

WALL TOWNSHIP PUBLIC SCHOOLS
OFFICE OF THE BUSINESS ADMINISTRATOR/BOARD SECRETARY
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Brian J. Smyth
Business Administrator/Board Secretary

Phone: 732-556-2016
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March 8, 2023

Betsy Cross

Re: OPRA 23-127

opra+request-40388-27fdec3@requests.opramachine.com

Dear Ms. Cross,

The Wall Township Board of Education, (District) is in receipt of your emailed request that is dated February 26, 2023, wherein you requested record as follows:

“OPRA request - Brian Smyth - insurance policy that covers legal matters which include, but are not limited to, ethics complaints and lawsuit:
A copy of the current insurance policy for the WALL TWP BOARD OF EDUCATION that covers legal matters which include, but are not limited to, ethics complaints and lawsuits.”

In response to your request attached please find the district's Fund Year 2022/2023 Coverage Documents, consisting of 319 pages.

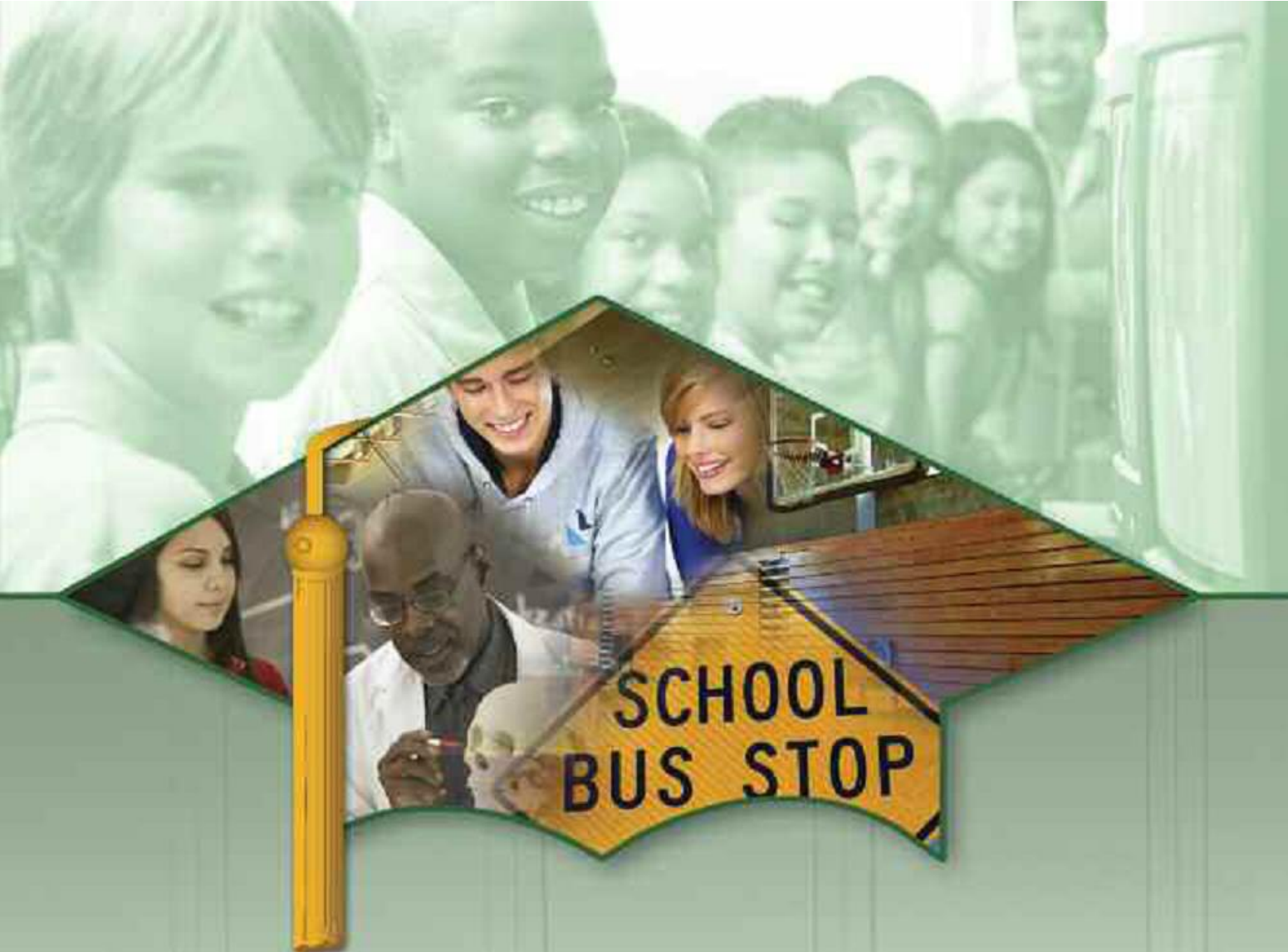
If your request for access to a government record has been denied or unfilled within the seven (7) business days required by law, you have a right to challenge the decision by the Wall Township Board of Education to deny access. At your option, you may either institute a proceeding in the Superior Court of New Jersey or file a complaint with the Government Records Council (GRC) by completing the Denial of Access Complaint Form. You may contact the GRC by toll-free telephone at 866-850-0511, by mail at P.O. Box 819, Trenton, NJ 08625, be-mail at grc@dca.state.nj.us, or at their web site at www.state.nj.us/grc. The GRC can also answer other questions about the law. All questions regarding complaints filed in Superior Court should be directed to the Court Clerk in your County.

Sincerely,



Brian J. Smyth
Records Custodian

BJS/dc



Fund Year 2022/2023 Coverage Documents



DIPLOMA
Joint Insurance Fund

Bylaws

Adopted May 1998

PREAMBLE

*Diploma Joint Insurance Fund
c/o Risk and Loss Managers, Inc.
51 Everett Drive, Suite 105B
Lawrenceville, NJ 08648*

WHEREAS: *Public Law 1983, c.372 (N.J.S.A. 18A:18B-1 et seq.) permits school districts to join together to form a joint insurance fund; and*

WHEREAS: *Said statute was designed to give school districts an opportunity to use alternative risk management techniques, providing they are based on sound actuarial principles; and*

WHEREAS: *It has been concluded that the formation of a "Joint Insurance Fund" will result in significant savings in insurance costs as well as providing stability in coverage; and*

WHEREAS: *The following districts agreed to form a joint insurance fund effective December 15, 1995:*

1. <i>Bloomfield Board of Education 155 Broad Street Bloomfield, NJ 07003</i>	2. <i>Cranford Board of Education P.O. Box 646 Cranford, NJ 07016</i>
3. <i>Englewood Board of Education 12 Tenafly Road Englewood, NJ 07631</i>	4. <i>Ewing Board of Education 1331 Lower Ferry Road Trenton, NJ 08618</i>
5. <i>Middlesex Board of Education Kennedy Drive Middlesex, NJ 08846</i>	6. <i>Neptune Board of Education 2106 Bangs Avenue Neptune, NJ 07753</i>
7. <i>North Plainfield Board of Education 33 Mountain Avenue North Plainfield, NJ 07060</i>	8. <i>Union County Regional High School Mountain Avenue Springfield, NJ 07081</i>
9. <i>Watchung Hills Board of Education 108 Stirling Road Warren, NJ 07059</i>	

NOW THEREFORE, *in consideration of the premises and in order to operate said **Fund** to be known as the Diploma Joint Insurance Fund.*

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PREAMBLE

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ARTICLE I - NAME

The name of this group shall be the DIPLOMA JOINT INSURANCE FUND, hereinafter called the "Fund."

ARTICLE II - PURPOSE

The purposes of the Fund are:

- 1. To permit the Boards of Education joining herein to make a more efficient use of their powers and resources by cooperating on a basis that will be of mutual advantage; and*
- 2. To provide a procedure for the development, administration, and provision of risk management programs, a joint self-insurance fund or funds, joint insurance purchases and related services for **members** and their employees for the following:*
 - a. Loss or damage from liability as established by Chapter 15 of Title 34 of the revised statute, Labor and **workers' compensation** (RS 34:15-1 et seq).*

ARTICLE III - DEFINITIONS

"ACTUARY" means a person who is a fellow in good standing of the Casualty Actuarial Society with three years recent experience in loss reserving or an associate in good standing of the Casualty Actuarial Society with five years recent experience in loss reserving.

"ADMINISTRATOR" means a person, partnership, corporation or other legal entity engaged by the Fund to act as Executive Director, to carry out the policies established by the Trustees and to otherwise administer and provide day-to-day management of the Fund.

"AUTOMOBILE AND EQUIPMENT LIABILITY" means liability resulting from the use or operation of motor vehicles, equipment or apparatus owned by or controlled by the member or owned by or under the control of any departments, boards, agencies, commissions or other entities which the member may provide coverage for under applicable State law or regulation. The exact definition of "automobile and equipment liability" shall be the definition used in the excess/reinsurance policy purchased by the Fund.

"CHAIRMAN" means the chairman of the Board of Trustees as may be elected or designated by the Trustees.

"COMMISSIONER" means the Commissioner of the Department of Banking and Insurance.

"DEPARTMENT" means the Department of Banking and Insurance.

"EMPLOYERS' LIABILITY" means the legal liability of an employer to pay damages because of bodily injury or death by accident or disease at any time resulting therefrom sustained by an employee arising out of and in the course of his employment by the employer, which is not covered by a workers' compensation law. The exact definition of "employers' liability" or similar terms shall be the definition used in the excess/reinsurance policy purchased by the Fund.

"EXCESS CARRIER" means an insurer that provides excess insurance or reinsurance to a fund.

"EXCESS INSURANCE" means insurance purchased from an insurance company authorized or admitted in the State of New Jersey or deemed eligible by the Commissioner as a surplus lines insurer, covering losses in excess of an amount established between the Fund and the insurer up to the limits of coverage set forth in the insurance contract on a specific occurrence, or per accident and/or annual aggregate basis.

"FISCAL YEAR" or "FUND YEAR" means the Fund's fiscal year of July 1 through June 30.

"FUND" means the Diploma Joint Insurance Fund.

"FUND COMMISSIONER" means an individual appointed by a member school board having the qualifications, powers, and duties outlined in these Bylaws.

"GENERAL LIABILITY" means any and all liability which may be insured under the laws of the State of New Jersey, excluding workers' compensation, employers' liability, motor vehicular and equipment liability. The exact definition of "general liability" or similar terms is the definition used in the excess/reinsurance policy purchased by the Fund.

"HAZARDOUS FINANCIAL CONDITION" means that, based on its present or reasonable anticipated financial conditions, a fund, although not yet financially impaired or insolvent, is unlikely to be able:

1. To meet obligations to claimants with respect to known claims and reasonably anticipated claims; or
2. To pay other obligations in the normal course of business.

"INDEMNITY AND TRUST AGREEMENT" means a written contract signed by and duly adopted by the members of the Fund under which each agrees to jointly and severally assume and discharge the liabilities of each and every party to such agreement arising from the participation in the Fund.

1. The agreement shall also create a trust and govern the operation thereof under which monies shall be held by the Fund Commissioners/Trustees as fiduciaries for the benefit of fund claimants.
2. Where the Fund shall provide for the retention on a self insured basis of any or all of the risks or liabilities specified below, the agreement shall require and provide for the establishment of separate trust accounts from which monies shall be disbursed solely for the payment of claims, allocated claim expenses and excess insurance of reinsurance premiums for each such risk or liability:

- < workers' compensation and employers' liability
- < liability, including school board legal liability, and motor vehicle liability
- < property damage, including automobile physical damage
- < boiler and machinery

"INSOLVENT FUND" means a joint insurance fund which has been determined by a court of competent jurisdiction to be unable to pay its outstanding lawful obligations as they mature in the regular course of business, as may be shown either by an excess of its required reserves and other liabilities over its assets or by its not having sufficient assets to reinsure all of its outstanding liabilities after paying all accrued claims owed by it, or for which, or for the assets of which, a receiver or liquidator, however entitled, has been appointed by a court of competent jurisdiction and authority, after the effective date of the subchapter.

"INSURER" means any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer or other person engaged in the business of insurance pursuant to Subtitle 3 of Title 17 of the Revised Statutes.

"INTERTRUST FUND TRANSFER" means an actual transfer of funds from one Claim or Loss Retention Fund Account in a fiscal year to another account within the same fiscal year.

"INTERYEAR FUND TRANSFER" means the transfer of funds from a Claim or Loss Retention Account for a fiscal year to a Claim or Loss Retention Account of similar risk or liability for a different fiscal year.

"JOINT INSURANCE FUND" means a joint self-insurance fund established by a school board insurance group pursuant to N.J.S.A. 18A:18B-1 et seq. The joint self-insurance fund is a fund of public moneys from contributions made by members of a school board insurance group for the purpose of securing insurance protection, risk management programs, or related services as authorized by N.J.S.A. 18A:18B-1 et seq.

"MEMBER" OR "MEMBER DISTRICT" means a school board which is a member of the Diploma Joint Insurance Fund.

"NET CURRENT SURPLUS" OR "SURPLUS" means that amount of monies in a trust account established pursuant to N.J.A.C. 11:15-4.6(b)10 that is in excess of all costs, earned investment income, returned surplus, incurred losses and loss adjustment expenses and incurred but not reported reserves, including the associated loss adjustment expenses attributed to the Fund net of any per occurrence or aggregate excess insurance or reinsurance for a particular year.

"PRODUCER" means any person engaged in the business of an insurance agent, insurance broker, or insurance consultant as defined in N.J.S.A. 17:22A-1 et. seq.

"PROPERTY DAMAGE" means any loss or damage, however caused, to property, motor vehicles, equipment, or apparatus owned by the member school district or owned by or under the control of any of its departments, boards or agencies. The exact definition of "property damage" or similar terms shall be the definition in the excess/reinsurance policy purchased by the Fund.

"RISK MANAGEMENT PLAN" means the Plan of Risk Management required under the provisions of these Bylaws.

"RISK MANAGEMENT PROGRAM" means a plan and activities carried out under the plan, by a joint insurance fund to reduce risk of loss with respect to a particular line of insurance protection or coverage provided by a fund pursuant to N.J.S.A. 18A:18B-1 et seq., including a safety engineering and other loss prevention and control techniques. Risk Management program also includes the administration of one or more funds, including the processing and defense of claims brought against or on behalf of members of the Fund.

"RISK MANAGER" means an individual, partnership or corporation engaged by the Fund, who has demonstrated prior experience in the management of public sector risks. The individual shall be an insurance producer, as defined under N.J.S.A. 17:22 A-1 et. seq.

***"SECRETARY"** means the secretary of the Board of Trustees as may be designated by the Trustees.*

***"SERVICING ORGANIZATION"** means an individual, partnership, association or corporation, other than the administrator, that has contracted with the Fund to provide, on the Fund's behalf, any function as designated by the Trustees including, but not limited to, actuarial services, claims administration, cost containment services, loss prevention/safety engineering services, legal services, auditing services, financial services, compilation and maintenance of the Fund's underwriting file, coordination and preparation of coverage documents, risk selection and pricing, excess insurance or reinsurance producer services, which include producer negotiations on behalf of the Fund for excess insurance or reinsurance from an insurer, member assessment and fee development, report preparation pursuant to N.J.S.A. 18A:18B-1 et. seq. and such other duties as designated by the Fund.*

***"TRUSTEES" or "BOARD OF TRUSTEES"** means the governing body for the Fund as provided for by N.J.S.A. 18A:18B-5 and these Bylaws.*

***"UNPAID CLAIMS" or "UNPAID LOSSES"** means case reserves and reserves for Incurred But Not Reported (IBNR) claims attributed to the Fund net of any recoverable per occurrence or aggregate excess insurance or reinsurance for a particular coverage or fund year.*

***"WORKERS' COMPENSATION LAW"** means the provisions of N.J.S.A.34:15-7 et. seq.*

ARTICLE IV - MEMBERSHIP

A. AGREEMENT TO JOIN THE FUND

1. *Membership in the **Fund** shall be open to all New Jersey School Boards. The Boards may apply for membership by resolution of their respective Boards of Education.*
2. *The resolution shall provide for execution of a written agreement specifically providing for acceptance of the **Fund's** Bylaws as approved, adopted and/or amended by the **Trustees** of the **Fund**.*
3. *Initial and subsequent membership in the **Fund** shall be for a period of three (3) years.*
4. *All applicants to the **Fund** must also include a letter certifying that the school district has never defaulted on a claim, and has not been canceled for non-payment of insurance premiums for a period of at least two (2) years prior to the date of application.*
5. *All costs associated with preparing and submitting the application and all other necessary documents to the **Commissioner** shall be paid by the applicant.*
6. *Applicants must include an executed **indemnity and trust agreement**.*
7. *The **Trustees** may approve the application by majority vote based on the following criteria:*
 - a. *The applicant's five (5) year claims history shows safety performance consistent with the **Fund's** objectives and the applicant's physical location and makeup indicates a prospective likelihood of satisfactory future claim performance.*
 - b. *A safety inspection and evaluation conducted by the **Fund's** safety consultant at the expense of the applicant shows the applicant meets the **Fund's** safety standards.*
 - c. *The **Fund** has the administrative capability to absorb additional memberships without undue inconvenience or strain.*
8. *If the application is approved by the Fund, it shall be filed with the **Department** within 15 days and shall be accompanied by such amendments to the **Fund's** Bylaws, budget and Plan of Risk Management as may be required by the **Department**.*
9. *No new membership in the **Fund** shall become effective until the application and accompanying amendments to the **Fund's** Bylaws and Plan of Risk Management are approved as required by these Bylaws and, where applicable, state law or regulation.*

10. *If a non-member is not approved for membership, the **Fund** shall set forth in writing the reasons for disapproval and send the reason for disapproval to the non-member. The **Fund** shall retain a copy of all disapprovals for five years.*

B. CONDITIONS OF MEMBERSHIP

As a condition of membership, each school district shall:

1. *Form a safety committee and actively participate in all **Fund** sponsored safety programs, agree to follow safety programs, and all safety and risk management procedures required by the **Fund**;*
2. *Promptly comply with the bylaws, **risk management plan**, and other requirements of the **Fund**;*
3. *Promptly pay all assessments charged to it, fees, charges or other obligations arising out of or related to the district's participation in the **Fund**;*
4. *Execute and comply with the **indemnity and trust agreements** furnished as part of the initial and subsequent membership requirements;*
5. *Comply with the statutes and regulations governing joint insurance funds; and*
6. *Actively participate in all **Fund** sponsored or directed meetings; programs or activities so as to ensure successful operation of the **Fund**.*

C. MEMBERSHIP RENEWALS

1. ***Members** may renew their participation by execution of a new agreement to join the **Fund** as provided for in Section A above ninety (90) days prior to the expiration of the term period.*
2. *The **Trustees** must act upon any renewal application no later than forty-five (45) days prior to the expiration of the term period. Otherwise, the renewal application is automatically approved.*
3. *In order to deny a renewal application the **Fund** shall find, by majority vote of the **Trustees**, that the applicant has failed to fulfill its responsibilities as a **member** or no longer meets the **Fund's** written safety standards or other objective criteria duly adopted.*
4. *If a **member's** renewal application is rejected, the **Fund** shall comply with subsection D2, 3, and 4 below.*
5. *Non-renewal of a **fund member** does not relieve the **member** of responsibility for claims incurred during its period of membership.*

D. TERMINATION AND/OR WITHDRAWAL OF FUND MEMBERS

1. *A **member** school district must remain in the **Fund** for the full term of membership unless earlier terminated by a two-thirds vote of the **Trustees** for nonpayment of assessments or continued noncompliance after written notice to comply with the fund's Bylaws, Risk Management standards, or other reason(s) acceptable to the **Commissioner**. However, such **member** school district shall not be deemed terminated until:*
 - a. *The **Fund** gives by registered mail to the **member** a written notice of its intention to terminate the **member** in thirty (30) days; and*
 - b. *Like notice shall be filed with the **Department**, together with a certified statement that the notice provided for above has been given; and*
 - c. *Thirty (30) days have elapsed after the filing required by "b" above.*
2. *A **member** of the **Fund** that does not desire to continue as a **member** after the expiration of its membership term shall give written notice of its intent ninety (90) days before the expiration of the term period. The **Fund** shall immediately notify the **Department** that the **member** has given notice to leave the **Fund**.*
3. *A **member** of the **Fund** that did not approve any amendment of the **Fund** Bylaws within 90 days after the effective date of any amendment to the bylaws, may withdraw from the **Fund**, pursuant to 18A:18B(4)(d). The **Fund** shall immediately notify the **Department** of all **members** that have given notice of withdrawal from the **Fund**.*
4. *A **member** that has been terminated or does not continue as a **member** of the **Fund** shall remain jointly and severally liable for claims incurred by the **Fund** and its **members** during the period of its membership, including, but not limited to being subject to and liable for supplemental assessments.*
5. *The **Fund** shall immediately notify the **Department** if the termination or withdrawal of a **member** causes the **Fund** to fail to meet any of the requirements of N.J.S.A. 18A:18B-1 or any other law or regulation of the State of New Jersey. Within fifteen (15) days of such notice, the **Fund** shall advise the **Department** of its plan to bring the **Fund** into compliance.*
6. *A **fund member** is not relieved of the claims incurred during its period of membership except through payment by the Fund or **member** of those claims.*

ARTICLE V - ORGANIZATION

A. FUND COMMISSIONERS

1. Appointment

- a. **Fund Commissioner:** *In the manner generally prescribed by law, each **member** school district shall appoint one (1) **Fund Commissioner** to the **Fund**. The **Fund Commissioner** appointed by a **member** school district must be either a board member or an employee of the school district.*
- b. **Alternate Fund Commissioner:** *Each **member** school district shall have the right to appoint one (1) alternate **Fund Commissioner** to attend meetings on behalf of the **member** in the absence of the **Fund Commissioner**. The alternate **Fund Commissioner** must be either a board member or an employee of the school district.*
- c. **Special Fund Commissioner:** *In the event that the number of **member** school districts is an even number, one (1) additional **Fund Commissioner** shall be appointed annually by a **member** school district on a rotating basis determined alphabetically.*

*The school district's privilege to appoint the Special **Fund Commissioner** shall remain with that school district for one entire **fund year** and the subsequent admission to the **Fund** of a school district with a preceding alphabetical prefix shall not deprive any school district already a **member** of the **Fund** of its prerogative to appoint a Special **Fund Commissioner** during a current **fund year**.*

2. Terms of Office and Vacancy

- a. *All terms of office shall expire on June 30 or until a successor is duly appointed and qualified.*
- b. *A **Fund Commissioner**, other than the Special **Fund Commissioner**, shall hold office for the remainder of his/her employment with the **member district**. Provided however, that in those cases wherein a vacancy is created by reason of separation of the **Fund Commissioner** from school district employment, such **Fund Commissioner** may serve for a period not to exceed ninety days (90) from the effective date of separation from employment. The decision as to whether a **Fund Commissioner** who has separated from district service shall continue in their capacity as provided herein shall remain with the **member district**.*
- c. ***Fund Commissioners** shall hold office at the pleasure of the school district and can be removed by the Board of Education at any time without cause provided, however, that any replacement **Fund Commissioner** subsequently appointed by the **member** board meet all of the qualifications for **Fund Commissioners** as established by these Bylaws.*

- d. *The Special **Fund Commissioner**, if any, shall serve until June 30 of the year following provided, however, that the Special **Fund Commissioner** may be removed by the appointing school board at any time without cause.*
 - e. *The unexpired term of a **Fund Commissioner** other than the Special **Fund Commissioner**, shall be filled by the appointing school board in the manner generally prescribed by law and these Bylaws.*
 - f. *In the event of a vacancy of the Special **Fund Commissioner** caused by reason other than the expiration of the term of office, the school board which appointed the Special **Fund Commissioner** shall appoint the replacement for the unexpired term.*
 - g. *Any **Fund Commissioner** can be removed from office for cause by two-thirds vote of the full membership of the **Board of Trustees**. Upon such a vote, it shall be incumbent upon the **member** school board to replace the **Fund Commissioner**.*
 - h. ***Fund Commissioners** shall serve without compensation from the **Fund** except as provided by law.*
3. **Responsibilities**
- a. *The **Fund Commissioners** shall, as soon as possible after the beginning of the **fund year**, meet to elect a **Board of Trustees** who shall be charged with operating the **Fund** in accordance with these Bylaws and applicable State Law and Regulation.*
 - b. *Each **Fund Commissioner** shall have one vote provided, however that the Special **Fund Commissioner**, if any, shall only vote in the event of a tie.*

B. TRUSTEES

- 1. ***Trustees** shall serve until June 30 of the following year, or until a successor is duly elected and qualified.*
 - a. ***Chairperson:** The **Chairperson** shall preside at all meetings of the **Trustees** and shall perform such other duties provided for in these Bylaws and the laws and regulations of the State of New Jersey.*
 - b. ***Vice Chairperson:** The Vice Chairperson shall exercise the responsibilities of the **Chairperson** in such person's absence.*
 - c. ***Secretary:** The **Secretary** shall preside over the meetings of the **Trustees** in the absence of the **Chairperson** and Vice Chairperson. Unless such responsibility is delegated to the **Fund's Administrator** by the **Trustees**, the **Secretary** shall have the responsibility to maintain minutes of the **Fund's** meetings and retain all books, records, files and other documents of the **Fund**, and shall perform such other duties as provided for in these Bylaws and the laws and regulations of the State of New Jersey. The **Secretary** shall maintain the books and records of the **Fund** at the office of the **Fund** as from time to time designated by the **Fund Trustees**. When record keeping*

responsibility has been delegated to the **Administrator**, the **Administrator** shall maintain said records at a location known to and approved by the **Fund** and the **Secretary** shall, at all reasonable times, have access to the records.

