

AGREEMENT  
BETWEEN  
THE COUNTY OF ALBANY  
AND LANGUAGE FUNDAMENTALS, INC.

Contract No. 2022-427

This Agreement is made by and between the County of Albany, a municipal corporation organized under the laws of the State of New York, acting by and through its County Executive, with a principal office at 112 State Street, Albany, New York 12207 (hereinafter referred to as the "County"), and Language Fundamentals, Inc., with a principal office at 1032 Main Street, Fishkill, New York 12524 (hereinafter referred to as the "Contractor," the County and the Contractor may be referred to as the "Party" or "Parties" as appropriate).

WITNESSETH:

WHEREAS, the County requires a qualified contractor to provide Speech Pathology services to the Shaker Place Rehabilitation and Nursing Center; and

WHEREAS, the Contractor has been identified as a qualified provider for the aforesaid services by the New York State Office of General Services Procurement Services Group pursuant to Contract No. OSC Vendor ID: 1100103901 (hereinafter the "State Contract Award"); and

WHEREAS, the Contractor has offered to provided the aforesaid services and the County has accepted the Contractor offer to provide the aforesaid services; and

WHEREAS, in furtherance thereof, the parties hereto desire to formalize their understanding and agreement regarding the provision of the aforementioned services, and to execute a fully-integrated Agreement with respect thereto;

NOW, THEREFORE, THE PARTIES HERETO DO MUTUALLY COVENANT AND AGREE AS FOLLOWS:

ARTICLE 1. THE CONTRACT DOCUMENTS; INTERPRETATION

- 1.1 The Contract Documents consist of the following: this Agreement; and the State Contract which is incorporated herein and made a part hereof in its entirety by reference (collectively called "the Agreement" hereinafter).

- 1.2 In the event of any discrepancy, disagreement, or ambiguity among the documents which comprise this Agreement, the documents shall be given preference in the following order to interpret and to resolve such discrepancy, disagreement, or ambiguity: 1) this Agreement; 2) the State Contract.

## ARTICLE 2. SCOPE OF SERVICES TO BE PERFORMED BY CONTRACTOR

The Contractor shall provide Speech Pathology services to the Shaker Place Rehabilitation and Nursing Center. These services are more particularized in the Scope of Services, attached hereto as Schedule A.

## ARTICLE 3. COMPENSATION

- 3.1 In consideration of the terms and obligations of this Agreement, the County agrees to pay, and the Contractor agrees to accept, an amount not to exceed NINETY-NINE THOUSAND, FIVE HUNDRED AND 00/100 DOLLARS (\$99,500.00) US CURRENCY.

- 3.2 The County is not subject to federal, state, or local taxes.

## ARTICLE 4. PAYMENT AND DELIVERY

Payment shall be made to the Contractor by the County upon the Contractor's submission of a properly executed Albany County Claim Form, plus all supporting documentation, to the County, and acceptance by the County of the Claim Form.

## ARTICLE 5. TERM OF THE AGREEMENT

The term of this Agreement shall commence on August 1, 2022 and conclude on July 31, 2023.

## ARTICLE 6. TERMINATION OF AGREEMENT; REMEDY FOR BREACH

- 6.1 This Agreement may be terminated by the County or the Contractor as follows:

- 6.1.1 The County may terminate this Agreement if the Contractor refuses or fails to supply enough properly skilled workers or proper materials to meet any of its requirements, if the Contractor fails to make payment to County-approved subcontractors for materials or labor, or disregards laws, ordinances, or rules and regulations or orders of a public entity having jurisdiction over the work, or if the Contractor is substantially in breach of any of its provisions. Additionally, the County may, without cause, order the Contractor in writing, to suspend, delay, or interrupt the work in whole or in part for such period of time as the County may determine.

- 6.1.2 The Contractor may terminate this Agreement if the County is substantially in breach of it.

6.2 In the event of a breach by the Contractor, the Contractor shall pay to the County all direct and consequential damages caused by such breach, including, but not limited to, all sums expended by the County to procure a substitute Contractor to satisfactorily complete the work, together with the County's own costs incurred in procuring a substitute Contractor.

#### ARTICLE 7. ASSIGNMENT

7.1 Pursuant to §109 of the General Municipal Law, the Contractor is prohibited from assigning, transferring, conveying, subcontracting, or otherwise disposing of this Agreement, or of its right, title, or interest therein, to any other person or entity without the prior written consent of the County.

7.2 The Contractor shall not subcontract for any portion of the services required under this Agreement without the prior written approval of the County. Any such subcontractor shall be subject to the terms and conditions of this Agreement and any additional terms and conditions the County may deem necessary or appropriate.

#### ARTICLE 8. AVAILABLE DATA

All technical or other data relative to this Agreement in the possession of the County or in the possession of the Contractor shall be made available to the other party to this Agreement without expense to the other party.

