEFINITIONS**:

23. **"Incidental Medical Malpractice"** means injury arising out of the negligent rendering or failure to render medical or paramedical services to persons by any physician, dentist, nurse, emergency medical technician or paramedic who is employed by you to provide such services provided you are not engaged in the business or occupation of providing any services referred to in this definition.

CONTRACTUAL LIABILITY FOR RAILROAD EXPOSURES

SECTION V – DEFINITIONS – 9. "Insured Contract" f.(1), is deleted in its entirety.

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