2. If the total number of **Fund Commissioners** exceeds nine (9), the **Fund Commissioners** shall, at the same time as they elect the **Chairperson**, Vice Chairperson, and **Secretary**, elect six (6) additional **Trustees** from among the membership of the **Fund Commissioners**. These six (6) additional **Trustees** shall serve with the **Chairperson**, Vice Chairperson, and **Secretary** as the **Board of Trustees** for the **Fund**.
3. In the event of a vacancy in any of the **Trustee** positions caused by other than the expiration of the term of office, the vacancy shall be filled by the vacated **Trustee's member district**.
4. Any **Trustee** can be removed without cause at any time by a two-thirds vote of the full membership of the **Fund Commissioners**. In this event, the full membership of the **Fund Commissioners** shall fill the vacancy for the unexpired term.
5. The **Trustees** shall serve without compensation from the **Fund** except as provided by State Law.
6. The **Trustees** are hereby authorized and empowered to operate the **Fund** in accordance with these Bylaws and applicable State Law and Regulation.
7. A **Trustee's member district's** alternate fund commissioner shall serve in the absence of that **Trustee**. They shall be authorized to fully perform those duties and responsibilities of the absent **Trustee**.

C. ADMINISTRATOR AND SERVICING ORGANIZATIONS

As soon as possible after the beginning of each **fund year**, the **Board of Trustees** shall meet and by majority vote shall select an **administrator**, **servicing organizations** including a **risk manager**, and other services as necessary to carry out the duties pursuant to "Public Schools Contracts Law."

1. The **administrator** and all **servicing organizations** shall be retained on a contractual basis which shall be approved by the **Board of Trustees**. The **administrator**, **servicing organizations** and other services shall be compensated pursuant to written fee contracts approved by a majority of the **Board of Trustees** and submitted to the **Department**. The written contracts shall specify the duration and scope of services.

2. a. *No **servicing organization** of the **Fund**, or **producer** that may be appointed pursuant to N.J.A.C. 11:15-4.6(a)10, or their employees, officers or directors shall have either a direct or indirect financial interest in the administration of the **Fund** or be an employee, officer or director of the **administrator** unless notice of such interest has been provided to the **Fund Commissioners** and **members**.*
- b. *No **administrator** of the **Fund**, or their employees, officers or directors shall be an employee, officer or director of, or have either a direct or indirect financial interest in, a **servicing organization** of the **Fund**, or the insurance producer that may be appointed by the **Fund** pursuant to N.J.A.C. 11:15-4.6(d)10 unless notice of such interest has been provided to the **Fund Commissioners** and **members**.*
- c. *Any employee, officer or director of the **administrator**, **servicing organization** or insurance **producer** that may be appointed pursuant to N.J.A.C. 11:15 4.6(d)10 shall disclose to the **Fund Commissioners** or **Board of Trustees**, as applicable, any direct or indirect financial interest such employee, officer or director has in any other **administrator**, **servicing organization** or insurance **producer**.*
3. *Each service contract shall include a clause stating "unless the **Fund Commissioners** otherwise permit, the **servicing organization** shall handle to its conclusion all claims and other obligations incurred during the contact period."*
4. *The **administrator**, **risk manager**, **servicing organizations**, and such others shall provide errors and omissions and surety bond coverage if required by law or by the **Board of Trustees** in a form and amount satisfactory to the **Commissioner** and/or the **Board of Trustees**, if applicable. The **Board of Trustees** may also require the **administrator**, **servicing organizations** and such others to provide other insurance coverage as a requirement of their contract in an amount acceptable to the **Board of Trustees**.*
5. *All officers, employees and agents, including the **administrator** and **servicing organization** of the **Fund**, on the final day of their contract or employment shall surrender and deliver to their successors all accounts, funds, property, records, books and any other material relating to their contract or employment, or if no successor has been designated, delivery shall be made to the **administrator** or **Fund Chairperson**, as applicable.*

D. SERVICE AGENT

*The **Fund** shall designate and appoint an agent in New Jersey to receive service and process on behalf of the **Fund**. The Service Agent shall not be a **Trustee** or **Fund Commissioner** of the **Fund**.*

ARTICLE VI - INDEMNIFICATION OF OFFICERS AND EMPLOYEES

1. *Except to the extent covered by Errors and Omissions insurance as may be required, as set forth in C.4, the **Fund** shall indemnify any past, present or future **fund commissioners** or Alternate **fund commissioners**, and may indemnify such other officials or contract providers as the **Board of Trustees** determines, for claims arising from an act or omission of such person within the scope of the performance of their duties. Such indemnification shall include reasonable cost and expenses incurred in defending such claims. Nothing contained herein shall require the **Fund** to pay punitive damages or exemplary damages or damages arising from the commission of a crime by such person and the **Fund** shall not be required to provide for the defense or indemnification of such person when the act or omission which caused the injury was the result of actual fraud, malice, gross negligence or willful misconduct of such person. The determination as to whether a person's conduct falls within any of the above exceptions shall be made by the **Board of Trustees**.*
2. *A present, past or future **Fund Commissioner**, Alternate **Fund Commissioner**, official or contract provider of the **Fund** shall not be entitled to a defense or indemnification from the **Fund** unless:*
 - a. *Within ten (10) calendar days of the time he or she is served with the summons, complaint, process, notice or pleading, he or she delivers the original or exact copy to the **Fund Chairperson** with a copy to the **Fund** attorney, together with a request that the **Fund** provide for his or her defense; and*
 - b. *In the event the **Fund** provides a defense or indemnification, he or she cooperates in the preparation and presentation of the defense with the attorney selected to defend the case; and*
 - c. *Except in those instances where a conflict of interest exists, as determined by an attorney selected by the **Fund** to handle such matters, the past, present or future **Fund Commissioner**, Alternate **Fund Commissioner**, official, or contract provider shall agree that the **Fund** and its counsel shall have exclusive control over the handling of the litigation.*
3. *The forgoing right of indemnification shall not be exclusive of any other rights to which any **Fund Commissioner**, Alternate **Fund Commissioner**, official, or contract provider may be entitled as a matter of law or which may be lawfully granted to him or her; and the right to indemnification hereby granted by this **Fund** shall be in addition to and not in restriction or limitation of any other privilege or power which the **Fund** may lawfully exercise with respect to the indemnification or reimbursement of such person except that in no event shall such person receive compensation in excess of the full amount of a claim and reasonable costs and expense incurred in defending such claim.*
4. *Expenses incurred by any **Fund Commissioner**, Alternate **Fund Commissioner**, official, or contract provider in defending an action, suit or proceeding may be paid by the **Fund** in advance of final determination of such action, suit or proceeding as authorized by the **Fund** in a specific case upon receipt of an undertaking by or on behalf of such **member** or officer to repay such amount in the event of an ultimate determination that his or her conduct was such as to fall outside the scope of coverage under this indemnification provision.*

ARTICLE VII - SAFETY COMMITTEE

1. **Membership:** *Each member district's Fund Commissioner shall appoint a district employee to serve on the Fund's Safety Committee. Each districts' Fund Commissioner shall also select an alternate, and each member and alternate on the Safety Committee shall serve at the pleasure of the appointing Fund Commissioner. The Committee may also request additional members to join the Committee.*
2. **Organization:** *At the beginning of each year, the Safety Committee shall select a Chairperson, a Vice Chairperson, and a Secretary.*
3. **Duties:** *The Safety Committee shall meet according to the schedule established by the Chairperson and shall include, but not be limited to the following duties or responsibilities:*
 - a. *Work with the safety engineering service organization to develop a comprehensive safety and loss control program.*
 - b. *Review all accident reports and monitor accident trends and frequencies.*
 - c. *Coordinate the annual safety inspections and identify locations requiring more frequent inspections.*
 - d. *Conduct safety education programs.*
 - e. *Review the activities of each school district's Safety Committee and notify the Trustees if any school district is not conducting an active safety program.*
 - f. *Perform such other duties that are requested by the Trustees, or are provided for by State regulation and law.*

ARTICLE VIII - OPERATION OF THE FUND

A. GENERAL OPERATION

1. The **Fund** shall be subject to and operate in compliance with the provisions of the "Schools Fiscal Affairs Law" (N.J.S.A. 18A:4-14 and N.J.A.C. 6:20-2.1 et seq), and the "Public Schools Contracts Law" (N.J.S.A. 18A:18A1 et seq).
2. The **Fund** shall be considered a local unit for purposes of the "Public Schools Contracts Law" (N.J.S.A. 18A:18A1 et seq) and shall be governed by the provisions of that law in the purchase of any goods, materials, supplies and service.
3. The **Fund** shall be operated with sufficient aggregate financial strength and liquidity to assure that all obligations will be promptly met. The **Fund** shall prepare a financial statement on a form acceptable to the **Commissioner** showing the financial ability of the **Fund** to meet its obligations. The **Trustees** may, upon majority vote, request the **Commissioner** to order an examination of any **fund member** which the **Trustees**, in good faith believes may be in a financial condition detrimental to other **fund members** or to the public.
4. The **Fund's** fiscal year shall be July 1 through June 30.

B. RISK MANAGEMENT PLAN

1. The **Trustees** shall prepare or cause to be prepared a **risk management plan** for the **Fund**. The Plan shall include, but not be limited to:
 - a. The perils of liability to be insured against.
 - b. Limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier or reinsurance.
 - c. The amount of risk to be retained by the **Fund**.
 - d. The proposed method of assessing contributions to be paid by each **member** of the **Fund**.
 - e. Such other items required by state law, regulation, or the **Fund Trustees**.
2. The **risk management plan** and all amendments thereto must be approved by the **Trustees**, and the **Commissioner** before it takes effect.

C. FINANCIAL STATEMENT AND REPORTS

1. The **Fund** shall provide its **members** with periodic reports concerning the activities and status of the **Fund** for the reporting period. Such reports shall be made at least quarterly and may be made more frequently at the discretion of the **Trustees**.
2. A sworn annual report in a form prescribed by the **Commissioner** shall be prepared by the **Fund**, filed with the **Department**, and made available to each **fund member** on or before December 31 of each year. The report shall be accompanied by:
 - a. An annual audited statement of the financial condition of the **Fund** prepared by an independent certified public accountant and performed in accordance with generally accepted accounting principles, which shall include a statement of the organization of the **Fund** indicating the persons who perform each function for the **Fund** and the relationship and interdependency of each function, and including its balance sheet and receipts and disbursements for the preceding year.
 - b. An annual audited statement of the financial condition of the **Fund** prepared by the Auditor and performed in accordance with generally accepted accounting principles and P.L. 1983, c.108.
 - c. Reports of outstanding liabilities showing the number of claims, amounts paid to date and current reserves for losses, claims and unearned assessments as certified by an **actuary**.
 - d. In addition to the reports required pursuant to (a) above, for the initial two fiscal years of a fund, a fund shall file with the **Department** quarterly unaudited statements of the financial condition of the fund in a form acceptable to the **Commissioner** within 60 days after the end of each calendar quarter. After the initial two years, a fund shall file with the **Department** semiannual unaudited statements of the financial condition of the **Fund** in a form acceptable to the **Commissioner** within 60 days after the end of each six month period. The semi-annual report covering the six month period ending June 30 shall include a compilation of the results reported in the semi-annual report for the period ending December 31 immediately preceding. All statements filed pursuant to this subsection shall include the information set forth in (a) above, except that certification by a certified public accountant or the actuarial opinion statement shall not be required.

D. COVERAGES

The **Fund** may offer any coverages to the **members** allowed by statute. Each type of the following of coverage will be separate and independent of each other.

1. **Workers' compensation and employers' liability.**

2. *Liability coverage including school board legal liability and motor vehicle liability*
3. **Property damage** (buildings, contents, equipment, and motor vehicles)
4. *Boiler and Machinery*

*With respect to **workers' compensation**, the following will be provided for:*

1. *Benefit levels will equal those required by the **Workers' Compensation Act**, and provide for prompt payment of benefits.*
2. *A minimum contribution from all participants of \$250,000 for the **Fund's** first year of operation. Thereafter a minimum of \$500,000, unless otherwise approved by the **Commissioner**.*
3. *Assessments will be based on the merit rating plan filed with the **Commissioner**.*

ARTICLE IX - MEETINGS AND RULES OF ORDER

A. MEETINGS

1. **Annual Organization Meeting** - as soon as possible after the beginning of the year, the **Fund Commissioners** shall meet to elect a **Board of Trustees** comprised of a **Chairperson**, Vice Chairperson, **Secretary**, and (if applicable) six (6) additional **Trustees** to appoint officials and conduct such other business as is necessary. The time and place for the meeting shall be established by the **Chairperson**, and the **Secretary** shall send written notice to the **Fund Commissioners** of member school districts at least two (2) weeks in advance.
2. **Regular Business Meetings** - the **Trustees** shall establish a schedule of regular meetings to conduct the business of the **Fund**, which shall be at least quarterly. All Commissioners may attend open or closed sessions of the **Trustees**.
3. **Special Meetings** - the chairperson or three (3) **Trustees** may call a special meeting by notifying the **Secretary** at least three (3) days in advance. The **Secretary** shall notify the **Trustees** by telephone. If the **Secretary** is unable to reach a Trustee or **Trustees** forty-eight (48) hours before the meeting, the **Secretary** shall telephone one or more Alternate **Trustees** as may be required to achieve a quorum as defined by these Bylaws. The Alternate **Trustees** shall be called in order of position.
4. **Quorum** - the quorum for a full meeting of the **Trustees** shall be a simple majority of the **Trustees**.

B. CONDUCT OF MEETINGS

1. All meetings of the **Fund** shall be subject to the rules and regulations of the Open Public Meetings Act.
2. Unless otherwise provided in these Bylaws, or in the laws or regulations of the State of New Jersey, "Robert's Rules of Order" shall govern the conduct of all meetings.

C. AMENDMENTS TO THE BYLAWS

1. Any **Fund Commissioner** may propose an amendment to the Bylaws by filing the proposed amendment in writing with the **Secretary**.
2. Upon receipt of a proposed amendment, the **Secretary** shall notify the **Chairperson** who shall schedule a hearing to be held not more than forty-five (45) days from the date the amendment was filed. The **Secretary** shall notify in writing all **Trustees** and **Fund Commissioners** of the hearing date and shall send a copy of the proposed amendment to each **Fund Commissioner** and **Trustee**.

3. *The amendment is adopted by the **Fund** when the Boards of Education of three-fourths of the **member** school district approve the amendment within ninety (90) days of the hearing on the amendment. If after ninety (90) days the **secretary** has not received written notice of approval from sufficient school districts, the **secretary** shall notify the **Trustees** and **Fund Commissioners** that time has expired for the adoption of the amendment.*
4. *A **member** of the **Fund** that did not approve any amendment of the **Fund** Bylaws within 90 days after the effective date of any amendment to the Bylaws, may withdraw from the **Fund**, pursuant to 18A:18B(4)(d). The **Fund** shall immediately notify the **Department** of all **members** that have given notice of withdrawal from the **Fund**.*
5. *If adopted, the amendment shall not take effect until approved by the **Commissioner**.*

ARTICLE X - BUDGETS**A. BUDGET PREPARATION**

*In May of each year, the **Trustees** shall prepare the budget for the upcoming fiscal year. The budget will identify proposed items and amounts of expenses for its operations, the anticipated amounts and sources of assessments and other income, and the status of the self-insurance or loss retention accounts. The budget shall be prepared on a basis that does not recognize investment income or discounting of claim reserves, but recognizes all anticipated or forecasted losses and administrative expenses associated with that fiscal year.*

B. BUDGET ADOPTION

- 1. Not later than June 30 of each year, the Board of **Trustees** shall adopt by majority vote the budget for the **Fund's** operation for the coming fiscal year. However, the budget shall not be adopted until a public hearing has been held giving all members the opportunity to comment.*
- 2. A copy of the adopted budget shall be filed with the governing body of each **member** and the Commissioner within thirty (30) days of its adoption. The submission shall include a certification by an **actuary** that the budget is actuarially sound with respect to funding for the claim or loss retention **Fund** account.*
- 3. A copy of the **Fund's** proposed budget shall be sent to each **member** at least two weeks prior to the time scheduled for its adoption.*
- 4. An adopted budget may be amended by majority vote of the **Board of Trustees**, after giving the **members** two (2) weeks advance written notice and conducting a public hearing on the proposed amendment.*
- 5. A copy of any amendment to the budget shall be filed quarterly with the governing body of each **member**.*
- 6. A copy of any amendment to the budget shall be filed with the **Commissioner** within thirty (30) days of the adoption of any budget amendment which either singly or cumulatively with other adopted budget amendments changes the total budget five percent from the original budget or the latest filed amended budget.*

ARTICLE XI - ASSESSMENTS

A. ANNUAL ASSESSMENT

1. *In May of each year, the **Board of Trustees** shall compute, or cause to be computed, each **member's** assessments for the upcoming **fund year**. The **Board of Trustees** shall consider the nature of each **member's** exposure, historical claims experience and such other factors as it deems appropriate in computing each **member's** assessment. The computation shall balance the element of rate responsiveness with assessment stability. The **Board of Trustees** may also adopt a capping formula which stabilizes the annual fluctuation in any **member's** assessment.*
2. *Each **member's** annual assessment shall consist of an amount allocated for the administrative account plus specific assessment to establish and/or replenish the claim or loss retention trust fund account for each type of coverage provided by the **Fund** and in which such **member** participates.*
3. *Unless otherwise approved by the **Commissioner**, the assessment for **workers' compensation** and **employers' liability** shall be based upon the experience rating plan provided for in the New Jersey workers' compensation and Employer's Liability Insurance Manual on file with the **Commissioner**.*
4. *The total amount of each **member's** annual assessment shall be certified by majority vote of the **Board of Trustees** to the governing body of each **member** at least one (1) month prior to the beginning of the next fiscal year.*
5. *The annual assessment shall be paid to the **Fund** in installments, to be determined by the **Board of Trustees**, which shall conform with N.J.A.C. 11:15-4.15(a).*
6. *The Treasurer shall deposit and record each **member's** assessment into the appropriate accounts, including the administrative account and the claim or loss retention trust fund account.*
7. *If a **member** joins the **Fund** after the start of the **fund year**, such **member's** assessments and supplemental assessments shall be reduced in proportion to that part of the year which had elapsed.*

B. SUPPLEMENTAL ASSESSMENTS

1. *The **Board of Trustees** shall, by majority vote, levy upon the **members** additional assessments whenever needed or so ordered by the **Commissioner** to supplement the fund's claim or loss retention or administrative accounts to assure the payment of the **Fund's** obligations.*
2. *The **Fund** shall submit to the **Commissioner** a report of the causes of the **Fund's** insufficiency, if any, the assessments necessary to replenish it and the steps taken to prevent a reoccurrence of such circumstances.*

C. FAILURE OR REFUSAL TO PROVIDE REQUIRED ASSESSMENTS

*Should any **member** fail or refuse to pay its assessments or supplemental assessments, or should the **Fund** fail to assess funds required to meet its obligations, the **chairperson** or in the event of his or her failure to do so, the custodian of the **Fund's** assets, shall notify the **Commissioner**. Past due assessments shall bear interest at the rate of interest to be established annually by the **Trustees**.*

*The Board of **Trustees** shall take appropriate action when necessary to collect any contributions in default or arrears.*

D. INSOLVENCY AND/OR BANKRUPTCY OF FUND MEMBERS

*The insolvency or bankruptcy of a **member** does not release the **Fund**, or any other **member**, of joint and several liability for the payment of any claim incurred by the **member** during the period of its membership, including, but not limited to, being subject to and liable for supplemental assessments.*

ARTICLE XII - REFUNDS AND INTERYEAR FUND TRANSFERS

- A. Any monies for a **fund year** in excess of the amount necessary to fund all obligations for that fiscal year as certified by an **actuary** may be declared to be refundable by the **Fund** no less than twenty-four (24) months after the end of the fiscal year.
- B. The **Fund** may seek approval from the **Commissioner** to make initial refund payments from a claims or loss retention fund account remaining from any year which has been completed at least twenty-four (24) months by submitting a written notification to the **Department** with accompanying documentation as set forth in this subsection, at least thirty (30) days prior to the proposed refund. If the **Commissioner** does not disapprove, in writing, the request to make a refund within the thirty (30) day period, the request shall be deemed approved. The **Commissioner** may also affirmatively approve the request prior to the expiration of the thirty (30) day period. The written notification shall be accompanied by appropriate documentation including, but not limited to, assessment, claims and expense detail; actuarial certification that the loss and loss expense reserves are adequate for the **Fund** to have an overall **surplus** for that fiscal year; and such other information that the **Commissioner** may require. The initial and any subsequent refund for any year from a claim or loss retention trust account may be in any amount subject to the limitation that after the refund, the remaining **net current surplus** in the account from which the refund is made must equal or exceed the **surplus** retention requirement to be calculated as follows:
1. **Fund year** paid losses shall be multiplied by the appropriate paid loss factor for the line of coverage and duration of maturity set forth in the Appendix to 11:15-4.1 et. seq. (Exhibit E) in the Appendix incorporated herein by reference;
 2. **Fund year** unpaid claim reserves, excluding reserves for incurred but not reported claims, shall be multiplied by the appropriate unpaid claim factor for the line of coverage and duration of maturity set forth in the appendix to 11:15-4.1 et seq. (Exhibit E) in the Appendix incorporated herein by reference. Unpaid claim reserves, excluding reserves for incurred but not reported claims, shall be established at full value and not discounted.
 3. The greater of the results from the calculation set forth in B.1 and 2 above shall then be reduced by the amount of outstanding losses reported, including incurred but not reported claims, as certified by an **actuary**. The result of this calculation, but not less than zero, shall be the **surplus** retention requirement for that **fund year**.
- C. A full and final refund of **net current surplus** will not be allowed until all case reserves and reserves for Incurred But Not Reported (IBNR) claims have been closed.
- D. A refund for any fiscal year shall be paid only in proportion to the **member's** participation in the **Fund** for such year. Payment of a refund on a previous year is not contingent on the **member's** continued membership in the Fund after that year.