#### ARTICLE 9. COOPERATION

Contractor shall cooperate with the agents, representatives, and employees of the County and the County shall cooperate with the agents, representatives, and employees of the Contractor to ensure that the work delineated herein proceeds and concludes as expeditiously as possible.

#### ARTICLE 10. NON-DISCRIMINATION

In accordance with Article 15 of the Executive Law (also known as the Human Rights Law), and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor agrees that neither it nor its County-approved subcontractors shall, by reason of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, or marital status refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions, or privileges of employment.

#### ARTICLE 11. EXTRA WORK

If the Contractor is of the opinion that any work it has been directed to perform is beyond the scope of this Agreement and constitutes extra work, the Contractor shall promptly notify the County of that opinion. The County shall be the sole judge as to whether or not such work is in fact beyond the scope of this Agreement and whether or not it constitutes extra work. In the event

the County determines such work does constitute extra work, it shall provide extra compensation to the Contractor on a negotiated basis.

#### ARTICLE 12. COMPLIANCE WITH MACBRIDE PRINCIPLES

The Contractor hereby represents that it is in compliance with the MacBride Principles of Fair Employment as set forth in Albany County Local Law No. 3 for 1993, in that Contractor either (a) has no business operations in Northern Ireland; or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of its compliance with such principles. In the event of a violation of this stipulation, the County reserves all rights to take remedial measures as authorized under § 4 of the said Local Law No. 3 for 1993 including, but not limited to, imposing sanctions, enforcing compliance, recovering damages, declaring the Contractor in default, and/or seeking debarment or suspension of the Contractor.

#### ARTICLE 13. IRANIAN ENERGY SECTOR DIVESTMENT

The Contractor hereby represents that the Contractor is in compliance with New York State General Municipal Law Section 103-g entitled "Iranian Energy Sector Divestment," in that Contractor has not:

- (a) Provided goods or services of \$20 Million or more in the energy sector of Iran including but not limited to the provision of oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transport oil or liquefied natural gas for the energy sector of Iran; or
- (b) Acted as a financial institution and extended \$20 Million or more in credit to another person for forty-five days or more, if that person's intent was to use the credit to provide goods or services in the energy sector in Iran.

#### ARTICLE 14. RELATIONSHIP OF THE PARTIES

The Contractor is, and will function as, an independent contractor under the terms of this Agreement, and shall not be considered an agent or employee of the County for any purpose. The agents, representatives, and employees of the Contractor shall not in any manner be, or be held out to be, the agents, representatives, or employees of the County.

#### ARTICLE 15. INDEMNIFICATION

The Contractor shall defend, indemnify, and save harmless the County, its agents, representatives, and employees, from and against any and all claims, damages, losses, and expenses (including, but not limited to, reasonable attorney's fees) arising out of or in consequence of any negligent or intentional act or omission of the Contractor, its agents, representatives, or employees, to the extent of its or their responsibility for such claims, damages, losses, or expenses.

## ARTICLE 16. INSURANCE COVERAGE

- 16.1 The Contractor shall procure and maintain for the entire term of this Agreement, without additional expense to the County, insurance policies of the kinds and in the amounts provided in the Schedule B attached hereto and made a part hereof. The insurance policies shall name the County as an additional insured. Such policies may only be changed upon thirty (30) days prior written approval by the County.
- 16.2 The Contractor shall, prior to commencing any of the services outlined herein, furnish the County with Certificates of Insurance showing that the requirements of this article have been met. The Contractor shall also provide the County with updated Certificates of Insurance prior to the expiration of any previously issued certificate(s). No work shall be commenced under this Agreement until the Contractor has delivered the Certificates of Insurance to the County. Upon failure of the Contractor to furnish, deliver, and maintain such insurance certificates as provided above, the County may declare this Agreement suspended, discontinued or terminated.
- 16.3 As required by Section 108 of the N.Y. General Municipal Law, this Agreement shall be of no force and effect unless the Contractor shall secure compensation for the benefit of, and keep insured during the life of this Agreement, all employees engaged thereon in compliance with the provisions of the N.Y. Workers' Compensation Law. **The Contractor shall require any subcontractor authorized by the County to do likewise for all of their employees engaged thereon, all in compliance with the provisions of the N.Y. Workers' Compensation Law and of Schedule B of this Agreement.**

## ARTICLE 17. NON-COLLUSIVE BIDDING

By execution of this Agreement, the Contractor warrants, under penalty of perjury, that to the best of its knowledge and belief the prices communicated to the County in establishing the costs of goods and services covered in this Agreement have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition. The Contractor warrants that it is in compliance with NYS General Municipal Law Sec. 103-d with regard to the prices of goods and services covered in this Agreement.