- E. At the option of the **member** the refund may be retained by the **Fund** and applied towards the **member's** next annual assessment.
- F. A **Fund** may seek approval from the **Commissioner** to make **interyear fund transfers** from a claims or loss retention trust account from any year not sooner than twenty-four (24) months after the end of that year by submitting a written notification to the **Department** with appropriate documentation as set forth in B. above at least thirty (30) days prior to the proposed transfer. If the **Commissioner** does not disapprove, in writing, the request within the thirty (30) day period, the request shall be deemed approved. The **Commissioner** may also affirmatively approve the request prior to the expiration of the thirty (30) day period. The **interyear fund transfer** may be in any amount subject to the limitation that after the transfer, the remaining **net current surplus** in the account from which the transfer is made must equal or exceed the surplus retention requirement determined pursuant to B. above for that account for the fiscal year. The membership for each fiscal year involving **interyear fund transfers** must be identical between fiscal years. The **Commissioner** shall waive the identical membership requirement provided the **Fund** demonstrates to the **Department** that it maintains records of each **member's** pro rata share of each claim or loss retention fund account, and that the transfer shall be made so that any potential dividend shall not be reduced for a **member** that did not participate in the year receiving the transfer.

ARTICLE XIII - EXCESS INSURANCE

- A. The **Fund** shall maintain a contract or contracts of specific and aggregate **excess insurance** or reinsurance, consistent with N.J.A.C. 11:15-4.23.
- B. No later than forty-five (45) days before the beginning of the fiscal year, the **Fund** shall notify all **members** of changes in the coming year's **excess insurance** policies. The **Fund** shall also notify the **members** of any changes in the policies which occur during the year.
- C. Certificates of **excess insurance**/reinsurance showing policy limits and other information shall be filed with each **member** and the **Commissioner**. Copies of all policies shall be provided to the **members**.

Notwithstanding above:

- 1. The **Fund** is not required to maintain single accident (single occurrence) **excess insurance** if the **Fund's** single accident (single occurrence) limit of liability as set in its approved plan of risk management is equal to or less than its single accident (single occurrence) self-insured retention as approved by the **Department**.
- 2. The **Fund** is not required to maintain aggregate **excess insurance** if its accumulated budgeted losses defined at N.J.A.C. 11:15-4.23(g) qualify the **Fund** for an exemption pursuant to N.J.A.C. 11:15-4.23(f), or the **FUND** maintains an excess loss contingency account or fund in the claims or loss retention account in conformance with N.J.A.C. 11:15-4.23(f).

ARTICLE XIV - TRUST FUND ACCOUNTS, INVESTMENTS AND DISBURSEMENTS

A. ESTABLISHMENT OF TRUST FUND ACCOUNTS

1. By resolution of the **Trustees**, the **Fund** shall designate a public depository or depositories for its monies from a list approved by the State of New Jersey.
2. The **Fund** may establish separate Trust Fund Account for the purposes of the payment of claims, allocated claim expenses and **excess insurance** premiums for each line of coverage by **fund year**. Such accounts shall be designated as Claims or Loss Retention Fund Accounts. In lieu of establishing separate trust accounts, the **Fund** may provide for the recording and accounting of all transactions by **fund year** for each risk or liability.
3. Other than for the payment of claims, allocated claim expenses or excess/reinsurance premiums, no withdrawal may be effected from a claim or loss retention fund without the prior written approval of the **Commissioner**, except for **intertrust fund transfers**. **Intertrust fund transfers**, within a **Fund's** fiscal year, may be conducted by the **Fund** at any time, by providing thirty (30) days prior written notification to the **Commissioner**. If the **Commissioner** does not disapprove of the transfer, in writing, within thirty (30) days after receiving such written notification, the request for **intertrust fund transfer(s)** shall be deemed approved. Any **intertrust fund transfer** request must be supported by appropriate assessment and claim and expense documentation, and be accompanied by a certification signed by an **actuary** that the amount remaining in the trust fund account after the **intertrust fund transfer** will be at a level which is reasonable in relation to the account's unpaid losses, along with all documentation in support of such certification. **Intertrust fund transfers** may be conducted only where each **member** participates in each and every claim or loss retention fund account during that **fund year**. The **Commissioner** shall waive the full participation requirement provided the **Fund** demonstrates to the **Department** that it maintains records of each **member's** pro-rata share of each claim or loss retention fund account for that year, and that the transfer shall be made so that any potential dividend shall not be reduced for a **member** that did not participate in the account receiving the transfer.
4. The **Fund** shall also establish an administrative account which shall be utilized for payment of the **Fund's** general operating expenses, loss prevention activities, data processing services, and general legal expenses. The **Fund** shall maintain records of each member's pro-rata share of each administrative account.

B. INVESTMENTS

1. The balance of any account shall be invested to obtain the maximum interest return practical. All investments shall be in accordance with the **Fund's** Cash Management Plan and consistent with the statutes and regulations governing the investment of surplus public funds as issued by the State Investment Council.

2. *The investment and interest income earned by the investment of the assets of each claim or loss retention account shall be credited to each account.*
3. *The investment and interest income earned by investment of the assets of the administrative account shall be credited to that account.*

C. DISBURSEMENTS

1. *Prior to any commitment or agreement requiring the expenditure of funds, the custodian of the fund's assets shall certify as to the availability of sufficient unencumbered funds to fully pay all charges or commitments to be accepted.*
2. *All disbursements, payments of claims or expenditure of funds must be approved by a majority vote of the **Trustees**.*
3. *Notwithstanding numbers 1 and 2 above, the **Fund** may provide for the expeditious resolution of certain claims by designating the **Fund's Administrator or service organization** as a "certifying and approving officer" pursuant to N.J.S.A. 18A:19-1. The **Fund** may authorize the "certifying and approving officer" to approve for payment any or all specified claims in an amount not to exceed an amount approved by the **Commissioner** in the Risk Management Program. The **Fund** shall establish such other procedures and restrictions on the exercise of this authority as the **Fund** deems appropriate.*
4. *Upon approval, the certifying and approving officer shall certify the amount and particulars of such approved claims to the custodian of the **Fund's** assets directing that a check for payment be prepared.*
5. *Each month, the certifying and approving officer shall prepare a report of all claims approved since the last report, detailing the nature and the amount of the claim, the payee, the reasons supporting payment and any other pertinent information. This report shall be reviewed and approved or rejected by vote of the **Trustees** at their next regularly scheduled meeting. If any payment is not approved, appropriate action shall be taken.*
6. *All requests for payments must be accompanied by a detailed bill of items or demand, specifying particularly how the bill or demand is made up, with the certification of the party claiming payment that it is correct, and must carry the certification of some officer or duly designated agent or employee of the **Fund** having knowledge of the fact that the goods have been received by, or the services rendered to the **Fund**. In the case of claims or losses to be charged against any loss fund, the **Fund's** Claims Administrator shall certify as to the claim's correctness and validity.*
7. *All claims shall be paid by check. The checks shall be signed by two persons designated by the **Trustees**.*
8. *All claims or other disbursements approved for payment by the **Fund** shall be recorded in a claims register maintained by the custodian of the fund's assets.*

ARTICLE XV - CONFLICT OF INTEREST

- A. *All school officials and **members** of their immediate families shall comply with N.J.S.A. 18A:12-21 et. seq. (the "School Ethics Act") and any other applicable law governing the conduct of **members**, officers or employees of school boards.*

ARTICLE XVI - VOLUNTARY DISSOLUTION OF THE FUND

- A. *If the **Trustees** deem it in the best interest of the **members** to dissolve the **Fund** they shall, by majority vote, direct that a written plan of dissolution be prepared.*
- B. *The plan of dissolution must provide for the payment of all incurred losses of the **Fund** and its **members**, including all incurred but not reported losses, as certified by an **actuary**, before any assets of the **Fund** or the trust fund accounts may be used for any other purpose.*
- C. *Upon completion of the plan, the **Chairperson** shall call a general meeting of all **Fund Trustees** who shall review the plan and make any appropriate amendments. By majority vote, the **Trustees** may recommend that the **Fund** be dissolved in accordance with the plan of dissolution.*
- D. *A majority of the Boards of Education of the **member districts** must by resolution vote to accept the plan of dissolution in order to dissolve the **Fund**.*
- E. *The plan of dissolution and other such information as may be required, must be filed with and approved in writing by the **Commissioner** before the dissolution of the **Fund** is effective.*
- F. *The plan of dissolution shall contain a statement of the **Fund's** current financial condition computed both on a statutory basis and according to generally accepted accounting principles as attested to by an independent certified public accountant.*

ARTICLE XVII - CLAIMS HANDLING PROCEDURE

A. REGISTRATION OF CLAIMS

Upon receipt of initial notice of claim, whether by service of process, notice of claim, petition or otherwise, the Claims Administrator shall cause each claim to be numbered, and to be included on a monthly report. The monthly report shall set forth the name of the claimant, the nature of the claim, the type of insurance coverage claimed against and, to the extent known, an approximate estimate of the magnitude of the potential loss.

B. CLAIMS RESPONSE

*Upon receipt of the initial notice of claim described above, the **member** shall immediately forward the notice of claim and any other information available to the claims **servicing organization** for initial contact, investigation, court action or other appropriate response.*

C. CLAIMS ACKNOWLEDGEMENT AND INITIAL EVALUATION

Upon receipt of an assignment of claim handling, the Claims Administrator and, where appropriate, the defense attorneys shall acknowledge receipt of the claim and within thirty (30) days of receipt, submit a report indicating their initial assessment of the merits and exposure represented by the claim and a summary of the actions taken to date in response to said claim.

D. PERIODIC REVIEW OF CLAIM STATUS

*Each claim shall be reviewed at intervals of not greater than ninety (90) days as to their status. Periodically, the **Trustees** shall determine whether the investigation and defense of the claim is adequate, and the adequacy of the reserves posted for the claim.*

E. NOTICE OF SETTLED CLAIMS

*Where permitted by the Bylaws, and settlements have been concluded without action of the **Trustees**, a complete report thereof as provided to the applicable **member**.*

F. NOTICE OF INTENDED SETTLEMENT

*Whenever an investigation discloses that the prompt, fair and equitable settlement of a claim is appropriate and possible, the claims service agency shall submit to the **Administrator** for review at a meeting of the **Trustees** a notice of recommended settlement. This notice shall be on forms approved by the **Trustees** and shall set forth identifying information concerning the claims recommendations, the legal liability of the **Fund**, a summary of investigative work concerning the merits of the claim and the reasons underlying the recommended settlement.*

G. APPROVAL OF PAYMENTS AND SETTLEMENTS

*Whenever the **Fund** shall make any payment or settlement of any claim, a notation thereof identifying the claim, the amount paid and the reasons underlying the payment shall be approved by the **Trustees** and entered upon a ledger of claims paid.*

ARTICLE XVIII - COMPLAINT HANDLING PROCEDURE

- A. *Whenever any interested party shall submit a complaint in writing to the **Fund**, the **Fund Administrator**, or any **member** of the **Fund**, a copy thereof shall be forthwith communicated to the **Trustees** for consideration at its next regularly scheduled meeting.*
- B. *At said meeting, the **Trustees** shall consider the complaint, and by recorded vote take such action as might be appropriate.*
- C. *The complaining party, and the Trustee or **Fund Commissioner** from the **member district** wherein the complaining party resides (if the complaining party is a resident of a **member** school district) as well as the **Commissioner** (upon request) shall receive written notice of the **Trustees'** findings. The written notice to the complaining party, may where appropriate, include an opportunity for the complaining party to have a hearing concerning their complaint before the full **Trustees**.*
- D. *The **Fund** shall keep a separate record of all complaints received and the disposition of same.*

ARTICLE XIX - ARBITRATION

*Every controversy, dispute, difference, or claim between the **Fund** and a **member** of the **Fund** shall be submitted to and settled by arbitration. This includes any dispute concerning whether insurance coverage may be owed by the **Fund** to any employee, official, etc. of any **member**. Either the **member** or the **Fund** must request arbitration for a given controversy within the applicable statute of limitations for such controversy. Such arbitration shall be conducted by a panel of three arbitrators, which shall consist of a **Fund Commissioner** designated by the affected **member(s)** (which cannot be that unit's **Fund Commissioner**), a **Fund Commissioner** designated by the Board of **Trustees**, and a **Fund Commissioner** who shall be chosen by the aforesaid arbitrators. The arbitration shall be conducted in accordance with procedures established by the Board of **Trustees**. The **member(s)** and the **Fund** shall bear their own costs in prosecuting/defending the arbitration. Judgement upon the award rendered by majority vote of the panel may be entered in any court having jurisdiction thereof.*

ARTICLE XX - OTHER CONDITIONS

A. INSPECTION AND AUDIT

*The **Fund** shall be permitted but not obligated to inspect, at any reasonable time, the workplace and operations of each **member district** covered by this Agreement. Neither the right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of the **member district** or others to determine or warrant that such workplace, operations, are safe or healthful, or are in compliance with any law, rule or regulation.*

*The **Fund** shall be permitted to examine and audit the **member district's** payroll records, general ledger, disbursements, vouchers, contracts, tax reports and all other books, documents and records at any reasonable time as far as they show or tend to show or verify the amount of remuneration or other premium basis, or relate to the subject matter of this Agreement.*

B. NOTICE OF INJURY

*When an injury occurs, written notice shall be given by or on behalf of the **member district** to the **Fund** or any of its authorized agents as soon as practicable. Such notice shall contain particulars sufficient to identify the **member district** and also reasonably obtainable information respecting the time, place and circumstances of the injury, the names and addresses of the injured and of available witnesses.*

C. NOTICE OF CLAIM OR SUIT

*If claim is made or formal petition or a suit or other proceedings is brought against the **member district**, the **member district** shall immediately forward to **Fund** every demand, notice, summons or other process received by him or his representative.*

D. ASSISTANCE AND COOPERATION OF THE MEMBER DISTRICT

*The **member district** shall cooperate with the **Fund**, and upon the **Fund's** request shall attend hearings and trials and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits or proceedings. The **member district** shall not, except at its own cost, voluntarily make any payment, assume any obligation or incur any expense other than for such immediate medical and other services at the time of injury as are required by the **Workers' Compensation Law**.*

E. ACTION AGAINST FUND

*No action shall lie against the **Fund** unless, as a condition precedent thereto, the **member district** shall have fully complied with all the terms of this Agreement, not until the amount of the **member district's** obligation to pay shall have been finally determined either by judgement against the **member district** after actual trial or by written agreement of the **member district**, the claimant and the **Fund**. Any person or organization or the legal representative thereof who has secured such judgement or written agreement shall thereafter be entitled to recover under this Agreement to the extent of the protection afforded by this Agreement. Nothing contained in this*

*Agreement shall give any person or organization any right to join the **Fund** as a codefendant in any action against the **member district** to determine the **member district's** liability.*

F. SUBROGATION

*In the event of any payment under the Agreement, the **Fund** shall be subrogated to all rights of recovery therefore of the **member district** and any person entitled to the benefits of this Agreement against any person or organization and the **member district** shall execute the deliver instruments and papers and do whatever else is necessary to secure such rights. The **member district** shall do nothing after loss to prejudice such rights.*

G. CONFORMANCE WITH STATUTE

*In the event any portion of these Bylaws conflict with any statute or administrative regulation covering **joint insurance funds**, the provision of any such statute or regulation shall control to the extent it conflicts.*

SCHOOL EXCESS LIABILITY FUND

BYLAWS

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ARTICLE I. NAME

The name of this group shall be the SCHOOL EXCESS LIABILITY FUND, hereinafter called the "**Fund**", which was formed effective July 1, 2004, with 2 initial **Members** (see attached Appendix for names and addresses of the **Fund's** initial **Members**) and with the **Fund's** principal office located at c/o PEGAS 51 Everett Drive, Suite B-40, West Windsor, New Jersey 08550.

ARTICLE II. PURPOSE

The purposes of the **Fund** are:

1. To permit the joint insurance funds joining herein to make a more efficient use of their powers and resources by cooperating on a basis that will be of mutual advantage; and
2. To provide a procedure for the development, administration, and provision of Risk Management Programs, a joint self-insurance fund or funds, joint insurance purchases and related services for **Members** and their employees for the types of coverages permitted by *N.J.S.A. 18A:18B-1 et. seq.* and the regulations promulgated pursuant thereto.

ARTICLE III. DEFINITIONS

For the purposes of these Bylaws, unless the context requires otherwise, the following words and phrases shall have the meanings indicated. It is the intent of these Bylaws to include herein the definitions set forth in *N.J.S.A. 18A:18B-1 et. seq.* and *N.J.A.C. 11:15-4.1 et. seq.* and to have the definitions set forth herein be identical to and consistent with these statutory and regulatory definitions. To the extent that a definition or a word is changed or altered by subsequent legislation or regulation and is therefore inconsistent with the definitions set forth herein, it is the intent of these Bylaws that the statutory and/or regulatory definition take precedence over the definitions set forth herein.

"Actuary" means a person who is a fellow in good standing of the Casualty Actuarial Society with at least three years recent experience in loss reserving or an Associate in good standing of the Casualty Actuarial Society with five years recent experience in loss reserving.

"Administrator" means a person, partnership, corporation or other legal entity engaged by the **Fund** to act as Executive Director, to carry out the policies established by the **Trustees** and to otherwise administer and provide day-to-day management of the **Fund**.

"Allocated Claims Expense" means attorneys' fees, expert witness fees (*i.e.* engineering, physicians, etc.), medical reports, professional photographers' fees, police reports and other similar expenses. The exact definition of "Allocated Claims Expense" or similar terms for any line of insurance coverage shall be the definition in the insurance policy issued by the **Fund**.

"Automobile and Equipment Liability" means liability resulting from the use or operation of motor vehicles, equipment or apparatus owned by or controlled by the **Member**. The exact definition of "Automobile and Equipment Liability" shall be the definition used in the insurance policy issued by the **Fund**.

“Commissioner” means the Commissioner of Banking and Insurance where the context so indicates.

“Delegate” means the duly elected representative of a member to the **Fund** as provided for in these Bylaws.

“Department” means the Department of Banking and Insurance.

"Employers' Liability" means the legal liability of a public employer to pay damages because of bodily injury or death by accident or disease at any time resulting therefrom sustained by an employee arising out of and in the course of his employment by the employer, which is not covered by a **Workers' Compensation** law. The exact definition of "Employers' Liability" or similar terms shall be the definition used in the insurance policy issued by the **Fund**.

"Excess Insurance" means insurance purchased from an insurance company authorized or admitted in the State of New Jersey or deemed eligible by the **Commissioner of Banking & Insurance** as a surplus lines insurer, covering losses in excess of an amount established between the **Fund** and the insurer up to the limits of coverage set forth in the insurance contract on a specific **Occurrence**, or per accident and/or annual aggregate basis.

"Fund" means the School Excess Liability Fund.

"Fund Commissioner" means an individual appointed by a member having the qualifications, powers, and duties outlined in these Bylaws.

"Fund Year" means the **Fund's** fiscal year of July 1st through June 30th.

"General Liability" means any and all liability which may be insured under the laws of the State of New Jersey, excluding **Workers' Compensation** and **Employers' Liability**. The exact definition of "General Liability" or similar terms is the definition used in the insurance policy issued by the **Fund**.

"Incurred Claims" means claims which occur during a **Fund Year** including claims reported or paid during a later period. The exact definition of "Incurred Claims" or any similar term is the definition used in the **Excess Insurance** or reinsurance policy purchased by the **Fund**.

"Indemnity and Trust Agreement" means a written contract signed by and duly adopted by the **Members** of the **Fund** under which each agrees to jointly and severally assume and discharge the liability of each and every party to such agreement arising from their membership in the **Fund**.

"Inter Trust Fund Transfer" means an actual transfer of funds from one claim or loss retention fund account in a fiscal year to another account within the same fiscal year.

"Inter Year Fund Transfer" means the transfer of funds from a claim or loss retention account for a fiscal year to a claim or loss retention account of similar risk or liability for a different fiscal year.

"Member" means a joint insurance fund which is a member of the School Excess Liability Fund.

"Net Current Surplus" or "Surplus" means the amount of monies in a trust account that is in excess of all costs, earned investment income, returned surplus, incurred losses and loss adjustment expenses and incurred but not reported reserves, including the associated loss adjustment expenses attributed to the **Fund** net of any recoverable per **Occurrence** or aggregate **Excess Insurance** or reinsurance for a particular year.

"Occurrence" means a single event. The exact definition of "Occurrence" or any similar terms shall be the definition used in the insurance policy issued by the **Fund**.

"Official" or "Employee" of the **Fund** means such individuals, Officers, **Fund Commissioners**, or **Trustees** of the **Fund** for whom the **Fund** is obligated by law or contract to provide indemnification or reimbursement of legal or other expense for such claims or demands as may from time to time be made or arise from such individuals', Officers', **Fund Commissioners'**, or **Trustees'** actions pertaining to the operation of the **Fund**.

"Probable Net Cost" means the estimated ultimate cost of claims incurred during a **Fund Year** plus the cost of **Allocated Claims Expense** and other costs of operating the **Fund** until all claims incurred during the **Fund Year** are settled. For purposes of computing the probable net cost, losses within the deductible of **Members** and future investment income on outstanding loss reserves held by the **Fund** shall not be taken into consideration.

"Property Damage" means any loss or damage, however caused, to property, motor vehicles, equipment, or apparatus owned by the **Member**. The exact definition of "Property Damage" or similar terms shall be the definition in the insurance policy issued by the **Fund**.

"Risk Management Plan" means the Plan of Risk Management required under the provisions of these Bylaws.

"Servicing Organization" means an individual, partnership, association or corporation, other than the **Administrator**, that has contracted with the **Fund** to provide, on the **Fund's** behalf, any function as designated by the **Trustees** including, but not limited to, actuarial services, claims administration, cost containment services, loss prevention/safety engineering services, legal services, auditing services, financial services, compilation and maintenance of the **Fund's** underwriting file, coordination and preparation of coverage documents, risk selection and pricing, **Excess Insurance** or reinsurance producer services, which include producer negotiations on behalf of the **Fund** for **Excess Insurance** or reinsurance from an insurer, **Member** assessment and fee development, report preparation pursuant to *N.J.S.A. 18A:18B-1 et. seq.* and such other duties as designated by the **Fund**.

"Trustees", including **"Alternate Trustees"** means the governing body for the **Fund** as provided for by *N.J.S.A. 18A:18B-5* and these Bylaws.

"Unpaid Claims" means case reserves and reserves for incurred but not reported (IBNR) claims attributed to the **Fund** net of any per **Occurrence** or aggregate excess insurance or reinsurance for a particular coverage or **Fund Year**.

"Workers' Compensation" means the provisions of *N.J.S.A. 34:15-7 et. seq.* The exact definition of "Workers' Compensation" or similar terms shall be the definition in the insurance policy issued by the **Fund**.

ARTICLE IV. MEMBERSHIP

A. AGREEMENT TO JOIN THE FUND

1. Membership in the **Fund** shall be open to all qualified joint insurance funds as determined by the **Fund's Trustees**. The joint insurance funds may apply for membership by resolution of their respective governing body.
2. The resolution shall provide for execution of a written agreement specifically providing for acceptance of the **Fund's** Bylaws as approved, adopted and/or amended by the **Trustees** of the **Fund**.
3. Initial and subsequent membership in the **Fund** shall be for a period of three (3) years.
4. All applicants to the **Fund** must also include a letter certifying that the joint insurance fund has never defaulted on a claim, and has not been canceled for non-payment of insurance premiums for a period of at least two (2) years prior to the date of application.
5. All costs associated with preparing and submitting the application and all other necessary documents to the **Commissioner** shall be paid by the applicant.

B. INITIAL MEMBERSHIP

Any joint insurance fund may be a part of the **Fund's** initial application for approval by the **Commissioner**.