## ARTICLE 18. NO WAIVER OF PERFORMANCE

Failure of the County to insist upon strict and prompt performance of the provisions of this Agreement, or any of them, and the acceptance of such performance thereafter shall not constitute **or be construed as a waiver or relinquishment of the County's right thereafter to enforce the same** strictly according to the tenor thereof in the event of a continuous or subsequent default on the part of the Contractor.

## ARTICLE 19. ACCOUNTING RECORDS

- 19.1 The Contractor shall maintain complete and proper accounting records that shall clearly identify all costs associated with and revenue derived from the work performed under this

Agreement. Such records shall be subject to periodic and final audit by the County upon request.

- 19.2 The Contractor shall provide the County and authorized State and/or Federal personnel access to any and all books, documents, records, charts, software or any other information relevant to performance under this Agreement, immediately upon request.
- 19.3 The Contractor shall retain all of the above information for six (6) years after final payment or the termination of this Agreement, and shall make such information available to the County and authorized State and/or Federal personnel during such period.

## ARTICLE 20. NON-APPROPRIATIONS

Notwithstanding anything contained herein to the contrary, no default shall be deemed to occur in the event no funds or insufficient funds are appropriated and budgeted by or are otherwise unavailable to the County for payment under this Agreement. The County will immediately notify the Contractor of such occurrence and this Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to the County of any kind whatsoever, except as to those portions herein agreed upon for which funds shall have been appropriated and budgeted.

## ARTICLE 21. CHANGE IN LEGAL STATUS OR DISSOLUTION

During the term of this Agreement, the Contractor agrees that, in the event of its reorganization or dissolution as a business entity or change in business, the Contractor shall give the County thirty (30) days written notice in advance of such event.

## ARTICLE 22. LICENSES

The Contractor shall at all times obtain and maintain all licenses required by New York State, or any other relevant regulating body, to perform the services required under this Agreement.

## ARTICLE 23. PARTIAL INVALIDITY

If any term, part, provision, section, subdivision, or paragraph of this Agreement shall be held to be unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining terms, parts, provisions, sections, subdivisions, or paragraphs.

## ARTICLE 24. HEADINGS – CONSTRUCTION

The headings appearing in this Agreement are for the purpose of easy reference only and shall not be considered a part of the Agreement or in any way to modify, amend, or affect the provisions hereof.

## ARTICLE 25. NOTICES

All notices, consents, waivers, directions, requests, or other instruments or communications provided for under this Agreement shall be deemed properly given if, and only if, delivered personally, sent by registered or certified United States mail, postage prepaid, or, with the prior consent of the receiving party, dispatched via facsimile transmission.

## ARTICLE 26. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

## ARTICLE 27. MODIFICATION

This Agreement may only be modified by a formal written amendment executed by the parties.

## ARTICLE 28. EXECUTION OF DOCUMENTS

This Agreement may be executed in one or more counterparts, each of which shall constitute an original Agreement, but all of which together shall constitute one and the same instrument.

## ARTICLE 29. STORMWATER MANAGEMENT PROGRAM

The Contractor specifically agrees to comply with the terms and conditions of the County's stormwater management program (SWMP) as set forth in Albany County Local Law No.7 for 2007 and further agrees to implement any corrective actions identified by the County or a representative. The Contractor understands that the County must comply with the conditions of the New York State Pollutant Discharge Elimination System (SPDES) general permit (GP-0-10-002) for stormwater discharges from the Municipal Separate Storm Sewer Systems (MS4s) and that it is unlawful for any person to directly or indirectly cause or contribute to a violation of water quality standards. The Contractor further understands that any non-compliance will not diminish, **eliminate, or lessen the Contractor's own liability.** **The Contractor shall execute and deliver to the Count a certification statement prior to commencing any work.**

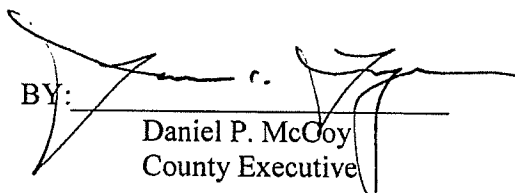
## ARTICLE 30. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties and no representations or promises have been made except as expressly set forth herein.

IN WITNESS WHEREOF, this Agreement has been executed by the County, acting by and through an authorized official, and the Municipality, by and through an act of a duly authorized officer, effective the day and year last below written.

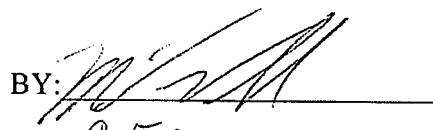
**COUNTY OF ALBANY**

DATED: 9/20/2022

BY:   
Daniel P. McCoy  
County Executive  
or  
Daniel C. Lynch  
Deputy County Executive

**LANGUAGE FUNDAMENTALS, INC.**

DATED: 8/30/22

BY:   
CEO  
Title



STATE OF NEW YORK )  
COUNTY OF ALBANY ) SS:

On the \_\_\_\_\_ day of \_\_\_\_\_, 2022, before me, the undersigned, personally appeared Daniel P. McCoy, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK )  
COUNTY OF ALBANY ) SS.:

On the 20<sup>th</sup> day of September, 2022, before me, the undersigned, personally appeared Daniel C. Lynch, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public  
EUGENIA K. CONDON  
Notary Public, State of New York  
No. 02CO4969817  
Qualified in Albany County  
Commission Expires July 23, 2024

STATE OF NEW YORK )  
COUNTY OF Orange ) SS.:

On the 30<sup>th</sup> day of August, 2022, before me, the undersigned, personally appeared Michael Webb, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity, and that by his/her/their signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

MARC J. ALBERTI  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 01AL5069491  
COUNTY OF ORANGE  
Commission Expires November 25, 2022

\_\_\_\_\_  
Notary Public

## SCHEDULE A

### Scope of Service

- Provide speech language, swallowing and cognitive therapy to the patients of the SNF in a caring & compassionate manner while proactively managing speech case load to ensure access to clinically appropriate speech therapy
- Function as members of the interdisciplinary team and effectively communicate with colleagues in order to enhance quality of care provided
- Perform mobile FEES testing for patients in need of instrumental examinations
- Specialize in speech program development in order to best suit the needs of the residents
- Possess an understanding of traditional and managed Medicare Part A services, as well as HMO, CMI, Medicare Part B
- Provide backup and coverage for speech in order to maintain the highest level of service for the patients
- Deliver ongoing education to our SLPs to enhance their skills to continually provide the SNF with the best standard of practice
- Work closely with the other disciplines to appropriately manage the SLP Component of PDPM and help facility obtain appropriate reimbursement for the Medicare Part A residents
- Review potential discharges with Rehab Department Manager
- Provide clinically appropriate services to long-term residents while striving to make positive impact on CMI

## SCHEDULE B

### INSURANCE COVERAGE

The kinds and amounts of insurance to be provided are as follows:

1. **Workers' Compensation and Employers Liability Insurance:** A policy or policies providing protection for employees in the event of job related injuries.
2. **Automobile Liability Insurance:** A policy or policies with the limits of not less than \$500,000 for each accident because of bodily injury, sickness or disease, including death at any time, resulting there from, sustained by any person caused by accident, and arising out of the ownership, maintenance or use of any automobiles; and with the limits of \$500,000 for damage because of injury to or destruction of property, including the loss of use thereof, caused by accident and arising out of the ownership, maintenance or use of any automobiles.
3. **General Liability Insurance:** A policy or policies including comprehensive form, personal injury, contractual, products/completed operations, premises operations and broad form property insurance shall be furnished with limits of not less than:

<u>Liability for:</u>	<u>Combined Single Limit:</u>
Bodily Injury	\$1,000,000.00
Property Damage	\$1,000,000.00
Personal Injury	\$1,000,000.00

## SCHEDULE C

\$ 80 per hour for evaluation, treatment and PDPM assessments.

Fees for Flexible Endoscopic Evaluations of Swallowing (FEES) will be billed separately at \$285 per service.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

08/30/2022

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

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

<b>PRODUCER</b> Brinckerhoff & Neuville 1134 Main Street Fishkill NY 12524		<b>CONTACT NAME:</b> HOUSE ACCOUNT <b>PHONE (A/C, No, Ext):</b> (845) 896-4700 <b>FAX (A/C, No):</b> (845) 897-5172 <b>E-MAIL ADDRESS:</b>	
		<b>INSURER(S) AFFORDING COVERAGE</b>	
		<b>INSURER A:</b> Preferred Mutual	<b>NAIC #</b> 15024
		<b>INSURER B:</b> Utica Mutual Ins. Co.	<b>25976</b>
		<b>INSURER C:</b> Hiscox Pro	
		<b>INSURER D:</b> United State Liability Insurance Co	
		<b>INSURER E:</b>	
		<b>INSURER F:</b>	

**COVERAGES****CERTIFICATE NUMBER:** CL2232803357**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"/> <b>COMMERCIAL GENERAL LIABILITY</b> <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"/> LOG OTHER:			BOP0100734292	04/01/2022	04/01/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			BOP0100734292	04/01/2022	04/01/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			XL1617597	07/15/2021	07/15/2023	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
	<input checked="" type="checkbox"/> <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A	5231749	04/12/2022	04/12/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
C	Professional Liability			MEO04265116.21	09/16/2021	09/16/2022	Each Occurrence \$1,000,000 Aggregate \$3,000,000

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

RE: Work at Shaker Place Rehabilitation and Nursing Center, 100 Heritage Lane Albany NY 12211

**CERTIFICATE HOLDER****CANCELLATION**County of Albany  
112 State Street

Albany

NY 12207

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