C. SUBSEQUENT MEMBERSHIP

1. Any joint insurance fund seeking membership after the **Fund's** initial approval by the **Commissioner** shall submit an application for membership to the **Fund**. The application shall include an executed **Indemnity and Trust Agreement** and other documentation required under Section A above.
2. The **Trustees** may approve the application by majority vote based on the **Fund's** underwriting criteria which shall include at a minimum, the following criteria:
 - a) The applicant's five (5) year claims history shows safety performance consistent with the **Fund's** objectives and the applicant's physical location and makeup indicates a prospective likelihood of satisfactory future claim performance.
 - b) The **Fund** has the administrative capability to absorb additional memberships without undue inconvenience or strain.
3. If the application is approved by the **Fund**, it shall be filed within fifteen (15) days of approval with the **Department** and shall be accompanied by a revised budget with assessment detail, an actuarial statement, if required, and such amendments to the **Fund's** Bylaws and Plan of Risk Management as may be required by the **Department**. If the application is denied, the **Fund** shall set forth in writing the basis for denial and shall

forward such to the applicant, retaining a copy of the application for five (5) years.

4. The **Fund** shall within fifteen (15) days after approval of a new **Member** to file with the **Department** the name and address of the new **Member**, the effective date and lines of coverage, the name of the new **Member's** Risk Manager, if required by the **Fund Commissioners** or **Trustees**, **Fund Commissioners** and **Alternates** and the amount of the new **Member's** assessment.
5. Upon approval of a new **Member**, the **Fund** shall submit to the **Department** an affirmative statement that in accepting the new **Member** an application has been filed, the **Fund** has adhered to its Bylaws and Plan of Risk Management and the Agreement to Join and **Indemnity & Trust Agreement** have been filed with the **Fund**.
6. No new membership in the **Fund** shall become effective until the application and accompanying amendments to the **Fund's** Bylaws and Plan of Risk Management are approved as required by these Bylaws and, where applicable, state law or regulation.

D. CONDITIONS OF MEMBERSHIP

As a condition of membership, each joint insurance fund shall:

1. Comply with all policies and procedures adopted by the **Fund**.
2. Promptly pay all assessments, supplemental assessments, fees, charges or other obligations arising out of or related to the **Members'** participation in the **Fund**.
3. Actively participate in all **Fund** sponsored or directed meetings, programs or activities so as to ensure successful operation of the **Fund**.
4. Form a safety committee and actively participate in all **Fund** sponsored safety programs, if required by the **Fund Commissioners** or **Trustees**.
5. Designate a Risk Management Consultant, if required by the **Fund Commissioners** or **Trustees**.

E. MEMBERSHIP RENEWALS

1. **Members** may renew their participation by execution of a new agreement to join the **Fund** as provided for in Section A above ninety (90) days prior to the expiration of the term period.
2. The **Trustees** must act upon any renewal application no later than sixty (60) days prior to the expiration of the term period. Otherwise, the renewal application is automatically approved.
3. In order to deny a renewal application the **Fund** shall find, by majority vote of the **Trustees**, that the applicant has failed to fulfill its responsibilities as a **Member**, no longer meets the **Fund's** underwriting criteria and/or no longer meets the **Fund's** written safety standards or other objective criteria duly adopted.

4. If a **Member's** renewal application is rejected, the **Fund** shall comply with subsection F 2, 3, and 4 below.
5. Non-renewal of a **Fund Member** does not relieve the **Member** of responsibility for claims incurred during its period of membership.

F. TERMINATION AND/OR WITHDRAWAL OF FUND MEMBERS

1. A **Member** must remain in the **Fund** for the full term of membership unless earlier terminated by a two-thirds vote of the **Trustees** for nonpayment of assessments or continued noncompliance after written notice to comply with the **Fund's** Bylaws, Risk Management standards, or other reason(s) acceptable to the **Commissioner**. However, such **Member** shall not be deemed terminated until:
 - a) The **Fund** gives by registered or certified mail, return receipt requested to the **Member** a written notice of its intention to terminate the **Member** in thirty (30) days; and
 - b) Like notice shall be filed with the **Department**, together with a certified statement that the notice provided for above has been given; and
 - c) Thirty (30) days have elapsed after the filing required by "b" above.
2. A **Member** of the **Fund** that does not desire to continue as a **Member** after the expiration of its membership term shall give written notice of its intent ninety (90) days before the expiration of the term period. The **Fund** shall immediately notify the **Department** that the **Member** has given notice to leave the **Fund**.
3. A **Member** of the **Fund** that did not approve any amendment of the **Fund** Bylaws approved pursuant to *N.J.S.A. 18A:18B-4*, and desiring to withdraw from the **Fund** pursuant to *N.J.S.A. 18A:18B-4b(8)(d)*, shall provide written notice of its intent to withdraw ninety (90) days prior to its withdrawal. The **Fund** shall immediately notify the **Department** of all **Members** that have given notice of withdrawal from the **Fund**.
4. A **Member** that has been terminated or does not continue as a **Member** of the **Fund** shall remain jointly and severally liable for claims incurred by the **Fund** and its **Members** during the period of its membership, including, but not limited to being subject to and liable for supplemental assessments.
5. The **Fund** shall immediately notify the **Department** if the termination or withdrawal of a **Member** causes the **Fund** to fail to meet any of the requirements of the laws governing joint insurance funds or any other law or regulation of the State of New Jersey. Within fifteen (15) days of such notice, the **Fund** shall advise the **Department** of its plan to bring the **Fund** into compliance.

ARTICLE V. ORGANIZATION

A. FUND COMMISSIONERS

1. Appointment

- a) **Fund Commissioners:** In the manner generally prescribed by law, each **Member** shall appoint two (2) **Fund Commissioners** to the **Fund**. The **Fund Commissioners** appointed by a member must be **Delegates** of the **Member**.
- b) **Alternate Fund Commissioners:** Each **Member** may appoint two alternates to attend either regular or special meetings on behalf of the **Member** in the absence of the **Fund Commissioner**. The alternate shall exercise the full power and authority of the **Fund Commissioner** in his/her absence, including the right to vote. The alternates must be **Delegates** of the **Member**.
- c) **Special Fund Commissioner:** In the event that the number of **Members** is an even number, one (1) additional **Fund Commissioner** shall be appointed annually by a **Member** on a rotating basis determined alphabetically.

The **Member's** privilege to appoint the Special Fund Commissioner shall remain with that **Member** for one entire **Fund Year** and the later admission to the **Fund** of a **Member** with a preceding alphabetical prefix shall not deprive any joint insurance fund already a **Member** of the **Fund** of its prerogative to appoint a Special Fund Commissioner during a current **Fund Year**.

2. Terms of Office and Vacancy

- a) All terms of office shall expire on June 30th or until a successor is duly appointed and qualified.
- b) **Fund Commissioners** shall hold office at the pleasure of the **Member** and can be removed by the **Member** at any time without cause provided, however, that any replacement **Fund Commissioner** subsequently appointed by the **Member** meet all of the qualifications for **Fund Commissioners** as established by these Bylaws.
- c) The Special Fund Commissioner, if any, shall serve until June 30th of the year following provided, however, that the Special Fund Commissioner may be removed by the appointing **Member** at any time without cause.
- d) In the event of a vacancy of a **Fund Commissioner** or the Special Fund Commissioner caused by reason other than the expiration of the term of office, the **Member** which appointed the **Fund Commissioner** shall appoint the replacement for the unexpired term in a manner consistent with the **Fund's** Bylaws.
- e) Any **Fund Commissioner** or Special Fund Commissioner can be removed from office for cause by two-thirds vote of the full

membership of the **Trustees**. Upon such a vote, it shall be incumbent upon the member to replace the **Fund Commissioner**.

- f) **Fund Commissioners** shall serve without compensation from the **Fund** unless otherwise determined by the **Fund Commissioners** and/or **Trustees** at the **Fund's** organizational meeting.

3. Responsibilities

- a) The **Fund Commissioners** shall, as soon as possible after the beginning of the **Fund Year**, meet to elect the **Trustees** who shall be charged with operating the **Fund** in accordance with these Bylaws and applicable state law and regulation.
- b) Each **Fund Commissioner** shall have one vote provided, however that the Special Fund Commissioner, if any, shall only vote in the event of a tie on matters of general **Fund** business.

B. OFFICERS

1. As soon as possible after the beginning of each **Fund Year**, the **Fund Commissioners** shall meet to elect the Officers of the **Fund** from their own membership. Officers shall serve until a successor is duly elected and qualified.
 - a) **Chairperson:** The Chairperson shall preside at all meetings of the **Trustees** and shall perform such other duties provided for in these Bylaws and the laws and regulations of the State of New Jersey.
 - b) **Vice Chairperson:** The Vice Chairperson shall exercise the responsibilities of the Chairperson in such persons absence.
 - c) **Secretary:** The Secretary shall preside over the meetings of the **Trustees** in the absence of the Chairperson and Vice Chairperson. Unless such responsibility is delegated to the **Fund Administrator** by the **Trustees**, the Secretary shall have the responsibility to maintain written minutes of the **Fund's** meetings and retain all books, records, files and other documents of the **Fund**, and shall perform such other duties as provided for in these Bylaws and the laws and regulations of the State of New Jersey. The Secretary shall maintain the books and records of the **Fund** at the office of the **Fund** as from time to time designated by the **Trustees**. When record keeping responsibility has been delegated to the **Fund Administrator**, the **Administrator** shall maintain said records at a location known to and approved by the **Fund** and the Secretary shall, at all reasonable times, have access to the records.
2. In the event of a vacancy in any of the Officer positions caused by other than the expiration of the term of office, the **Trustees** shall by majority of vote fill the vacancy for the unexpired term.
3. Any Officer can be removed without cause at any time by a two-thirds vote of the full membership of the **Fund Commissioners**. In this event, the full membership of the **Fund Commissioners** shall fill the vacancy for the unexpired term by majority vote.

4. The Officers shall serve without compensation from the **Fund** except as provided by state law or regulation.
5. The Officers are hereby authorized and empowered to operate the **Fund** in accordance with these Bylaws and applicable state law and regulation.

C. **TRUSTEES**

1. As soon as possible after the beginning of each **Fund Year**, the **Fund Commissioners** shall meet to elect the **Trustees** of the **Fund** from their own membership.
2. There shall be five **Trustees**, unless the number of **Commissioners** shall be less than five, in which case the number of **Trustees** shall be equal to the number of **Fund Commissioners**. **Trustees** shall serve until a successor is duly elected and qualified.
3. In the event of a vacancy in any of the **Trustee** positions caused by other than the expiration of the term of office, the **Trustees** shall fill the vacancy for the unexpired term by majority vote.
4. Any **Trustee** can be removed without cause at any time by a two-thirds vote of the full membership of the **Fund Commissioners**. In this event, the full membership of the **Fund Commissioners** shall fill the vacancy for the unexpired term by majority vote.
5. The **Trustees** shall serve without compensation from the **Fund** except as provided by state law.
6. The **Trustees** are hereby authorized and empowered to operate the **Fund** in accordance with these Bylaws and applicable state law and regulation.

D. **ALTERNATE TRUSTEES**

1. The **Trustees** shall, immediately upon assuming their responsibilities each **Fund Year**, designate three (3) **Alternate Trustees** from among the **Fund Commissioners**, if the membership permits. The **Alternate Trustees** shall retain their status as **Alternate Trustees** until June 30th of the following year according to the same terms and conditions established for **Trustees**.
2. **Alternate Trustees** shall serve in the absence of a **Trustee** or **Trustees** during any meeting of the **Fund** during which such absence causes the number of **Trustees** present to fall below that which constitutes a quorum as provided by these Bylaws.
3. **Alternate Trustees** shall, during any meeting of the **Fund** at which their services are required, exercise the full authority granted to a **Trustee** by these Bylaws.

E. **ADMINISTRATOR AND SERVICING ORGANIZATIONS**

As soon as possible after the beginning of each **Fund Year**, the **Trustees** shall meet and by majority vote, select, in conformance with Public Schools Contracts Law, an **Administrator**, **Servicing Organizations** and other servicers as are necessary for the **Fund's** successful operation.

1. The **Administrator** and all **Servicing Organizations** shall be retained on a contractual basis which shall be approved by the **Trustees**. These individuals shall serve until June 30th of the following year, or until a successor is duly retained. The **Administrator, Servicing Organizations** and other servicers shall be compensated pursuant to written fee contracts approved by the **Trustees**. The written contracts shall specify the duration and scope of services.
2. Each service contract shall include a clause stating "unless the **Fund Commissioners** otherwise permit, the **Servicing Organization** shall handle to its conclusion all claims and other obligations incurred during the contract period."
3. The **Administrator, Servicing Organizations**, and such others shall provide errors and omissions and surety bond coverage, if required by law or by the **Trustees** in a form and amount satisfactory to the **Commissioner** and/or **Trustees**, if applicable. The **Trustees** may also require the **Administrator, Servicing Organizations** and such others to provide other insurance coverage as a requirement of their contract in an amount acceptable to the **Trustees**.
4. All officers, employees and agents, including the **Administrator** and **Servicing Organization** of the **Fund**, on the final day of their contract or employment shall surrender and deliver to their successors all accounts, funds, property, records, books and any other material relating to their contract or employment, or if no successor has been designated, delivery shall be made to the **Administrator** or **Fund** chairperson, as applicable.
5. In the event of a vacancy in any one of the retained positions caused by other than the expiration of the term of office, the **Trustees** shall by majority vote fill the vacancy for a period not-to-exceed the unexpired term of the professional's contract period. In the event that any of the retained professionals are incapacitated, the **Trustees** shall by majority vote appoint an acting professional in accordance with Public Schools Contracts Law for a period not-to-exceed the remainder of the retained professional's contract period.
6. No **Servicing Organizations** or its employees, officers or directors shall have either a direct or indirect financial interest in an **Administrator** or be an employee, officer or director of an **Administrator**, unless notice of such interest has been provided to the **Trustees** and **Members**.
7. No **Administrator** or its employees, officers or directors shall have either a direct or indirect financial interest in a **Servicing Organization** of the **Fund**, unless notice of such interest has been provided to the **Trustees** and **Members**.

ARTICLE VI. INDEMNIFICATION OF OFFICERS AND EMPLOYEES

1. The **Servicing Organizations** and **Administrator** shall provide insurance coverage(s)/bond(s) as required by the **Fund** and/or the statutes and regulations governing school board joint insurance funds.
2. Except to the extent covered by Errors & Omissions insurance as may be required, as set forth above, the **Fund** shall indemnify any past, present or future **Fund Commissioner, Trustee, Official** or **Employee** of the **Fund** for claims arising from an act or omission of such **Fund**

Commissioner, Trustee, official or employee within the scope of the performance of such individuals' duties as **Fund Commissioner, Trustee, Official or Employee**. Such indemnification shall include reasonable cost and expenses incurred in defending such claims. Nothing contained herein shall require the **Fund** to pay punitive damages or exemplary damages or damages arising from the commission of a crime by such an individual and the **Fund** shall not be required to provide for the defense or indemnification of such an individual when the act or omission which caused the injury was the result of actual fraud, actual malice, gross negligence or willful misconduct by such individual or in the event of a claim against such an individual by the State of New Jersey or if such **Fund Commissioner, Trustee, Official or Employee** is either covered, or required to be covered by Errors & Omissions liability insurance. The determination as to whether an individual's conduct falls within any of the above exceptions shall be made by a majority vote of the **Trustees**. Nothing herein contained is intended to shield any employee or appointed official from liability for any act, omission or wrongdoing which would not customarily be covered by Errors & Omissions insurance if same had been required of said **Employee** or appointed **official**.

3. A present, past or future **Fund Commissioner, Trustee, Official or Employee** of the **Fund** shall not be entitled to a defense or indemnification from the **Fund** unless:
 - a) Within ten (10) calendar days of the time he or she is served with the summons, complaint, process, notice or pleading, he or she delivers the original or exact copy to the **Fund** attorney together with a request that the **Fund** provide for his or her defense.
 - b) He or she cooperates in the preparation and presentation of the defense with the attorney selected to defend the case.
 - c) Except in those instances where a conflict of interest exists, as determined by an attorney selected by the **Fund** to handle such matters, the past, present or future **Fund Commissioner, Trustees, Official or Employee** shall agree that the **Fund** and its counsel shall have exclusive control over the handling of the litigation.
4. The foregoing right of indemnification shall not be exclusive of any other rights to which any **Fund Commissioner, Trustee, Official or Employee** may be entitled as a matter of law or which may be lawfully granted to him or her; and the right to indemnification hereby granted by this **Fund** shall be in addition to and not in restriction or limitation of any other privilege or power which the **Fund** may lawfully exercise with respect to the indemnification or reimbursement of a **Fund Commissioner, Trustee, official or employee**; except that in no event shall a **Fund Commissioner, Trustee, Official or Employee** receive compensation in excess of the full amount of a claim and reasonable costs and expense incurred in defending such claim.
5. Expenses incurred by any **Fund Commissioner, Trustee, Official or Employee** in defending an action, suit or proceeding may be paid by the **Fund** in advance of final determination of such action, suit or proceeding as authorized by the **Fund** in a specific case upon receipt of an undertaking by or on behalf of such **Member or officer** to repay such

amount in the event of an ultimate determination that his or her conduct was such as to fall outside the scope of coverage under this indemnification provision.

ARTICLE VII. ADVISORY COMMITTEES

The **Fund's** Chairperson may establish advisory committees as deemed necessary to ensure the successful operation of the **Fund**. The Chairperson may appoint any individual to serve on these committees except that only **Fund Commissioners** may serve on the nominating committee.

ARTICLE VIII. OPERATION OF THE FUND

A. GENERAL OPERATION

1. The **Fund** shall be subject to and operate in compliance with the provisions of the "Schools Fiscal Affairs Law" (*N.J.S.A. 18A:4-14 and N.J.A.C. 6:20-2.1 et. seq.*), and the "Public Schools Contracts Law" (*N.J.S.A. 18A:18A-1 et. seq.*).
2. The **Fund** shall be considered a local unit for purposes of the "Public Schools Contracts Law" (*N.J.S.A. 18A:18A-1 et. seq.*) and shall be governed by the provisions of that law in the purchase of any goods, materials, supplies and service.
3. The **Fund** shall be operated with sufficient aggregate financial strength and liquidity to assure that all obligations will be promptly met. The **Fund** shall prepare a financial statement of a form acceptable to the **Commissioner** showing the financial ability of the **Fund** to meet its obligations. The **Trustees** may, upon majority vote, request the **Commissioner** to order an examination of any **Fund Member** which the **Trustees**, in good faith believes may be in a financial condition detrimental to other **Fund Members** or to the public.
4. The **Fund's** fiscal year shall be July 1st through June 30th.

B. RISK MANAGEMENT PLAN

1. The **Trustees** shall prepare or cause to be prepared a **Risk Management Plan** for the **Fund**. The **Risk Management Plan** and any amendments thereto must be officially adopted and approved by the **Fund**. The **Risk Management Plan** shall include, but not be limited to:
 - a) The perils or liability to be insured against.
 - b) Limits of coverage, whether self-insured, direct insurance purchased from a commercial insurer or reinsurance.
 - c) The amount of risk to be retained by the **Fund**.
 - d) The amount of **Unpaid Claims** to be established.
 - e) The proposed method of assessing contributions to be paid by each **Member** of the **Fund**.
 - f) Procedures governing loss adjustment and legal fees.

- g) Coverage to be purchased from a commercial insurer, if any.
 - h) Reinsurance to be purchased, if any.
 - i) Procedures for the closure of **Fund Years**, including the maintenance of all relevant accounting records. The proposed method of assessing contributions to be paid by each member of the **Fund**.
 - j) Such other items required by state law, regulation, or the **Trustees**.
2. The **Risk Management Plan** and all amendments must be approved by the **Commissioner** before it becomes effective.

C. FINANCIAL STATEMENT AND REPORTS

- 1. The **Fund** shall provide its **Members** with periodic reports concerning the activities and status of the **Fund** for the reporting period. Such reports shall be made at least quarterly and may be made more frequently at the discretion of the **Trustees**.
- 2. A certified annual report in a form prescribed by the **Commissioner** shall be prepared by the **Fund**, filed with the **Department**, and made available to each **Fund Member** on or before December 31st of each year. The report shall be accompanied by:
 - a) An annual audited statement of the financial condition of the **Fund** prepared by an independent certified public account and performed in accordance with generally accepted accounting principles, which shall include a statement of the organization of the **Fund** indicating the persons who perform each function for the **Fund** and the relationship and interdependency of each function, and including its balance sheet and receipts and disbursements for the preceding year.
 - b) Reports of outstanding liabilities by line of coverage showing the number of claims, amounts paid to date and current reserves for unpaid losses, claims and unearned assessments as certified by an **Actuary**.
 - c) A certification by the presiding officer of the **Trustees** that periodic reports were made to **Fund Members** in the form and manner required by N.J.A.C. 11:15-4.4(h).
 - d) Any material changes in information from that previously submitted.
 - e) Such other information as may be requested by the **Department** from a particular fund.
- 3. In addition to the reports required pursuant to (1) above, for the initial two (2) fiscal years of a **Fund**, a **Fund** shall file with the **Department** quarterly unaudited statements of the financial condition of the **Fund** in a form prescribed by the **Commissioner** within 60 days after the end of each calendar quarter. After the initial two years, a **Fund** shall file with the **Department** semi-annual unaudited statements of the financial condition of the **Fund** in a term prescribed by the **Commissioner** within 60 days after the end of each six (6) month period. The semi-annual report covering the six (6) month period ending December 31st immediately proceeding. All statements filed pursuant to this subsection

shall include the information set forth in (a) above, except that certification by a certified public accountant or the actuarial opinion statement shall not be required.

D. COVERAGES¹

The **Fund** may offer the following coverages to the **Members**:

1. Excess **Workers' Compensation** and **Employers' Liability**.
2. Excess liability including **Automobile and Equipment Liability**, professional liability and employment practices liability.
3. Excess **Property Damage**, including motor vehicles, boiler and machinery, as well as comprehensive employee dishonesty, including monies and securities.

In addition, the **Fund** may offer any coverage permitted by statute and/or regulation governing joint insurance funds.

ARTICLE IX. MEETINGS AND RULES OF ORDER

A. MEETINGS

1. **Annual Organization Meeting** – as soon as possible after the beginning of the year, the **Fund Commissioners** shall meet to elect a Board of **Trustees** comprised of a Chairperson, Vice Chairperson, Secretary, and (if applicable) two (2) additional **Trustees** to conduct such other business as is necessary. The time and place for the meeting shall be established by the Chairperson, and the Secretary shall send written notice to the **Delegates** of the **Members** at least two (2) weeks in advance.
2. **Regular Business Meetings** – the **Trustees** shall establish a schedule of meetings to conduct the business of the **Fund**. All **Fund Commissioners** may attend open or closed sessions of the **Trustees**.
3. **Special Meetings** – the Chairperson or two (2) **Trustees** may call a special meeting by notifying the Secretary at least three (3) days in advance. The Secretary shall notify the **Trustees** by telephone. If the Secretary is unable to reach a **Trustee** or **Trustees** forty-eight (48) hours before the meeting, the secretary shall telephone one or more **Alternate Trustees** as may be required to achieve a quorum as defined by these Bylaws. The **Alternate Trustees** shall be called in alphabetical order.
4. **Quorum**
 - a) Quorum for a full meeting of the **Trustees** shall be a simple majority of the **Trustees**.
 - b) The quorum for a full meeting of the **Fund Commissioners** shall be as follows:

¹ The exact terms and conditions of coverage shall be stated in the coverage documents provided by the **FUND**.

- i) a majority of the total **Fund Commissioners** unless the total number of **Members** exceeds 25;
- ii) if the total membership exceeds 25 in number, then a quorum shall be 13 plus the sum equal to 20% of the number of **Members** in excess of 25 rounded to the next lowest number.

B. CONDUCT OF MEETINGS

- 1. All meetings of the **Fund** shall be subject to the rules and regulations of the Open Public Meetings Act.
- 2. Unless otherwise provided in these Bylaws, or in the laws or regulations of the State of New Jersey, "Robert's Rules of Order" shall govern the conduct of all meetings.

C. AMENDMENTS TO THE BYLAWS

- 1. Any **Fund Commissioner** may propose an amendment to the Bylaws by filing the proposed amendment in writing with the Secretary.
- 2. Upon receipt of a proposed amendment, the Secretary shall notify the Chairperson who shall schedule a hearing to be held not more than forty-five (45) days from the date the amendment was filed. The Secretary shall notify in writing all **Trustees** and **Fund Commissioners** of the hearing date and shall send a copy of the proposed amendment to each **Fund Commissioner** and **Trustee**.
- 3. The amendment is adopted by the **FUND** when the majority of the **Members** approve the amendment within ninety (90) days of the hearing on the amendment. If after ninety (90) days the Secretary has not received written notice of approval from sufficient **Members**, the Secretary shall notify the **Trustees** and **Fund Commissioners** that time has expired for the adoption of the amendment.
- 4. If adopted, the amendment shall not take effect until approved by the **Commissioner**.
- 5. A **Member** of the **Fund** that did not approve any amendment of the **Fund** Bylaws approved pursuant to *N.J.S.A. 18A:18B-4*, and desiring to withdraw from the **Fund** pursuant to *N.J.S.A. 18A:18B-4b(8)(d)*, shall provide written notice of its intent to withdraw ninety (90) days prior to its withdrawal. The **Fund** shall immediately notify the **Department** of all **Members** that have given notice of withdrawal from the **Fund**.

ARTICLE X. BUDGETS

A. BUDGET PREPARATION

- 1. In May of each year, the **Trustees** shall prepare the budget for the upcoming fiscal year. The budget will identify proposed items and amounts of expenditure for its operations, the anticipated amounts and sources of assessments and other income, and the status of the self-insurance or loss retention accounts. The budget shall be prepared on a basis that does not recognize investment income or discounting of claim reserves, but recognizes all anticipated or forecasted losses and administrative expenses associated with that fiscal year.

B. BUDGET ADOPTION

1. Not later than June 30th of each year the **Trustees** shall adopt by majority vote the budget for the **Fund's** operation for the coming fiscal year.
2. A copy of the **Fund's** proposed budget shall be sent to each **Member** at least two (2) weeks prior to the time scheduled for its adoption. No budget or amendment shall be adopted until a hearing has been held giving all **Members** the opportunity to present comments or objections.
3. A copy of the adopted budget and any amendment shall be filed within thirty (30) days of its adoption with the **Trustees** of each **Member** and the **Commissioner**. The submission shall include a certification by an **Actuary** that the budget is actuarially sound regarding its funding for the claim or loss retention(s) fund account(s).
4. An adopted budget may be amended by majority vote of the **Trustees** after giving the **Members** two (2) weeks advance written notice and conducting a hearing on the proposed amendment.
5. A copy of any amendment to the budget shall be filed quarterly with each **Member**.
6. A copy of any amendment to the budget shall be filed with the **Commissioner** within thirty (30) days of the adoption of any budget amendment which either singly or cumulatively, with other adopted budget amendments changes the total budget five percent from the original budget or the latest filed amended budget.

ARTICLE XI. ASSESSMENTS

A. ANNUAL ASSESSMENT

1. By May of each year, the **Trustees** shall compute, or cause to be computed, the **Probable Net Cost** for the upcoming **Fund Year** by line of coverage.
2. The annual assessment of each **Member** shall be its pro-rata share of the **Probable Net Cost** for the upcoming year for each line of coverage as computed.
3. The calculation of pro-rata shares for each member shall be based on the overall **Fund Year** budget. Pro-rata shares may be modified by the **Trustees** to reflect the Loss History or other pertinent data of individual **Members**.
4. The total amount of each **Member's** annual assessment shall be certified by majority vote of the **Trustees** to the governing body of each **Member** at least one (1) month prior to the beginning of the next fiscal year.
5. The annual assessment for the **Fund's** first year of operation shall be paid to the **Fund** in two (2) installments, to be paid not later than August 15th and December 15th of each **Fund Year** as determined by the **Trustees**. The annual assessment for subsequent **Fund Years** shall be paid in no less than two (2) installments and no more than four (4) installments, the number of installments and said dates to be determined by the **Trustees**,

- provided, however, that the full assessment shall be paid by each **Member** no later than July 1st.
6. In the event the final budget passed in June necessitates changes in the annual assessment, the second installment shall be adjusted to reflect this difference, unless otherwise determined by the **Trustees**.
 7. Each **Member's** assessment shall be deposited into the appropriate accounts including the administrative account, and the claim or loss retention Trust Fund account by **Fund Year** for each type of coverage.
 8. If a joint insurance fund becomes a **Member** of the **Fund** after the start of the **Fund Year**, such **Member's** assessments and supplemental assessments shall be reduced in proportion to that part of the year which has elapsed.

B. SUPPLEMENTAL ASSESSMENTS

1. The **Trustees** shall by majority vote levy upon the **Members** additional assessments wherever needed or so ordered by the **Trustees** or the **Commissioner** to supplement the **Fund's** claim, loss retention or administrative accounts to assure the payment of the **Fund's** obligations.
 - a) All supplemental assessments shall be charged to the **Member** by applicable **Fund Year**, and shall be apportioned by that year's excess premium for that line of coverage.
 - b) All **Members** shall be given thirty (30) days advance written notice of the **Fund's** intention to charge an additional assessment, and the **Fund** shall conduct a hearing before adopting the supplemental assessment.
 - c) **Members** shall have thirty (30) days to pay the **Fund** from the date any supplemental assessment is adopted.
2. The **Fund** shall submit to the **Commissioner** a report of the causes of the **Fund's** insufficiency, if any, the assessments necessary to replenish it and the steps taken to prevent a reoccurrence of such circumstances.

C. FAILURE OR REFUSAL TO PROVIDE REQUIRED ASSESSMENTS

Should any **Member** fail or refuse to pay its assessments or supplemental assessments, or should the **Fund** fail to assess funds required to meet its obligations, the Chairperson or in the event of his or her failure to do so, the custodian of the **Fund's** assets, shall notify the **Commissioner**. Past due assessments shall bear interest at the rate of interest to be established annually by the **Trustees**. The **Fund** attorney or other attorney selected by the **Trustees** shall endeavor to collect past due assessments and any accrued interest in any action in Superior Court, State of New Jersey including the costs incurred in the collection of such.

D. INSOLVENCY AND/OR BANKRUPTCY OF FUND MEMBERS

The insolvency or bankruptcy of a **Member** does not release the **Fund**, or any other **Member**, of joint and several liability for the payment of any claim incurred by the **Member** during the period of its membership,

including, but not limited to, being subject to and liable for supplemental assessments.

ARTICLE XII. REFUNDS

- A. Any monies for a **Fund Year** in excess of the amount necessary to fund all obligations for that fiscal year as certified by an **Actuary** may be declared to be refundable by the **Fund** not less than twenty-four (24) months after the end of the fiscal year.
- B. The **Fund** may seek approval from the **Commissioner** to make initial refund payments from a claims or loss retention fund account remaining from any year which has been completed at least twenty-four (24) months by submitting a written notification to the **Department** with accompanying documentation as set forth in this subsection, at least thirty (30) days prior to the proposed refund. If the **Commissioner** does not disapprove, in writing, the request to make a refund within the thirty (30) day period, the request shall be deemed approved. The **Commissioner** may also affirmatively approve the request prior to the expiration of the thirty (30) day period. The written notification shall be accompanied by appropriate documentation including, but not limited to, assessment, claims and expense detail; actuarial certification that the loss and loss expense reserves are adequate for the **Fund** to have an overall **Surplus** for the fiscal year; and such other information that the **Commissioner** may require. The initial and any subsequent refund for any year from a claim or loss retention trust account may be in any amount subject to the limitation that after the refund, the remaining **Net Current Surplus** in the account from which the refund is made must equal or exceed the surplus retention requirement to be calculated as follows:
 - 1. **Fund Year** paid losses shall be multiplied by the appropriate paid loss factor for the line of coverage and duration of maturity set forth in the regulation governing such.
 - 2. **Fund Year** unpaid claim reserves, excluding reserves for incurred but not reported claims, shall be multiplied by the appropriate unpaid claim factor for the line of coverage and duration of maturity set forth in the regulation governing such. Unpaid claim reserves, excluding reserves for incurred but not reported claims, shall be established at full value and not discounted.
 - 3. The greater of the results from the calculation set forth in B.1 and 2 above shall then be reduced by the amount of outstanding losses reported, including incurred but not reported claims, as certified by an **Actuary**. The result of this calculation, but not less than zero, shall be the surplus retention requirement for that **Fund Year**.
- C. A full and final refund of **Net Current Surplus** will not be allowed until all case reserves and all unpaid claim reserves are closed.
- D. A refund for any fiscal year shall be paid only in proportion to the **Member's** participation in the **Fund** for such year. Payment of a refund on a previous year shall not be contingent on the **Member's** continued membership in the **Fund** after that year.
- E. At the option of the **Member** the refund may be retained by the **Fund** and applied towards the **Member's** next annual assessment.

- F. A **Fund** may seek approval from the **Commissioner** to make **Inter Year Fund Transfers** from a claims or loss retention trust account from any year not sooner than twenty-four (24) months after the end of that year by submitting a written notification to the **Department** with appropriate documentation as set forth in "B" above at least thirty (30) days prior to the proposed transfer. If the **Commissioner** does not disapprove, in writing, the request within the thirty (30) day period, the request shall be deemed approved. The **Commissioner** may also affirmatively approve the request prior to the expiration of the thirty (30) day period. The **Inter Year Fund Transfer** may be in any amount subject to the limitation that after the transfer, the remaining **Net Current Surplus** in the account from which the transfer is made must equal or exceed the surplus retention requirement determined pursuant to "B" above for that account for the fiscal year. The membership for each fiscal year involving **Inter Year Fund Transfers** must be identical between fiscal years. The **Commissioner** shall waive the identical membership requirement provided the **Fund** demonstrates to the **Department** that it maintains records of each **Member's** pro rata share of each claim or loss retention fund account, and that the transfer shall be made so that any potential dividend shall not be reduced for a **Member** that did not participate in the year receiving the transfer.

ARTICLE XIII. EXCESS INSURANCE AND/OR REINSURANCE

- A. The **Fund** shall maintain a contract or contracts of specific and aggregate excess insurance or reinsurance, unless otherwise provided by regulation.
- B. Certificates of **Excess Insurance** and/or reinsurance showing policy limits, specific and aggregate retentions, and other information shall be available for inspection by each **Member** and shall be filed with the **Commissioner**.
- C. Losses in excess of the established self-insurance retention shall be borne by the excess carrier(s) according to the terms and conditions of the excess contract(s).
- D. Any proposed change in the terms or limits of **Excess Insurance** and/or reinsurance shall be submitted to the **Department** for approval at least 30 days prior to the effective date of the proposed change.

ARTICLE XIV. TRUST FUND ACCOUNTS, INVESTMENTS AND DISBURSEMENTS

A. ESTABLISHMENT OF TRUST FUND ACCOUNTS

1. By resolution of the **Trustees**, the **Fund** shall designate a public depository or depositories for its monies from a list approved by the State of New Jersey.
2. The **Fund** shall establish a separate Trust Fund Account for the purposes of the payment of claims, allocated claim expenses and **Excess Insurance** premiums for each line of coverage by **Fund Year**. Such accounts shall be designated as Claims or Loss Retention Fund Accounts. In lieu of establishing separate trust accounts, the **Fund** may provide for the recording and accounting of all transactions by **Fund Year** for each risk or liability.

3. Other than for the payment of claims, allocated claim expenses or excess/reinsurance premiums, no withdrawal may be effected from a claim or loss retention fund without the prior written approval of the **Commissioner**, except for **Inter Trust Fund Transfers**. **Inter Trust Fund Transfers**, within a **Fund's** fiscal year, may be conducted by the **Fund** at any time, by providing thirty (30) days prior written notification to the **Commissioner**. If the **Commissioner** does not disapprove of the transfer, in writing, within thirty (30) days after receiving such written notification, the request for **Inter Trust Fund Transfer(s)** shall be deemed approved. Any **Inter Trust Fund Transfer** request must be supported by appropriate assessment and claim and expense documentation, and be accompanied by a certification signed by an **Actuary** that the amount remaining in the trust fund account after the **Inter Trust Fund Transfer** will be at a level which is reasonable in relation to that account's unpaid losses, along with all documentation in support of such certification. **Inter Trust Fund Transfers** may be conducted only where each **Member** participates in each and every claim or loss retention fund account during that **Fund Year**. The **Commissioner** shall waive the full participation requirement provided the **Fund** demonstrates to the **Department** that it maintains records of each **Member's** pro-rata share of each claim or loss retention fund account for that year, and that the transfer shall be made so that any potential dividend shall not be reduced for a **Member** that did not participate in the account receiving the transfer.
4. The **Fund** may also establish an administrative account which shall be utilized for payment of the **Fund's** general operating expenses, loss prevention activities, data processing services, and general legal expenses provided that the recording and accounting of such is done by **Fund Year**.

B. INVESTMENTS

1. All investments shall be in accordance with the **Fund's** Cash Management Plan and consistent with the statutes and regulations governing the investment of public funds as issued by the State Investment Council.
2. The investment and interest income earned by the investment of the assets of each claim or loss retention account shall be credited to each account.
3. The investment and interest income earned by investment of the assets of the administrative account shall be credited to that account.

C. DISBURSEMENTS

1. Prior to any commitment or agreement requiring the expenditure of funds, the custodian of the **Fund's** assets shall certify as to the availability of sufficient unencumbered funds to fully pay all charges or commitments to be accepted.
2. All disbursements, payments of claims or expenditure of funds must be approved by a majority vote of the **Trustees**.
3. Notwithstanding numbers 1 and 2 above, the **Fund** may provide for the expeditious resolution of certain claims by designating the **Fund's** **Administrator** or **Service Organization** as a "certifying and approving

- officer" pursuant to *N.J.S.A. 18A:19-1*. The **Fund** may authorize the "certifying and approving officer" to approve for payment any or all specified claims in an amount not to exceed an amount approved by the **Commissioner** in the Risk Management Program. The **Fund** shall establish such other procedures and restrictions on the exercise of this authority as the **Fund** deems appropriate. The authority of the certifying and approving officer may be revoked or modified at any time.
4. Upon approval, the certifying and approving officer shall certify the amount and particulars of such approved claims to the custodian of the **Fund's** assets directing that a check for payment be prepared.
 5. Each month the certifying and approving officer shall prepare a report of all claims approved since the last report, detailing the nature of and the amount of the claim, the payee, the reasons supporting payment and any other pertinent information. This report shall be reviewed and approved or rejected by vote of the **Trustees** at their next regularly scheduled meeting. If any payment is not approved, appropriate action shall be taken.
 6. All requests for payments must be accompanied by a detailed bill of items or demand, specifying particularly how the bill or demand is made up, with the certification of the party claiming payment that it is correct, and must carry the certification of some officer or duly designated agent or **Employee** of the **Fund** having knowledge of the fact that the goods have been received by, or the services rendered to the **Fund**. In the case of claims or losses to be charged against any loss fund, the **Fund's** Claims Administrator shall certify as to the claim's correctness and validity.
 7. All claims shall be paid by check or wire transfer. The checks shall be signed by two persons designated by the **Trustees**.
 8. All claims or other disbursements approved for payment by the **Fund** shall be recorded in a claims register maintained by the custodian of the **Fund's** assets.

ARTICLE XV. CONFLICT OF INTEREST

- A. All officials and or employees of a **Member** or any members of the family of such officials or employees shall comply with *N.J.S.A. 18A:12-21 et. seq.* (the "School Ethics Act") and any other applicable law governing the conduct of members, officers or employees of school boards.

ARTICLE XVI. VOLUNTARY DISSOLUTION OF THE FUND

- A. If the **Trustees** deem it in the best interest of the **Members** to dissolve the **Fund** they shall, by majority vote, direct that a written Plan of Dissolution be prepared.
- B. The Plan of Dissolution must provide for the payment of all incurred losses of the **Fund** and its **Members**, including all incurred but not reported losses, as certified by an **Actuary**, before any assets of the **Fund** or the trust fund accounts may be used for any other purpose.

- C. Upon completion of the Plan of Dissolution, the Chairperson shall call a general meeting of all **Trustees** who shall review the plan and make any appropriate amendments. By majority vote, the **Trustees** may recommend that the **Fund** be dissolved in accordance with the Plan of Dissolution.
- D. A majority of the **Members** must by resolution vote to accept the Plan of Dissolution in order to dissolve the **Fund**.
- E. The Plan of Dissolution shall contain a statement of the **Fund's** current financial condition computed both a statutory basis and according to generally accepted accounting principles as attested to by an independent certified public accountant.
- F. The Plan of Dissolution and other such information as may be required, must be filed with and approved in writing by the **Commissioner** before the dissolution of the **Fund** is effective.

ARTICLE XVII. CLAIMS HANDLING PROCEDURE

A. REGISTRATION OF CLAIMS

Upon receipt of initial notice of claim, whether by service of process, notice of claim, petition or otherwise, the Claims Administrator shall cause each claim to be numbered and to be included on a report which shall set forth the name of the claimant, the nature of the claim, the type of insurance coverage claimed against and, to the extent known, an approximate estimate of the magnitude of the potential loss.

B. CLAIMS RESPONSE

Upon receipt of the initial notice of claim described above, the involved **Member** shall immediately forward the notice of claim and any other information available to the claims service agency and, where appropriate, to the **Fund's** defense attorneys for initial contact, investigation, court action or other appropriate response.

C. CLAIMS ACKNOWLEDGMENT AND INITIAL EVALUATION

Upon receipt of an assignment of claim, the claim servicing organization, and where appropriate, the defense attorneys, shall acknowledge receipt of the claims and within thirty (30) days of receipt, submit a report indicating their initial assessment of the merits and exposure represented by the claim and a summary of the actions taken to date in response to said claim.

D. PERIODIC REVIEW OF CLAIM STATUS

Each claim shall be reviewed by the Claims Administrator at intervals of not greater than ninety (90) days as to their status.

E. NOTICE OF SETTLED CLAIMS

Where permitted by the Bylaws, and where settlements have been concluded without action of the **Trustees**, a report shall be provided to the applicable **Member**.

F. NOTICE OF INTENDED SETTLEMENT

Whenever an investigation discloses that the prompt, fair and equitable settlement of a claim is appropriate and possible, the Claims Administrator shall submit to the **Administrator** for review at a meeting of the **Trustees** or their designees a notice of recommended settlement. This notice shall be on forms approved by the **Trustees** and shall set forth identifying information concerning the claims recommendation, the legal liability of the **Fund**, a summary of investigative work concerning the merits of the claim and the reasons underlying the recommended settlement.

G. APPROVAL OF PAYMENTS AND SETTLEMENTS

Whenever the **Fund** shall make any payment or settlement of any claim which exceeds the Claims Administrator's authority, a notation thereof identifying the claim, the amount paid and the reasons underlying the payment shall be approved by the **Trustees** and entered upon a ledger of claims paid.

ARTICLE XVIII.COMPLAINT HANDLING PROCEDURE

- A. Whenever any interested party shall submit a complaint in writing to the **Fund**, the **Fund Administrator**, or any **Member** of the **Fund**, a copy thereof shall be forthwith communicated to the **Trustees** for consideration at its next regularly scheduled meeting.
- B. At said meeting, the **Trustees** shall consider the complaint, and by majority vote take such action as might be appropriate.
- C. The complaining party, and the **Trustee** or **Fund Commissioner** of the **Member** wherein the complaining party resides (if the complaining party is a resident of a **Member**) as well as the **Commissioner** (upon request) shall receive written notice of the **Trustees'** findings. The written notice to the complaining party, may where appropriate, include an opportunity for the complaining party to have a hearing concerning their complaint before the full **Trustees**.
- D. The **Fund** shall keep a separate record of all complaints received and the disposition of same.

ARTICLE XIX. ARBITRATION

Every controversy, dispute, difference, or claim between the **Fund** and a **Member** of the **Fund** shall be submitted to and settled by arbitration. This includes any dispute concerning whether insurance coverage may be owed by the **Fund** to any employee, official, etc., of any **Member**. Either the **Member** or the **Fund** must request arbitration for a given controversy within the applicable statute of limitations for such controversy. Such arbitration shall be conducted by a panel of three (3) arbitrators, which shall consist of a **Fund Commissioner** designated by the affected **Member(s)** (which could include that **Member's Fund Commissioner**), a **Fund Commissioner** designated by the **Trustees**, and an individual, independent from and not affiliated with the **Fund**, who shall be chosen by the aforesaid arbitrators from a list of individuals determined by the **Trustees**. The arbitration shall be conducted in accordance with procedures established by the **Trustees**. The arbitrator selected by the two (2) **Fund Commissioner** arbitrators shall be compensated for services in an amount mutually agreed to between the arbitrator and the **Trustees**. The **Member(s)** and the **Fund** shall bear

their own costs in prosecuting/defending the arbitration and shall split the costs for the arbitrator(s) and the arbitration. Judgment upon the award rendered by majority vote of the panel may be entered in any court having jurisdiction thereof.

ARTICLE XX. OTHER CONDITIONS

A. INSPECTION AND AUDIT

The **Fund** shall be permitted but not obligated to inspect, at any reasonable time, the workplaces and operations of each **Member** covered by this agreement. Neither the right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of the **Member** or others to determine or warrant that such workplaces, operations, are safe or healthful, or are in compliance with any law, rule or regulation.

The **Fund** shall be permitted to examine and audit the **Member's** payroll records, general ledger, disbursements, vouchers, contracts, tax reports and all other books, documents and records at any reasonable time as far as they show or tend to show or verify the amount of remuneration or other premium basis, or relate to the subject matter of this agreement.

B. NOTICE OF INJURY

When an injury occurs, written notice shall be given by or on behalf of the **Members** to the **Fund** or any of its authorized agents as soon as practicable. Such notice shall contain particulars sufficient to identify the **Member** district and also reasonably obtainable information respecting the time, place and circumstances of the injury, the names and addresses of the injured and of available witnesses.

C. NOTICE OF CLAIM OR SUIT

If claim is made or formal petition or a suit or other proceedings is brought against the **Member**, the **Member** shall immediately forward to **Fund** every demand, notice, summons or other process received by him or his representative.

D. ASSISTANCE AND COOPERATION OF THE MEMBER

The **Member** shall cooperate with the **Fund**, and upon the **Fund's** request shall attend hearings and trials and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and shall also assist in the conduct of suits or proceedings. The **Member** shall not, except at its own cost, voluntarily make any payment, assume any obligation or incur any expense other than for such immediate medical and other services at the time of injury as are required by the law.

E. ACTION AGAINST FUND

No action shall lie against the **Fund** unless, as a condition precedent thereto, the **Member** shall have fully complied with all the terms of this agreement and not until the amount of the **Member's** obligation to pay shall have been finally determined either by judgment against the **Member** after actual trial or by written agreement of the **Member**, the claimant and the **Fund**. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover

under this agreement to the extent of the protection afforded by this agreement. Nothing contained in this agreement shall give any person or organization any right to join the **Fund** as a codefendant in any action against the **Member** to determine the **Member** district's liability.

F. SUBROGATION

In the event of any payment under the agreement, the **Fund** shall be subrogated to all rights of recovery therefore of the **Member** and any person entitled to the benefits of this agreement against any person or organization and the **Member** shall execute the deliver instruments and papers and do whatever else is necessary to secure such rights. The **Member** shall do nothing after loss to prejudice such rights.

G. CONFORMANCE WITH STATUTE/REGULATION

In the event any portion of these Bylaws conflict with any statute or administrative regulation covering joint insurance funds, the provision of any such statute or regulation shall control to the extent it conflicts. If the regulations governing joint insurance funds are amended, such amendments are deemed incorporated herein.

H. SEVERABILITY

The **Fund** intends these Bylaws to be applied according to, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. In the event that any term or provision contained in these Bylaws, or the application thereof to any person or circumstance, shall, for any reason and to any extent, be found to be invalid or unenforceable, the remaining portions of these Bylaws, or the application of such term or provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the fullest extent permitted by law.

Diploma Joint Insurance Fund

**RISK MANAGEMENT PLAN
FUND YEAR 2022-2023**

Effective July 1, 2022

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The purpose of this document is to highlight major coverages, limits, and sub-limits afforded through Diploma Joint Insurance Fund. This document is not a policy of insurance and in no way modifies, restricts, expands or in any other way changes the coverages afforded through Diploma Joint Insurance Fund. For actual coverage determination, reference must be made to applicable insuring documents and/or insurance policies. All terms and conditions of coverage are as stated in the applicable insuring documents and/or insurance policies.

I. INTRODUCTION

The Diploma Joint Insurance Fund (herein referred to as the Fund) is a Joint Insurance Fund formed under the provisions of *N.J.S.A. 18A:18B-1 et. seq.* The Diploma Joint Insurance Fund's membership is comprised of educational facilities.

The Fund commenced operations on December 15, 1995 with 9 member districts.

The Fund's objectives include the following:

1. Providing qualified educational facilities with a long-term alternative to the conventional insurance market as a means of stabilizing the otherwise cyclical nature of insurance expenditures;
2. Maintaining a pro-active posture of safety and loss prevention programs specific to issues inherent in modern educational facility operations;
3. Aggressively evaluating, defending and/or settling claims made against members which fall within the coverages afforded through the Fund.
4. Maintaining a conservative funding posture in an effort to ensure long term financial security and stability for the Fund and, by extension, the membership thereof.

Inevitably, any management technique selected by today's educational institutions must be evaluated against a common measure: the extent to which the employment of the technique is successful in supporting the role of our educational facilities as the educators of tomorrow's leaders.

The Fund too will be evaluated against this measure and its success will hinge on the Fund's success in achieving each of the goals outlined above.

II. COVERAGES PROVIDED, LIMITS OF LIABILITY, SELF INSURED RETENTIONS AND DEDUCTIBLES

Please note, other coverages, limits, sublimits, deductibles, SIRs, terms and conditions may apply.

A. GENERAL

The Fund may offer coverage to its members either directly or through the commercial insurance market, through one or more of the following vehicles:

- Excess Insurance
- Reinsurance
- Excess Property and Casualty Joint Insurance Fund
- Joint Purchase Agreement
- Individual Contracts

The Fund offers its members the following coverages:

- Property damage (includes boiler and machinery, cyber liability and automobile physical damage)
- Comprehensive General and Automobile Liability (including employee benefits liability, sexual abuse and molestation)
- Crime and Fidelity
- Environmental Impairment Liability
- School Leaders Professional Liability (including employment practices liability)
- Workers' Compensation and Employers' Liability
- Supplemental Indemnity
- Excess Liability (applicable only to members that have the Fund's primary underlying coverages):
 1. Underlying insurance (General Liability, Automobile Liability, School Leaders Professional Liability and/or Employer's Liability) must be written by the Fund.
 2. Any school with properties within 5 miles of ocean or bay must be approved by the Fund's reinsurer.
 3. Any school with a detention center must be approved by the Fund's reinsurer.
 3. All buildings must be in compliance with State and Federal asbestos standards.
 4. The applicant cannot be involved in any pending pollution litigation.
 5. The applicant's enrollment shall not exceed 5,000, if so it must be approved by Fund's reinsurer.
 6. The applicant shall not have any dormitory facilities; if so it must be approved by the Fund's reinsurer.
- Terrorism (as defined under TRIA for "certified" acts).

The specific limits of liability of the various coverages afforded by the Fund incorporate individual member deductibles, funded self-insured retentions, and various jointly purchased conventional and excess/reinsurance policies. Unless specifically stated to the contrary, limits shown in the following sections shall be considered to be inclusive of applicable pooled self-insured retentions.

The specific structure of the Fund includes elements of risk retention and risk transfer, which reflects what is believed to be optimal limits of risk retention and transfer. The structure capitalizes on the collective financial and purchasing strength of the districts comprising the Fund's membership.

The terms and conditions of coverages are established by the **Fund** and are set forth in the plan document issued. Refer to all plan documents for specific terms, conditions and deductibles.

The **Fund's** membership in the School Excess Liability Fund (SEL) facilitates the following coverage for each participant:

- Excess General and Automobile Liability (including employee benefits liability, sexual abuse and molestation)
- Excess School Leaders Professional Liability (including employment practices liability)
- Excess Workers' Compensation and Employers' Liability
- Excess Property (including boiler and machinery, cyber liability and automobile physical damage)
- Excess Crime and Fidelity
- Optional Excess Liability

The terms and conditions of coverages are established by the SEL and are set forth in the plan document issued by the SEL. Refer to all SEL plan documents for specific terms and conditions.

B. PROPERTY

1. Limit of Liability:	\$500,000,000 Per Occurrence
2. Fund Self Insured Retention (SIR):	\$100,000 Per Occurrence
3. Fund Aggregate Retention:	Agreed upon annually based on membership (exposures and loss analysis)
4. Member Retention:	\$5,000 Per Occurrence (\$1,000 for APD)
5. Perils Included:	Coverage written on an "All Risk" basis, including flood and earthquake (see footnotes 3, 4 and 5)
6. Property Included in Coverage Limits/Sub-Limits	
	<u>Property Included</u>	<u>Occurrence¹ Limit/Sub-Limit</u>
a.	Buildings, Contents Valuable Papers	\$500,000,000/Per Occurrence ²
b.	Extra Expense	\$50,000,000
c.	Newly Acquired Property	\$25,000,000
d.	Builders Risk (new construction)	\$25,000,000 ³
e.	Property in Transit	\$25,000,000
f.	Automobile Physical Damage	Included ⁴
g.	Unnamed Locations	\$10,000,000
h.	Demolition and Increased Cost of Construction	\$50,000,000
i.	Earthquake	\$25,000,000 Per Occurrence/Per Member/Annual Aggregate ⁵
j.	Flood	\$10,000,000 Per Occurrence/Per Member (Excluding Zones A&V) \$25,000,000 Per Occurrence/Per Member (zones

¹Losses under this section shall be paid up to the limits shown. Members shall report values annually by a Statement of Values as required by the Fund.

²Named Windstorm Tier 1 & 2 Sublimit \$85,000,000.

³Builders' risk exposure or newly acquired property, members are required to report all such exposures immediately to the Fund administrator in order for coverage to be afforded.

⁴The Fund has an additional per occurrence \$100,000 SIR for auto physical damage and named storm that does not accrue to the aggregate.

⁵Earthquake coverages apply excess of 5% of the values at each location shown on each Member's Statement of Values.

	A&V)/\$100,000,000 Fund Annual Aggregate for Flood Zones A&V sublimited to \$50,000,000 Annual Aggregate for Flood Zones A&V ⁶
k. Accounts Receivable	\$2,500,000
l. Fine Arts	\$2,500,000
m. Loss of Rents	\$500,000/\$2,500,000 Aggregate
n. Terrorism	\$100,000,000 Per occurrence/\$200,000,000 Annual Aggregate
C. BOILER AND MACHINERY	
1. Limit of Liability:	\$100,000,000 Per Occurrence
2. Fund Self Insured Retention (SIR):	\$50,000 Per Occurrence
3. Member Retention:	\$5,000 Per Occurrence
D. CYBER LIABILITY	
1. Limit of Liability Sublimited to:	\$2,000,000 Per Occurrence/Aggregate
a. Third Party Liability	
(1) Privacy Notification Costs	\$500,000 Per Occurrence/Aggregate
(2) Penalties for Regulatory Defense	\$2,000,000 Per Occurrence/Aggregate
(3) Website Media Content Liability	\$2,000,000 Per Occurrence/Aggregate
(4) Cyber Extortion Loss	\$2,000,000 Per Occurrence/Aggregate
b. First Party Computer Security	
(1) Cyber Extortion Loss	\$750,000 Per Occurrence/Aggregate
(2) Data Protection and Business Interruption	\$750,000 Per Occurrence/Aggregate
2. Fund Self Insured Retention	\$50,000 or \$100,000 Per Occurrence based on member TIV
3. Member Retention	\$10,000 Per Occurrence
E. CRIME AND FIDELITY	
1. Limits of Liability:	
a. Money and Securities	
(1) Loss Inside	\$50,000 each loss
(2) Loss Outside	\$50,000 each loss

⁶Flood coverages for locations within Federal Flood Zone “A” and “V” shall apply, per member, excess of limits available by the National Flood Insurance Program, or the equivalent of said limits.

b. Blanket Dishonesty Bond
including Faithful Performance
for elected officials⁷ \$500,000 per loss

2. Fund Self Insured Retention: NIL

3. Member Retention: \$1,000 each loss

**F. COMPREHENSIVE GENERAL LIABILITY AND AUTOMOBILE LIABILITY
including Employee Benefits Liability**

1. Limit of Liability: \$5,000,000 Per Occurrence
Per Member
2. Fund Self Insured Retention (SIR): \$100,000 Per Occurrence
3. Fund Aggregate Retention: Agreed upon annually based on
membership (exposures and loss
analysis)
4. Member Retention: None
5. Insuring Agreement: Provides coverage for a civil claim
action for bodily injury, property
damage and personal injury liability to
the extent to which this insurance
applies arising out of the business
activities of any member.
6. Sub - Limit applicable to
Sexual Molestation Coverage: \$10,000,000 Per Occurrence/Per
Member Aggregate
\$28,500,000 Fund Aggregate

G. WORKERS' COMPENSATION⁸

1. Limits of Liability:
 - a. Workers' Compensation Statutory benefits as required by the
State of New Jersey
 - b. Employers' Liability \$5,000,000 Per Occurrence/Aggregate
2. Fund Specific Self Insured Retention:
 - Workers' Compensation \$100,000 Per Occurrence
 - Employers' Liability \$100,000 Per Occurrence

⁷Statutory bond positions are excluded.

⁸All Workers' Compensation Claims shall be subject to managed care.

3. Member Retention: NIL

As respects any one loss and/or accident (not including communicable disease) and/or claim(s) and/or occurrence(s), including suit(s) brought in connection therewith, the Fund's Loss Fund shall not be charged with any amount in excess of \$100,000 as respects any one loss and/or accident (not including communicable disease) and/or claim(s) and/or occurrence(s), including suit(s) brought in connection therewith.

H. SUPPLEMENTAL INDEMNITY

1. Limit of Liability: Maximum Weekly Benefit:
\$2,500/week
Maximum Benefit: \$130,000
Benefit Waiting Period: 7 days
Maximum Benefit Period: 104 weeks
Time Period for Loss: 180 days
2. Fund Self Insured Retention: NIL
3. Member Retention: NIL

I. ENVIRONMENTAL IMPAIRMENT LIABILITY

1. Limit of Liability: \$1,000,000 Per Incident /\$5,000,000
Fund Annual Aggregate
- Sublimited to:
- a. Sewage Backup Liability: \$1,000,000 Per Incident/\$1,000,000
Aggregate
2. Fund Self Insured Retention: \$100,000 Per Incident
3. Member Deductible: \$50,000 Per Incident
- Sublimited to:
- a. Sewage Backup Liability: \$50,000 Per Incident
4. Insuring Agreement: Provides coverage for on site clean-up costs and third party claims for bodily injury, property damage and clean-up costs resulting from environmental impairment conditions.

J. SCHOOL LEADERS PROFESSIONAL LIABILITY

1. Limits of Liability: \$5,000,000 Per Claim/Aggregate
Per Member
\$10,000,000 Aggregate Per
Occurrence⁹

⁹ Applicable to claims involving multiple members.

Claims Made form, Full Prior Acts

2. Fund Self Insured Retention: \$300,000 per Claim
3. Member Retention: \$5,000 per Claim¹⁰
4. Insuring Agreement: Provide coverage for a civil claim to the extent to which this insurance applies because of a wrongful act arising out of the business activities of any member.

K. EXCESS LIABILITY

1. Limits of Liability: Optional \$5¹¹, \$10 or \$15 million per occurrence/aggregate per member.
2. Fund Self Insured Retention: NIL
3. Member Retention:
Maintenance of: \$5,000,000 auto & general liability combined single limit.
\$5,000,000 per claim / annual aggregate school leaders professional liability.
4. Insuring Agreement: Provides excess coverage pursuant to F5 and J4.

L. REINSURANCE

The Fund may purchase reinsurance subject to the terms and conditions of the reinsurer. In no circumstance shall the terms and conditions of such reinsurance be contrary to the provisions set forth in *N.J.A.C. 11:15-4.23*. The Fund purchases reinsurance for the following:

1. Property: The Fund cedes 100% of net loss and allocated loss adjustment in excess of the Fund's per occurrence and annual aggregate retention.
2. Crime and Fidelity: The Fund retains NIL and cedes 100% net loss and allocated loss adjustment per loss excess of the member district deductible.
3. Comprehensive General Liability and Automobile Liability, including Employee Benefits Liability and Sexual Abuse and Molestation: The Fund cedes 100% of net loss and

¹⁰This retention is expressed as a standard amount. Each member's retention will be predicated on the underwriter's evaluation of the member's application.

¹¹ \$5,000,000 Excess general liability and auto liability is automatically included for all members with package coverage.

- allocated loss adjustment in excess of the Fund's per occurrence and annual aggregate retention.
4. Workers' Compensation: The Fund cedes specific statutory limits of liability and employers' liability in excess of the specific per occurrence retention.
 5. Supplemental Indemnity: The Fund retains NIL and cedes 100% net loss per occurrence excess of the member district deductible.
 6. Excess Liability: The Fund retains NIL and cedes 100% net loss and allocated loss adjustment per occurrence of approved underlying comprehensive general and auto liability and school leaders' professional liability claims.

M. FUND AGGREGATE COVERAGE¹²

As is consistent with the Fund's objective of providing cost effective, long term financial stability, the insurance program includes Aggregate Coverage subject to the provisions set forth in N.J.A.C. 11:15-4.23. Aggregate Coverage (frequently referred to as "Assessment Insurance") serves to limit the dollar value the Fund might require its members to pay as additional assessments. Additional assessments can result when the actual sums needed to pay for claims activity within the Fund's retention exceeds, or is projected to exceed, the Fund's claim reserve balances. Without aggregate coverage, this risk is unlimited.

Aggregate coverage provides for the assumption of the Fund's retention by an insurance carrier when the accumulation of dollars spent, including allocated loss expense and/or financial loss elements, within the Fund's retention reaches a predetermined value known as the attachment point.

The attachment point is negotiated each year with the Fund's insurance carriers and is predicated upon the Fund's actuarial loss funding projections, loss experience, and membership at a point in time. Should the Fund's membership change during the term of the aggregate contract (Fund Year), the attachment point may increase or decrease relative to the change in overall loss funds and specific to the member(s) loss history. Any line of coverage corridor and/or aggregate attachment point is per the final policy for the applicable fund year.

III. OPERATIONAL PHILOSOPHY

A. GENERAL

As is the case with any organization, an established operating philosophy, formalized in a document such as this, is a necessary precursor to success. This section of the Risk Management Plan is developed to provide general instruction for key areas and providers of service to the Fund. Also included here are sections which restate (and amplify) the roles and responsibilities of important parties and stress the importance of activities upon which the long term success of the Fund will hinge in whole or in part.

¹² Applicable to property, comprehensive general and auto liability.

B. ASSESSMENT PROCEDURES

1. By March 15 of each year, the Actuary shall compute the probable net cost for the upcoming Fund year by line of coverage.
2. The annual assessment of each member shall be its pro-rata share of the probable net cost for the upcoming year for each line of coverage as computed.
3. The calculation of pro-rata shares for each educational facility shall be based on the overall Fund year budget. Pro-rata shares may be modified by the Trustees to reflect the Loss History or other pertinent data of individual members.
4. The total amount of each member's annual assessment shall be certified by majority vote of the Trustees to the governing body of each member at least one (1) month prior to the beginning of the next fiscal year.
5. The annual assessment shall be paid to the Fund in two (2) installments, said dates to be determined or as modified by the Trustees provided, however, that the full assessment shall be paid by each member no later than February 1.
6. In the event the final budget passed in June necessitates changes in the annual assessment, the second installment shall be adjusted to reflect this difference.
7. The Treasurer shall deposit each member's assessment into the appropriate accounts including the administrative account, and the claim or loss retention Trust Fund account by Fund year for each type of coverage.
8. If an educational institution becomes a member of the Fund after the start of the Fund year, such member's assessments and supplemental assessments shall be reduced in proportion to that part of the year, which has elapsed.

C. FUND COMMISSIONERS AND TRUSTEES

Fund Commissioners, each a professional board secretary and/or business official, are the backbone of the Fund. These individuals will in large measure control the success of the Fund by actively participating in the safety and loss control programs developed by the Fund for all members, and by implementing these programs in their respective districts. Fund Commissioners are encouraged to attend all meetings of the Fund, to serve on committees studying current issues, to enhance their knowledge of risk management, and to encourage consistent, safe practices.

D. FUND PROFESSIONALS

Providers of professional services to the Fund and individual members are strongly encouraged to participate in and promote Fund activities. The success of the Fund will, in part, be a reflection of the professionalism of those providers whose services are integral components of the Fund. Support of the concept of self-insurance, the Fund in general, and the risk management activities of the members in particular are necessary elements of success.

E. CLAIMS RESPONSE AND RESERVING

Were the philosophy of the Fund in these areas to be encapsulated into two sentences, they would read as follows:

1. “The Fund will thoroughly review and respond to each claim presented so as to pay only that amount (if any) which it is legally bound and obligated to pay”; and
2. “Reserves shall be established on each claim presented in a manner which accurately reflects the full, known liability of the Fund at any given point in time.”

In reviewing each claim presented, the Fund (operating through its claims administrator and legal counsel) shall review such claims for coverage, deny those not falling within the purview of coverages offered, aggressively defend those in dispute, pursue to the fullest extent of the law those presented in bad faith, and settle as expeditiously as possible those for which the Fund is legally liable.

The claims administrator must submit to the Board of Trustees or designees a notice of recommended settlement except for claims under \$25,000. The notice shall be on forms approved by the Trustees and shall provide information about the claim, a summary of investigative work concerning the merits of the claim, and the reasons underlying the recommended settlement.

Case reserves, including all types of applicable allocated loss adjusting expenses, will be established with an eye toward identifying the full exposure of the Fund and its excess insurance carriers at the earliest possible date. Reserves shall be periodically reviewed for accuracy and adjusted as needed. For claims aged eighteen (18) months or more, it is expected that reserves will be not less than 90% accurate. For claims aged thirty (30) months or more 95% accuracy is expected.

F. FINANCIAL MANAGEMENT

Consistent with the objective of serving as a long term vehicle through which to stabilize the costs associated with insurance coverages, the underlying premise of the Fund's financial base shall be one of conservative up-front funding, prudent investment of idle funds, and maintenance of stringent paper and audit trails. As is the case with all other aspects of the Fund, the financial assets of the Fund can well be considered as monies held in public trust. Treatment and handling of these funds must be accomplished in a manner, which reflects the stewardship obligation of those whose hands through which they pass. All investment, treasury and banking functions of the Fund are to be accomplished in a manner consistent with the enabling statutes then in effect.

G. SAFETY AND LOSS PREVENTION

Every dollar spent to compensate for an avoidable loss, whether it be for property, workers' compensation or any other coverage afforded through the Fund, is a dollar which might better have been used to educate a student in a member district. In an effort to avoid preventable loss and the financial and human hardships which result therefrom, the Fund (operating through the Fund's Safety Committee) will implement safety and loss control programs and

procedures, directed at reducing or eliminating conditions or practices which lead to loss. These programs, implemented in progressive steps, will include items such as:

1. Member district facility inspections.
2. Seminars or other training programs directed at specific areas of district operations from which losses are likely to occur;
3. Promotional programs stressing safety in all district operations and offering incentives for active participation by all Fund members.

H. PROCEDURES FOR THE CLOSURE OF FUND YEARS

The Fund shall, not less than sixty (60) months after the end of a fiscal year, evaluate and determine its retained outstanding ultimate net losses up to the attachment points of the specific excess and aggregate excess insurance. The Fund will close a Fund year only if:

1. A portfolio transfer of retained outstanding ultimate net losses and residual risk has been effected; or
2. Upon closure of all losses following an independent determination that the residual risk has been extinguished to the highest level of certitude.

A Fund year may only be closed by resolution adopted after a public hearing.

1. All participants must receive at least one (1) month prior notice of the public hearing.
2. The resolution shall provide for the maintenance of all records in accordance with the requirements of the Commissioner of Banking and Insurance and other regulations and statutes then in effect.
3. The resolution shall provide for written notice to the Commissioner of Banking and Insurance at least ninety (90) days before the resolution becomes effective.

I. PROCEDURES GOVERNING LOSS ADJUSTMENT, LITIGATION MANAGEMENT AND LEGAL FEES

1. Loss Adjustment

The Fund contracts with a claims servicing organization to receive incident reports, notices of claims, and other related information.

The claims servicing organization will, under contract to Fund, perform the following:

- a. Review each claim and loss report submitted by the participants during the term of this contract.
- b. Conduct an investigation of each qualified claim or loss to the extent deemed necessary.

- c. Maintain a file for each qualified claim or loss which shall be available for review by the Fund.
 - d. Adjust, settle, or resist all qualified claims or losses:
 - (1) within the stated discretionary settlement authority limit;
 - (2) with specific approval of the Fund, if outside the stated authority limit.
 - e. Perform necessary and customary administrative and clerical work in connection with each qualified claim or loss, including the preparation of checks or vouchers, releases, agreements, and other documents needed to finalize a claim.
 - f. Establish and update claim reserves as needed.
 - g. Notify the Fund and the Fund reinsurer as designated by the Fund, of all qualified claims or losses which may exceed the Fund's retention or limit and, if requested provide information on the status of those claims or losses.
 - h. Coordinate investigations on litigated claims with attorneys representing the Fund and with representatives of the reinsurer, as required. This includes the negotiation of settlements and preparation of subrogation and contribution actions.
 - i. Review large and unusual claims.
 - j. Maintain an automated loss and information system, and provide the Fund with reports.
 - k. Provide forms needed to administer the Fund's claim program.
 - l. Assist the Fund in selecting appropriate experts or specialists, as the claims may require.
 - m. Provide personnel needed to perform the services agreed to herein.
 - n. Maintain 24-hour emergency telephone service for claims reporting.
 - o. Acknowledge receipt of each claim.
 - p. Assist the Fund in the filing of periodic reports required by state or administrative regulation.
2. Litigation Management and Legal Fees

The Fund realizes that every claim will not reach an amicable solution. Careful selection and control of claims and claims defense is very important.

The Fund has established procedures to provide quality defense of claims and monitor the defense procedures and costs. These procedures include:

- a. A list of approved defense attorneys.
The list will include attorneys with previous experience with workers' compensation and/or Title 59, and a fee structure considered to be reasonable shall be approved by the Commissioners or the Board of Trustees.
- b. Monitoring the activities of the defense attorneys.
The claims servicing organization in conjunction with the Fund Attorney, will supervise all legal defense activity and experts.
The Fund attorney may direct the amount of legal discovery in an effort to control costs.

J. CLAIMS AUDIT

The performance of the claims servicing organization is routinely monitored by the administrator's office.

The Fund may periodically engage the services of an independent claims auditor to evaluate the management and reserving practices of the claims servicing organization.

SCHOOL EXCESS LIABILITY FUND

**RISK MANAGEMENT PLAN
FUND YEAR 2022/2023**

Effective July 1, 2022

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The purpose of this document is to highlight major coverages, limits, and sub-limits afforded through SEL. This document is not a policy of insurance and in no way modifies, restricts, expands or in any other way changes the coverages afforded through SEL. For actual coverage determination, reference must be made to applicable insuring documents and/or insurance policies. All terms and conditions of coverage are as stated in the applicable insuring documents and/or insurance policies.

I. INTRODUCTION

The School Excess Liability Fund (herein referred to as SEL or the Fund) is a Joint Insurance Fund formed under the provisions of *N.J.S.A. 18A:18B-1 et. seq.* As indicated by the Fund's name, the SEL's membership is comprised of educational facilities.

The SEL commenced operations on July 1, 2004 with two member joint insurance funds.

The Fund's objectives include the following:

1. Providing qualified educational facilities with a long-term alternative to the conventional insurance market as a means of stabilizing the otherwise cyclical nature of insurance expenditures;
2. Maintaining a pro-active posture of safety and loss prevention programs specific to issues inherent in modern educational facility operations;
3. Aggressively evaluating, defending and/or settling claims made against members, which fall within the coverages afforded through the Fund.
4. Maintaining a conservative funding posture in an effort to ensure long-term financial security and stability for the Fund and, by extension, the membership thereof.

Inevitably, any management technique selected by today's educational institutions must be evaluated against a common measure: the extent to which the employment of the technique is successful in supporting the role of our educational facilities as the educators of tomorrow's leaders.

The SEL too will be evaluated against this measure and its success will hinge on the Fund's success in achieving each of the goals outlined above.

II. COVERAGES PROVIDED, LIMITS OF LIABILITY, SELF INSURED RETENTIONS AND DEDUCTIBLES

Please note, other coverages, limits, sublimits, deductibles, SIRs, terms and conditions may apply.

A. GENERAL

The SEL may offer coverage to its members either directly or through the commercial insurance market, through one or more of the following vehicles:

- Excess Insurance
- Reinsurance
- Joint Purchase Agreement
- Individual Contracts

The SEL offers its members the following coverages:

- Property damage (Includes boiler and Machinery, cyber liability, building and contents, inland marine and automobile physical damage)
- Comprehensive General and Automobile Liability (including employee benefits liability and sexual abuse and molestation)
- Crime and Fidelity
- Workers' Compensation and Employers' Liability
- School Leaders Professional Liability (including employment practices liability)
- Supplemental Indemnity

The specific limits of liability of the various coverages afforded by the Fund incorporates individual member deductibles, funded self-insured retentions, and various jointly purchased conventional and excess/reinsurance policies. Unless specifically stated to the contrary, limits shown in the following sections shall be considered to be inclusive of the underlying member coverage limits and applicable pooled self-insured retentions.

The specific structure of the Fund includes elements of risk retention and risk transfer, which reflects what is believed to be optimal limits of risk retention and transfer. The structure capitalizes on the collective financial and purchasing strength of the districts comprising the Fund's membership.

B. PROPERTY

1. Limit of Liability:	\$500,000,000 Per Occurrence
2. SEL Self Insured Retention (SIR):	\$150,000 Per Occurrence
3. Fund Aggregate Retention:	Agreed upon annually based on membership (exposures and loss analysis)
4. Member Retention:	\$100,000 Per Occurrence
5. Perils Included:	Coverage written on an "All Risk" basis, including flood and earthquake (see footnotes 3, 4 and 6)
6. Property Included in Coverage Limits/Sub-Limits	

	<u>Property Included</u>	<u>Occurrence¹ Limit/Sub-Limit</u>
a.	Buildings, Contents, Valuable Papers	\$500,000,000 ²
b.	Extra Expense	\$50,000,000
c.	Newly Acquired Property	\$25,000,000

¹Losses under this section shall be paid up to the limits shown. Members shall report values annually by a Statement of Values as required by the Fund.

²Named Windstorm Tier 1 & 2 sublimit \$85,000,000.

d.	Builders Risk (new construction)	\$25,000,000 ³
e.	Property In Transit	\$25,000,000
f.	Automobile Physical Damage	Included ⁴
g.	Unnamed Locations	\$10,000,000
h.	Demolition and Increased Cost of Construction	\$25,000,000
i.	Earthquake	\$25,000,000 Per Occurrence/Per Member/Annual Aggregate
j.	Flood	Annual Aggregate ⁵ \$10,000,000 Per Occurrence/Per Member (Excluding Zones A&V) \$25,000,000 Per Occurrence/Per Member (Zones A&V)/\$100,000,000 Fund Annual Aggregate sublimited to \$50,000,000 Annual Aggregate for Flood Zones A&V ⁶
k.	Accounts Receivable	\$2,500,000
l.	Fine Arts	\$2,500,000
m.	Loss of Rents	\$500,000/\$2,500,000 Aggregate
n.	Terrorism	\$100,000,000 Per Occurrence/\$200,000,000 Annual Aggregate

C. BOILER AND MACHINERY

1.	Limit of Liability:	\$100,000,000 Per Occurrence
2.	SEL Self Insured Retention (SIR):	NIL
3.	Fund Aggregate Retention:	NIL

D. CYBER LIABILITY

1.	Limit of Liability	\$2,000,000 Per Occurrence/Aggregate
	Sublimited to:	
a.	Third Party Liability	
	(1) Privacy Notification Costs	\$500,000 Per Occurrence/Aggregate
	(2) Penalties for Regulatory Defense	\$2,000,000 Per Occurrence/Aggregate
	(3) Website Media Content Liability	\$2,000,000 Per Occurrence/Aggregate
	(4) Cyber Extortion Loss	\$2,000,000 Per Occurrence/Aggregate

³ Builders' risk exposure or newly acquired property, members are required to report all such exposures immediately to the SEL administrator in order for coverage to be afforded.

⁴The Fund has an additional per occurrence \$150,000 SIR for auto physical damage and Named Storm damage that does not accrue to the aggregate.

⁵Earthquake coverages apply excess of 5% of the values at each location shown on each Member's Statement of Values.

⁶Flood coverages for locations within Federal Flood Zone "A" and "V" shall apply, per individual member (district), excess of limits available by the National Flood Insurance Association, or the equivalent of said limits. \$1,000,000 per occurrence retention for Named Storm Systems.

	b. First Party Computer Security	
	(1) Cyber Extortion Loss	\$750,000 Per Occurrence/Aggregate
	(2) Data Protection and Business Interruption	\$750,000 Per Occurrence/Aggregate
	2. SEL Self Insured Retention	Up to \$150,000 Per Occurrence based on member TIV
	3. Member Retention	\$50,000 or \$100,000 Per Occurrence based on member TIV
	E. CRIME AND FIDELITY	
	1. Limits of Liability:	
	a. Money and Securities	
	(1) Loss Inside	\$50,000 each loss
	(2) Loss Outside	\$50,000 each loss
	b. Blanket Dishonesty Bond	\$500,000 per loss
	including Faithful Performance	
	for elected officials ⁷	
	2. SEL Self Insured Retention:	NIL
	3. Member deductible:	\$1,000 each loss

⁷Statutory bond positions are excluded.

6.	Sub-Limit Applicable to Sexual Abuse and Molestation	\$10,000,000 Per Occurrence/Per Member Aggregate \$28,500,000 Fund Aggregate
G.	WORKERS' COMPENSATION	
1.	Limits of Liability:	
	a. Workers' Compensation	Statutory benefits as required by the State of New Jersey less the members SIR.
	b. Employers' Liability	\$5,000,000 Per Occurrence/Aggregate
2.	SEL Retention:	
	- Workers' Compensation	\$250,000 Per Occurrence
	- Employers' Liability	\$250,000 Per Occurrence
3.	Member Retention:	
	- Workers' Compensation	\$100,000 Per Occurrence
	- Employers' Liability	\$100,000 Per Occurrence
H.	SUPPLEMENTAL INDEMNITY	
1.	Limit of Liability:	Maximum Weekly Benefit: \$2,500/week Maximum Benefit: \$130,000 Benefit Waiting Period: 7 days Maximum Benefit Period: 104 weeks Time Period for Loss: 180 days
2.	SAIF Self Insured Retention:	NIL
3.	Member Deductible:	NIL
I.	SCHOOL LEADERS PROFESSIONAL LIABILITY	
1.	Limits of Liability	\$5,000,000 Per Claim/Per Member Aggregate
2.	SEL Self Insured Retention (SIR):	NIL
3.	Member Retention:	\$300,000 Per Occurrence
4.	Insuring Agreement:	Provide coverage for a civil claim to the extent to which this insurance applies because of a wrongful act arising out of the business activities of any member.

J. OPTIONAL EXCESS LIABILITY

1. Limits of Liability:	Optional \$5 ⁸ , \$10 or \$15 million per occurrence.
2. SEL Self Insured Retention:	NIL
3. Member Retention: Maintenance of:	NIL \$5,000,000 auto & general liability combined single limit. \$5,000,000 per claim / annual aggregate school leaders professional liability.
4. Insuring Agreement:	Provides excess coverage pursuant to F5 and I4.

L. SEL AGGREGATE EXCESS COVERAGE

As is consistent with the Fund's objective of providing cost effective, long term financial stability, the insurance program includes Aggregate Excess Coverage subject to the provisions set forth in N.J.A.C. 11:15-4.23. Aggregate Excess Coverage (frequently referred to as "Assessment Insurance") serves to limit the dollar value the Fund might require its members to pay as additional assessments. Additional assessments can result when the actual sums needed to pay for claims activity within the Fund's retention exceeds, or is projected to exceed, the Fund's claim reserve balances. Without aggregate excess coverage, this risk is unlimited.

Aggregate excess coverage provides for the assumption of the Fund's retention by an insurance carrier when the accumulation of dollars spent, including allocated loss expenses and/or financial loss elements, within the Fund's retention reaches a predetermined value known as the attachment point.

The attachment point is negotiated each year with the Fund's insurance carriers and is predicated upon the Fund's actuarial loss funding projections, loss experience, and membership at a point in time. Should the Fund's membership change during the term of the aggregate excess contract (Fund Year), the attachment point may increase or decrease relative to the change in overall loss funds and specific to the member(s) loss history.

M. REINSURANCE

The SEL may purchase reinsurance subject to the terms and conditions of the reinsurer. In no circumstance shall the terms and conditions of such reinsurance be contrary to the provisions set forth in N.J.A.C. 11:15-4.23. The SEL may purchase reinsurance for the following:

1. Property
2. Crime and Fidelity

⁸\$5,000,000 Excess general liability and auto liability is automatically included for all DIPLOMA and SAIF members with package coverage.

3. Comprehensive General Liability and Automobile Liability, including Employee Benefits Liability and Sexual Abuse and Molestation
4. Workers' Compensation
5. Optional Excess Liability
6. Supplemental Indemnity
7. School Leaders Professional Liability

III. OPERATIONAL PHILOSOPHY

A. GENERAL

As is the case with any organization, an established operating philosophy, formalized in a document such as this, is a necessary precursor to success. This section of the Risk Management Plan is developed to provide general instruction for key areas and providers of service to the Fund. Also included here are sections which restate (and amplify) the roles and responsibilities of important parties and stress the importance of activities upon which the long term success of the Fund will hinge in whole or in part.

B. ASSESSMENT PROCEDURES

1. By March 15 of each year, the Actuary shall compute, the probable net cost for the upcoming Fund year by line of coverage.
2. The annual assessment of each member shall be its pro-rata share of the probable net cost for the upcoming year for each line of coverage as computed.
3. The calculation of pro-rata shares for each educational facility shall be based on the overall Fund year budget. Pro-rata shares may be modified by the Trustees to reflect the Loss History or other pertinent data of individual members.
4. The total amount of each member's annual assessment shall be certified by majority vote of the Trustees to the governing body of each member at least one (1) month prior to the beginning of the next fiscal year.
5. The annual assessment shall be paid to the Fund in two (2) installments, to be paid as determined or as modified by the Trustees provided, however, that the full assessment shall be paid by each member no later than February 1. The annual assessment for subsequent Fund years shall be paid in accordance with the provision stated in the Fund's bylaws.
6. In the event the final budget passed in June necessitates changes in the annual assessment, the second installment shall be adjusted to reflect this difference.
7. Each member's assessment shall be deposited into the appropriate accounts including the administrative account, and the claim or loss retention Trust Fund account by fund year for each type of coverage.
8. If a joint insurance fund becomes a member of the Fund after the start of the Fund year, such member's assessments and supplemental assessments shall be reduced in proportion to that part of the year, which has elapsed.

C. CLAIMS RESPONSE AND RESERVING

Were the philosophy of the Fund in these areas to be encapsulated into two sentences, they would read as follows:

1. “The Fund will thoroughly review and respond to each claim presented so as to pay only that amount (if any) which it is legally bound and obligated to pay”; and
2. “Reserves shall be established on each claim presented in a manner which accurately reflects the full, known liability of the Fund at any given point in time.”

In reviewing each claim presented, the Fund (operating through its claims administrator and legal counsel) shall review such claims for coverage, deny those not falling within the purview of coverages offered, aggressively defend those in dispute, pursue to the fullest extent of the law those presented in bad faith, and settle as expeditiously as possible those for which the Fund is legally liable.

The claims administrator must submit to the Trustees or designees a notice of recommended settlement except for claims under (\$25,000). The notice shall be on forms approved by the Trustees and shall provide information about the claim, a summary of investigative work concerning the merits of the claim, and the reasons underlying the recommended settlement.

Case reserves, including all types of applicable allocated loss adjusting expenses, will be established with an eye toward identifying the full exposure of the Fund and its excess insurance carriers at the earliest possible date. Reserves shall be periodically reviewed for accuracy and adjusted as needed. For claims aged eighteen (18) months or more, it is expected that reserves will be not less than 90% accurate. For claims aged thirty (30) months or more 95% accuracy is expected.

D. FINANCIAL MANAGEMENT

Consistent with the objective of serving as a long term vehicle through which to stabilize the costs associated with insurance coverages, the underlying premise of the Fund's financial base shall be one of conservative up-front funding, prudent investment of idle funds, and maintenance of stringent paper and audit trails. As is the case with all other aspects of the Fund, the financial assets of the Fund can well be considered as monies held in public trust. Treatment and handling of these funds must be accomplished in a manner which reflects the stewardship obligation of those whose hands through which they pass. All investment, treasury and banking functions of the Fund are to be accomplished in a manner consistent with the enabling statutes then in effect.

E. PROCEDURES FOR THE CLOSURE OF FUND YEARS

The Fund shall, not less than sixty (60) months after the end of a fiscal year, evaluate and determine its retained outstanding ultimate net losses up to the attachment points of the specific excess and aggregate excess insurance. The Fund will close a Fund year only if:

1. A portfolio transfer of retained outstanding ultimate net losses and residual risk has been effected; or
2. Upon closure of all losses following an independent determination that the residual risk has been extinguished to the highest level of certitude.

A fund year may only be closed by resolution adopted after a public hearing.

1. All participants must receive at least one (1) month prior notice of the public hearing.
2. The resolution shall provide for the maintenance of all records in accordance with the requirements of the Commissioner of Banking and Insurance and other regulations and statutes then in effect including N.J.A.C. 11:15-4.4.(f)I & ii.
3. The resolution shall provide for written notice to the Commissioner of Banking and Insurance at least ninety (90) days before the resolution becomes effective.

F. PROCEDURES GOVERNING LOSS ADJUSTMENT AND LEGAL FEES

1. Loss Adjustment

The SEL contracts with a claims servicing organization to receive incident reports, notices of claims, and other related information.

The claims servicing organization will, under contract to SEL, perform the following:

- a. Review each claim and loss report submitted by the participants during the term of this contract.
- b. Conduct an investigation of each qualified claim or loss to the extent deemed necessary.
- c. Maintain a file for each qualified claim or loss which shall be available for review by the SEL.
- d. Adjust, settle, or resist all qualified claims or losses:
 - (1) within the stated discretionary settlement authority limit;
 - (2) with specific approval of the SEL, if outside the stated authority limit.
- e. Perform necessary and customary administrative and clerical work in connection with each qualified claim or loss, including the preparation of checks or vouchers, releases, agreements, and other documents needed to finalize a claim.
- f. Establish and update claim reserves as needed.
- g. Notify the SEL and the SEL reinsurer as designated by the SEL, of all qualified claims or losses which may exceed the SEL's retention or limit and, if requested provide information on the status of those claims or losses.
- h. Coordinate investigations on litigated claims with attorneys representing the SEL and with representatives of the reinsurer, as required. This includes the negotiation of settlements and preparation of subrogation and contribution actions.
- i. Review large and unusual claims.

- j. Maintain an automated loss and information system, and provide the SEL with reports.
- k. Provide forms needed to administer the SEL claim program.
- l. Assist the SEL in selecting appropriate experts or specialists, as the claims may require.
- m. Provide personnel needed to perform the services agreed to herein.
- n. Maintain 24-hour emergency telephone service for claims reporting.
- o. Acknowledge receipt of each claim.
- p. Assist the SEL in the filing of periodic reports required by state or administrative regulation.

2. Litigation Management and Legal Fees

The SEL realizes that every claim will not reach an amicable solution. Careful selection and control of claims and claims defense is very important.

The SEL has established procedures to provide quality defense of claims and monitor the defense procedures and costs. These procedures include:

- a. A list of approved defense attorneys.

The list will include attorneys with previous experience with workers' compensation and/or Title 59, and a fee structure considered to be reasonable shall be approved by the Commissioners or the Board of Trustees.

- b. Monitoring the activities of the defense attorneys.

The claims servicing organization in conjunction with the Fund Attorney, will supervise all legal defense activity and experts.

The SEL attorney may direct the amount of legal discovery in an effort to control costs.

G. CLAIMS AUDIT

The performance of the claims servicing organization is routinely monitored by the administrator's office.

The Fund may periodically engage the services of an independent claims auditor to evaluate the management and reserving practices of the claims servicing organization.

DIPLOMA JOINT INSURANCE FUND

WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY POLICY

Throughout this policy, the words **you** and **your** are used interchangeably and Member and Member District are used interchangeably and refer to Item 1 shown on the Information Page. The words **we**, **us** and **our** refer to the Diploma Joint Insurance Fund, hereinafter called the **Fund**.

In return for the payment of the Workers' Compensation assessment and subject to all terms of this policy, **we** agree with **you** as follows:

GENERAL SECTION

- (A) **The Policy.** This policy includes, as of the effective date, the Information Page and all endorsements and schedules listed therein. It is a contract of insurance between **you** and **us**. The only agreements relating to this coverage are stated in this policy. The terms of this policy may not be changed or waived except by endorsement issued by **us** to be part of this policy.
- (B) **Policy Period.** This policy is effective for one (1) year, commencing at 12:01 a.m. on the date stated in Item 4 of the Information Page. If this policy is canceled, the policy period will end at 12:01 a.m. on the cancellation date.

PART A - WORKERS' COMPENSATION INSURANCE

- (A) **How This Part Applies.** We will pay promptly when due, amounts required because of liability imposed on **you** by the applicable **workers' compensation law**. This insurance applies to **loss** for **bodily injury** by **accident** or **bodily injury** by **disease** including resulting death, provided:
- (1) the **bodily injury** by **accident** occurs during the period this policy is in force; or
 - (2) the **bodily injury** by **disease** is caused or aggravated by the conditions of **your** employment. The employee's last day of last exposure to those conditions of that employment causing or aggravating such **bodily injury** by **disease** must occur during the period this policy is in force.
- (B) **Our Specific Limit.** We will pay promptly when due the benefits required of **you** by the **workers' compensation law**. The most **loss** we will pay with respect to each **accident** is shown in Item 5(a) of the Information Page. The most **loss** we will pay for with respect to each employee **disease** is shown in Item 6(a) and 7(a) of the Information Page.
- (C) **We Will Defend.** We have the right and duty to defend at our expense any claim, proceeding or suit against **you** for benefits payable by this coverage. **We** have the right to investigate and settle these claims, proceedings or suits.
- We have no duty to defend a claim, proceeding or suit that is not covered by this coverage. **We** have no duty to defend or continue defending after **we** have paid **our** specific limit, as applicable, in Items 5(a), 6(a) or 7(a) of the Information Page.
- (D) **We Will Also Pay.** We will also pay these costs, in addition to other amounts payable under this coverage, as part of any claim, proceeding or suit we defend:
- (1) reasonable expenses incurred at **our** request but not **loss** of earnings;
 - (2) premiums for bonds to release attachments and for appeal bonds in bond amounts up to the amount payable under this coverage;
 - (3) litigation costs taxed against **you**;
 - (4) interest on a judgment as required by law until **we** offer the amount due under this coverage;
 - (5) expenses **we** incur.
- (E) **Exclusions.** **You** are responsible (without reimbursement from **us**) for any payments in excess of the benefits regularly provided by the **workers' compensation law** including those required because:
- (1) of **your** serious or willful misconduct;
 - (2) **you** employed an employee in violation of the law;

- (3) **you** failed to comply with a health or safety law or regulation;
- (4) **you** discharged, coerced, or otherwise discriminated against any employee in violation of the **workers' compensation law**.

PART B - EMPLOYER'S LIABILITY INSURANCE

- (A) **How This Part Applies.** We will pay all sums **you** legally must pay as **damages**, for **bodily injury** by **accident** or **bodily injury** by **disease**, including resulting death, provided:
- (1) the **bodily injury** by **accident** occurs during the period this policy is in force;
 - (2) the **bodily injury** by **disease** is caused or aggravated by the conditions of **your** employment. The employee's last day of last exposure to those conditions of that employment causing or aggravating such **bodily injury** by **disease** must occur during the period this policy is in force;
 - (3) if **you** are sued, the original suit and any related legal actions for **damages** for **bodily injury** by **accident** or **disease** was brought in the United States of America, its territories or possessions or Canada.

However, this coverage does not provide for the payment of any common law negligence **damages** or other **damages** when the provision of Article 2 of the New Jersey **workers' compensation law** have been rejected by **you** or **your** employee(s) as provided in N.J.S.A. 34:15-9.

- (B) **Our Specific Limit.** We will pay all sums **you** legally must pay as **damages**, provided the **bodily injury** is covered by this Employer's Liability Insurance. The most **loss we** will pay with respect to each **accident** is shown in Item 5(b) of the Information Page. The most **loss we** will pay with respect to each employee **disease** is shown in Items 6(b) and 7(b) of the Information Page.

The **damages we** will pay, where recovery is permitted by law, include **damages**:

- (1) for which **you** are liable to a third party by reason of a claim or suit against **you** by that third party to recover the **damages** claimed against such third party as a result of injury to **your** employee;
- (2) for care and **loss** of services; and
- (3) for **bodily injury** to a spouse, child, parent, brother or sister of the injured employee;

provided that the aforesaid **damages** are the direct consequence of **bodily injury** that arises out of and in the course of the injured employee's employment by **you**; and

- (4) because of **bodily injury** to **your** employee that arises out of and in the course of employment, claimed against **you** in a capacity other than as employer.

We may not limit our liability to pay **damages** for which **we** become legally liable to pay because of **bodily injury** to an infant under the age of 18 years in a proceeding made pursuant to Article 2 as provided in N.J.S.A. 34:15-10.

- (C) **We Will Defend.** **We** have the right and duty to defend at **our** expense any claim, proceeding or suit against **you** for damages payable by this insurance. **We** have the right to investigate and settle these claims, proceeding or suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this coverage. **We** have no duty to defend or continue defending after we have paid **our** specific limit, as applicable, in Items 5(b), 6(b) or 7 (b) of the Information Page.

- (D) **We Will Also Pay.** **We** will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding or suit we defend:

- (1) reasonable expenses incurred at **our** request but not **loss** of earnings;
- (2) premiums for bonds to release attachments and for appeal bonds in bond amounts up to the limit of **our** liability under this coverage;
- (3) litigation costs taxes against **you**;
- (4) interest on a judgment as required by law until **we** offer the amount due under this insurance;
- (5) expenses **we** incur.

- (E) **Exclusions.** **You** are responsible (without reimbursement from **us**) for:

- (1) liability assumed under a contract;
- (2) punitive or exemplary **damages** because of **bodily injury** to an employee employed in violation of the law;
- (3) **bodily injury** to an employee while employed in violation of law with **your** actual knowledge;
- (4) any obligation imposed by workers' compensation, occupational **disease**, unemployment compensation, or disability benefits law, or similar law;
- (5) **bodily injury** intentionally caused or aggravated by or at **your** direction.

However, this insurance does not cover any and all intentional wrongs within the exception allowed by N.J.S.A. 34:15-8 including but not limited to, **bodily injury** caused or aggravated by an intentional wrong committed by you or your employees, or **bodily injury** resulting from an act or omission by you or your employees, which is substantially certain to result in injury;

- (6) **bodily injury** occurring outside the United States of America, its territories or possessions or Canada. This exclusion does not apply to **bodily injury** to a citizen or resident of the United States of America or Canada who is temporarily outside these countries;
- (7) **damages** arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any employee, or any personnel practices, policies, acts or omissions.

However, with respects to exclusion (7), **we** will defend any claim, proceeding or suit for **damages** where **bodily injury** is alleged. **We** have the right to investigate and settle. **We** will not defend or continue to defend after the applicable limits of the insurance have been paid. Such coverage limits include any legal costs assessed against **you** on behalf of **your** employee(s).

PART THREE - OTHER STATES INSURANCE

(A) **How This Insurance Applies**

- (1) This OTHER STATES INSURANCE applies only if one or more **States** are shown in Item 3 of the Information Page.
- (2) If **you** begin work in any of those **States** that are not insured or are not self-insured for such work, the policy will apply as though that **State** were listed in Item 3 of the Information Page, provided:
 - (a) the injured employee was working within the scope of his employment, and at the direction of the insured;
 - (b) the injured employee was regularly employed in a **State** listed in Item 2 of the Declarations;
 - (c) the work in the other **State** was incidental to work in a **State** listed in Item 2 of the Declarations;
 - (d) the work in such other **State** was temporary and transitory.
- (3) **We** will reimburse **you** for the benefits required by the **workers' compensation law** of that **State** if **we** are not permitted to pay the benefits directly to the person entitled to them.

- (B) **Notice.** Tell **us** at once if **you** begin work in any **State** listed in Item 3 of the Information Page.

PART FOUR - CLAIMS

- (A) **Your Duties If Injury Occurs.** Tell **us** at once if injury occurs that may be covered by this policy. **Your** other duties are listed here:

- (1) Provide for immediate medical and other services required by the **workers' compensation law**.
 - (2) Give **us** or **our** agent the names and addresses of the injured persons and of witnesses, and other information **we** may need.
 - (3) Promptly give **us** all notices, demands and legal papers related to the injury, claim, proceeding or suit.
 - (4) Cooperate with **us** and assist **us**, as **we** may request, in the investigation, settlement or defense of any claim, proceeding or suit.
 - (5) Do nothing after an injury occurs that would interfere with **our** right to recover from others.
 - (6) Do not voluntarily make payment, assume obligations or incur expenses, except at **your** own cost.
- (B) **Your Claim Reporting Duties.** You must give **us** written notice for all claims with a total incurred amount of at least 50% of retention, or which you would reasonably expect to reach 50% of retention will require a full captioned report within 30 days of and updated on a quarterly basis.
- (C) In addition, the following categories of claims shall be reported to **us** immediately, regardless of any questions of potential involvement by **us**:
- (1) Any spinal cord injury;
 - (2) amputations of a major extremity;
 - (3) any serious head injury (including skull fracture) regardless of the degree of cognitive residual effect or permanency;
 - (4) internal injuries;
 - (5) injuries resulting in any loss of senses (vision, hearing, etc.);
 - (6) any second or third degree burns involving more than 25% of the body;
 - (7) multiple fractured bones or any non-union of a fracture;
 - (8) nerve damage causing loss of sensation or function; I). RSD;
 - (9) significant facial scarring;
 - (10) fatalities;
 - (11) exposure to pollutants, contaminants, chemicals, communicable diseases (such as AIDS, hepatitis) asbestos, mold, or toxins on a single incident or continuous exposure basis;

- (12) any disability of more than one year or where it appears reasonably likely that there will be disability of more than one year;
- (13) any accident which causes serious injury to two or more employees; or
- (14) all employer liability claims.

PART FIVE - CONDITIONS

- (A) **Other Insurance.** We will not pay more than **our** share of damages and costs covered by this coverage and other insurance or self-insurance. Subject to any limits of liability that apply all shares will be equal until the **loss** is paid. If any insurance or self-insurance is exhausted, the shares of all remaining insurance and self-insurance will be equal until the **loss** is paid.

This insurance, however, is excess over any other applicable insurance with respects to claims for **bodily injury** arising out of employer practices, policies, acts or omissions, enumerated in E-7 above, whether such other insurance is stated to be primary, contributory, excess contingent or otherwise.

- (B) **Transfer of Your Rights and Duties.** We have **your** rights to recover **our** payment from anyone liable for such **loss**. **You** will do everything necessary to protect those rights for **us** and to help **us** enforce them.

- (C) **Actions Against Us.** There will be no right of action against **us** unless **you** have complied with all the terms of this policy and the amount **you** owe has been determined with **our** consent or actual trial and final judgment.

This coverage document does not give anyone the right to add **us** as a defendant in an action against **you** to determine **your** liability.

- (D) **Limits of Liability.** **Our** limits apply as explained below.

- (1) Specific Bodily Injury by Accident-Each Accident. The specific limit shown for Bodily Injury by Accident-Each Accident is the most **we** will pay for **loss** covered by this policy because of **bodily injury** to one or more employees in any one **accident**. A **disease** is not **bodily injury** by **accident** unless it results directly from **bodily injury** by **accident**.
- (2) Specific Bodily Injury by Disease-Each Employee. The specific limit shown for Bodily Injury by Disease-Each Employee is the most **we** will pay for **loss** covered by this policy because of **bodily injury** by **disease** to any one employee.
- (3) Specific Bodily Injury by Disease-Policy Limit. The specific limit shown for Bodily Injury by Disease-Policy Limit is the most **we** will pay for all **damages** covered by these coverages and arising out of **bodily injury** by **disease**, regardless of the number of employees who sustain **bodily injury** by **disease**.

Bodily injury by disease does not include **disease** that results directly from a **bodily injury by accident**.

- (4) **We** will not pay any claims for **damages** after **we** have paid the applicable limit of **our** liability, except as otherwise **stated** herein.
- (E) **Notice of Occurrence.** Whenever **you** have information from which **you** may reasonably conclude that an **occurrence** covered under any coverage part of this policy involves injury or damage, notice shall be given to the "claims servicing organization" as soon as practical. Claims shall not be prejudiced if **you** through clerical oversight or error failed to notify the "claims servicing organization" of any **occurrence**.
- (F) **Arbitration.** Every controversy, dispute, difference, or claim between the **Fund** and a member district(s) of the **Fund** shall be submitted to and settled by arbitration. This includes any dispute concerning whether insurance coverage may be owed by the **Fund** to any employee, official, etc. of any local unit. Either the member district(s) or the **Fund** must request arbitration for a given controversy within the applicable statute of limitations for such controversy. Such arbitration shall be conducted by a panel of three arbitrators, which shall consist of a **Fund** commissioner designated by the affected member district(s) (which could include that unit's **Fund** commissioner), a **Fund** commissioner designated by the Board of Trustees, and an individual, independent from and not affiliated with the **Fund**, who shall be chosen by the aforesaid arbitrators from a list of individuals determined by the Board of Trustees. The arbitration shall be conducted in accordance with procedures established by the Board of Trustees. The arbitrator selected by the two **Fund** commissioner arbitrators shall be compensated for services in an amount mutually agreed to between the arbitrator and the Board of Trustees. The member district(s) and the **Fund** shall bear their own costs in prosecuting/defending the arbitration and shall split the costs of the arbitrator(s) and the arbitration. Judgment upon the award rendered by majority vote of the panel may be entered in any court having jurisdiction thereof.
- (G) **Authorization Clause and Notices.** By acceptance of this coverage, **you** agree that **you** shall act on behalf of all **members** with respect to the giving and receiving of notice of claim or cancellation, the payment of assessments and the receiving of any return of assessments that may become due under this Coverage. Notice to **you** at the business address of the Local unit shall also constitute notice to all **insureds** under this Coverage.

All notices of claims or any other notice required to be given to **us** under this coverage shall be addressed to:

Diploma Joint Insurance Fund
c/o Risk and Loss Managers Inc.
51 Everett Drive, Suite B-40
West Windsor, New Jersey 08550-5364

- (H) **Terms of Coverage Conformed to Statutes.** Terms of this coverage which are in conflict with the statutes of the State of New Jersey are hereby amended to conform to such statutes.
- (I) **Cancellation.** Any cancellation is expressly subject to the requirements of the laws of the State of New Jersey and all rules and regulations adopted thereunder, including those regulations

currently codified in N.J.A.C. 11:15-4 adopted of N.J.S.A. 17:1-8.1, N.J.S.A. 17:1C-6 (e) and N.J.S.A. 18A:18B-1 et seq. and as hereafter amended. This Coverage may be canceled by **you** by surrender hereof to **us** or any of **our** authorized agents and only in accordance with the requirements for withdrawal from the **Fund** as set forth in the aforesaid statutes, rules and regulations and the **Fund's** by-laws adopted thereunder. If **you** cancel, **your** liability for any further assessment shall be computed in accordance with the aforesaid rules and regulations.

If **we** cancel, **we** shall mail **to you**, at **your** last mailing address know to **us**, written notice stating when not less than 30 days thereafter such cancellation shall be effective. Subject to the aforesaid rules and regulations, this Coverage may also be canceled by not less than 10 days' notice when the cancellation is being effected by reason of **your** nonpayment of **your** assessment. The mailing of notice as aforesaid date and hour of cancellation stated in the notice shall become the end of the Coverage period. If **we** cancel, earned assessment shall be computed as provided in the aforesaid rules and regulations. Assessment adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment of tender of unearned assessment is not condition of cancellation.

It is expressly recognized and agreed that **you** are required to be a member of the Diploma Joint Insurance **Fund** as a condition of eligibility for this Coverage and that, in the event that **you** withdraw from or are terminated or expelled from the Joint Insurance **Fund**, then this Coverage shall

be canceled and terminated as of the effective date of **your** withdrawal, termination or expulsion. Any such withdrawal, termination or expulsion from the Diploma Joint Insurance **Fund** shall be effectuated only in accordance with the Diploma Joint Insurance **Fund's** Bylaws and risk management plan as approved pursuant to the aforementioned authorizing statutes and rules and regulations.

- (J) **Acceptance.** By acceptance of this coverage, **you** agree that this coverage embodies all agreements existing between **you** and **us** or any of **our** agents relating to this Coverage.
- (K) **Service of Suit.** It is agreed that if we fail to pay any amount claimed to be due under this coverage, **we** at **your** request will submit to the jurisdiction of any court of competent jurisdiction within the United States and will comply with all the requirements necessary to give such court jurisdiction, and all matters arising under this Coverage shall be determined in accordance with the law and practice of such court. It is further agreed that service of process in such suit against **us** may be made upon **us** and that in any suit instituted against **us** under this Coverage, we will abide by the final decision of such court, or of any appellate court in the event of an appeal. Nothing in this condition constitutes or should be understood to constitute a waiver of **our** right to commence an action in any court of competent jurisdiction in the United States to remove an action to a United States District Court or to seek a transfer of a case to another court as permitted by the laws of the United States or of any **State** of the United States. It is further agreed that service of process in such suit may be made upon **us** at **our** offices located at:

Diploma Joint Insurance Fund
c/o Risk and Loss Managers Inc.
51 Everett Drive, Suite B-40
West Windsor, New Jersey 08550-5374

Further, pursuant to any statute of any **State**, territory or district of the United States which makes provision therefore, **we** hereby designate the Superintendent, Commissioner or Director of Banking and Insurance, or other officer specified for that purpose in the statute, or his successor or successors in office, as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on **your** behalf arising out of this Coverage and hereby designate the Administrator of the **Fund** as the person to whom said officers are authorized to mail such process or a true copy thereof.

PART SIX - DEFINITIONS SECTION

When used in this policy:

Accident means each accident or series of accidents arising from one event.

Bodily injury includes resulting death.

Board of Trustees means the governing body for the **Fund** as provided for by the *N.J.S.A. 18A:18B-5* and these Bylaws.

Damages include:

- (A) damages for which **you** are liable to a third party by reason of a claim, suit or proceeding against **you** by that third party to recover damages obtained by **your** injured employee from that third party;
- (B) damages for care and **loss** of services of **your** injured employee;
- (C) damages for consequential **bodily injury** to a spouse, child, parent, brother, or sister of **your** injured employee;

provided that such damages in (A), (B) and (C) above are the direct consequence of **bodily injury** that arises out of and in the course of the injured employee's employment by **you**; and

- (D) damages because of **bodily injury** to **you** employee arising out of and in the course of employment, claimed against **you** in a capacity other than as employer.

Disease is an **accident** only if it results directly from **bodily injury** by **accident**.

Fund means the Diploma Joint Insurance Fund.

Fund commissioner means an individual appointed by a member school board having the qualifications, powers, and duties outlined in these Bylaws.

Loss means:

- (A) under Part One - Workers' Compensation, the amount actually paid by or imposed on you for regular benefits provided under the **workers' compensation law** in effect on the date the **accident** or **disease** exposure occurs. Loss includes:
- (1) the amount paid by or imposed on you in the settlement of claims for regular benefits under the **workers' compensation law**;
 - (2) the amount paid by or imposed on you in satisfaction of awards or judgments for regular benefits under the **workers' compensation law**;
 - (3) court costs, interest on awards and judgment, and allocated investigation, adjustment and legal expenses pertaining to workers' compensation claims. This subparagraph (A)(3) does not include:
 - (a) salaries paid to your employees;
 - (b) service company fees;
 - (c) claims administrator fees.
- (B) under Part Two – Employer's Liability, the amount actually paid by you for **damages** imposed upon **you** by law. Loss includes:
- (1) The amount paid by or imposed on you in settlement of claims for legal **damages**;
 - (2) The amount paid by or imposed on you in satisfaction of awards or judgments for **damages**;
 - (3) Court costs, interest on awards and judgments, and allocated investigation, adjustment and legal expenses pertaining to employers liability claims. This subparagraph "3" does not include;
 - (a) salaries paid to **your** employees;
 - (b) service company fees;
 - (c) claims administrator fees.

Member or **member district** means a school district within the meaning of *N.J.S.A. 18A:18B et. seq.* who is shown in the DECLARATIONS.

Occurrence with respect to **bodily injury** shall mean **accident**.

State means any state of the United States of America and the District of Columbia.

Workers' compensation law means

- (A) the workers' or workmen's compensation law and occupational **disease** law of
 - (1) New Jersey;
 - (2) a **State** or jurisdiction as shown in Item 3 of the Information Page;
 - (3) a **State** or jurisdiction not listed in Item 3 of the Information Page provided;
 - (a) the injured employee was working within the scope of his or her employment at **your** direction;
 - (b) the injured employee was regularly employed in a **State** or jurisdiction as listed in Item 2 of the Information Page;
 - (c) the work in the other **State** or jurisdiction was incidental to work in a **State** or jurisdiction listed in Item 2 of the Information Page;
 - (d) the work in such other **State** or jurisdiction was temporary or transitory.
- (B) the Longshoremen's and Harbor Workers' Compensation Act (33 USC Section 901-950), the Merchant Marine Act/Jones Act (46 USC Section 688);

Workers' compensation law includes any amendments to the applicable law in effect during the policy period. But it does not include the provisions of any law that provides nonoccupational disability benefits; nor the Defense Base Act, the Outer Continental Shelf Lands Act, or the Nonappropriated Fund Instrumentalities Act.

WORKERS' COMPENSATION ENDORSEMENT #1**LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT
MERCHANT MARINES/JONES ACT
INCIDENTAL OPERATIONS ENDORSEMENT**

This endorsement applies only to work subject to the Longshoremen's and Harbor Workers' Compensation Act in a **State** shown in the Schedule. The policy applies to that work as though that **State** were listed in Item 2 of the Information Page.

The definition of **workers' compensation law** includes the Longshoremen's and Harbor Workers' Compensation Act (33 USC Section 901-950) definition (1) Merchant Marine Act/Jones Act (46 USC Section 688) including and any amendment or revisions thereto during the policy period.

This endorsement does not apply to work subject to the Defense Base Act, the Outer Continental Shelf Lands Act, or the Nonappropriated Fund Instrumentalities Act.

SCHEDULE

State: New Jersey

Notes:

- (1) The Longshoremen's and Harbor Workers' Compensation Act is a federal **workers' compensation law** that applies to workers in maritime employment, including longshoremen, harbor workers, shipbuilders, ship breakers, and ship repairers. The Merchant Marine/Jones Act applies to masters or crews of vessels.
- (2) Use this endorsement to provide workers' compensation insurance and employers liability insurance for work subject to the Longshoremen's and Harbor Workers' Compensation Act and/or the Merchant Marine/Jones Act in any **State** in the Schedule.

SCHOOL EXCESS LIABILITY FUND
c/o Public Entity Group Administrative Services
51 Everett Drive, Suite B-40
West Windsor, New Jersey 08550

WORKERS' COMPENSATION
AND EMPLOYER'S LIABILITY POLICY

Certificate No. WC-21-001

INFORMATION PAGE

- Item 1. Name and Address of Insured: Diploma Joint Insurance Fund
51 Everett Drive, Suite B-40
West Windsor, NJ 08550
- Item 2. Named States: New Jersey
- Item 3. Other States: North Dakota, Ohio, Washington and Wyoming.
- Item 4. Policy Period: From: July 1, 2021 to July 1, 2022 12:01 a.m.
standard time.
- Item 5. Specific Limit Bodily Injury by Accident - Each Accident is deemed excess of your specific retention.
(a) Part I - Workers' Compensation: Statutory
(b) Part II - Employers' Liability: 5,000,000
- Item 6. Specific Limit Bodily Injury by Disease - Each Employee is deemed excess of your specific retention.
(a) Part I - Workers' Compensation: Statutory
(b) Part II - Employer's Liability: 5,000,000
- Item 7. Specific Limit Bodily Injury by Policy Limit - Each Employee is deemed excess of your specific retention.
(a) Part I - Workers' Compensation: Statutory
(b) Part II - Employer's Liability: 5,000,000

Date: July 1, 2021
Date

By: 
Authorized Signature

SCHOOL EXCESS LIABILITY FUND**WORKERS' COMPENSATION
AND EMPLOYER'S LIABILITY POLICY**

Throughout this policy, the words **you, your and Member** are used interchangeably and refer to Item 1 shown on the Information Page. The words **we, us** and **our** refer to the School Excess Liability Fund, hereinafter called the **Fund**.

In return for the payment of the Workers' Compensation assessment and subject to all terms of this policy, **we** agree with **you** as follows:

GENERAL SECTION

- (A) **Self-Insurance.** **Your** acceptance of this policy indicates that **you** are now and will remain until the end of the policy period a duly qualified self-insurer in each **State** named in Item 2 of the Information Page. If **you** are not a duly qualified self-insurer with respect to any **loss** covered by this policy, this policy will apply as if **you** were.
- (B) **The Policy.** This policy includes, as of the effective date, the Information Page and all endorsements and schedules listed therein. It is a contract of insurance between **you** and **us**. The only agreements relating to this coverage are stated in this policy. The terms of this policy may not be changed or waived except by endorsement issued by **us** to be part of this policy.
- (C) **Policy Period.** This policy is effective for one (1) year, commencing at 12:01 a.m. on the date stated in Item 4 of the Information Page. If this policy is canceled, the policy period will end at 12:01 a.m. on the cancellation date.

PART A - WORKERS' COMPENSATION INSURANCE

- (A) **How This Part Applies.** We will pay promptly when due, amounts in excess of **your specific retention** as shown in Item 5(a) of this Information Page because of liability imposed on **you** by the applicable **workers' compensation law**. This insurance applies to **loss** for **bodily injury** by **accident** or **bodily injury** by **disease** including resulting death, provided:
- (1) the **bodily injury** by **accident** occurs during the period this policy is in force; or
 - (2) the **bodily injury** by **disease** is caused or aggravated by the conditions of **your** employment. The employee's last day of last exposure to those conditions of that employment causing or aggravating such **bodily injury** by **disease** must occur during the period this policy is in force.
- (B) **Your Specific Retention.** You must retain **loss** as shown in Item 5(a). This retention applies solely to Part One - Workers' Compensation. It is important for **you** to understand that **your** retention for **disease** applies separately to each employee.
- (C) **Our Specific Limit.** We will pay promptly when due the benefits required of **you** by the **workers' compensation law** in excess of **your specific retention** as shown in Item 5(a) of the Information Page. The most **loss we** will pay with respect to each **accident** is shown in Item 5(a) of the Information Page. The most **loss we** will pay for with respect to each employee **disease** is shown in Item 6(a) and 7(a) of the Information Page.
- (D) **We Will Defend.** We have the right and duty to defend at our expense any claim, proceeding or suit against **you** for benefits payable by this coverage in excess of **your specific retention** as shown in Item 5(a) of the Information Page. **We** have the right to investigate and settle these claims, proceedings or suits.
- We** have no duty to defend a claim, proceeding or suit that is not covered by this coverage. **We** have no duty to defend or continue defending after **we** have paid **our** specific limit, as applicable, in Items 6(a), 7(a) or 8(a) of the Information Page.
- (E) **We Will Also Pay.** We will also pay these costs, in addition to other amounts payable under this coverage, as part of any claim, proceeding or suit we defend:
- (1) reasonable expenses incurred at **our** request but not **loss** of earnings;
 - (2) premiums for bonds to release attachments and for appeal bonds in bond amounts up to the amount payable under this coverage;
 - (3) litigation costs taxed against **you**;
 - (4) interest on a judgment as required by law until **we** offer the amount due under this coverage;
 - (5) expenses **we** incur.

Exclusions. **You** are responsible (without reimbursement from **us**) for any payments in excess of the benefits regularly provided by the **workers' compensation law** including those required because:

- (1) of **your** serious or willful misconduct;
- (2) **you** employed an employee in violation of the law;
- (3) **you** failed to comply with a health or safety law or regulation;
- (4) **you** discharged, coerced, or otherwise discriminated against any employee in violation of the **workers' compensation law**.

PART B - EMPLOYER'S LIABILITY INSURANCE

- (A) **How This Part Applies.** We will pay all sums **you** legally must pay as **damages**, in excess of **your specific retention** as shown in Item 5(b) for **bodily injury** by **accident** or **bodily injury** by **disease**, including resulting death, provided:
- (1) the **bodily injury** by **accident** occurs during the period this policy is in force;
 - (2) the **bodily injury** by **disease** is caused or aggravated by the conditions of **your** employment. The employee's last day of last exposure to those conditions of that employment causing or aggravating such **bodily injury** by **disease** must occur during the period this policy is in force;
 - (3) if **you** are sued, the original suit and any related legal actions for **damages** for **bodily injury** by **accident** or **disease** was brought in the United States of America, its territories or possessions or Canada.

However, this coverage does not provide for the payment of any common law negligence **damages** or other **damages** when the provision of Article 2 of the New Jersey **workers' compensation law** have been rejected by **you** or **your** employee(s) as provided in N.J.S.A. 34:15-9.

- (B) **Your Specific Retention.** **You** must retain **loss** as shown in Item 5(b) of the Information Page. This retention applies solely to Part Two – Employer's Liability. It is important for **you** to understand that **your** retention for **disease** applies separately to each employee.
- (C) **Our Specific Limit.** We will pay all sums **you** legally must pay as **damages**, in excess of **your specific retention** as shown in Item 5(b) of the Information Page, provided the **bodily injury** is covered by this Employer's Liability Insurance. The most **loss we** will pay with respect to each **accident** is shown in Item 6(b) of the Information Page. The most **loss we** will pay with respect to each employee **disease** is shown in Items 7(b) and 8(b) of the Information Page.

The **damages we** will pay, where recovery is permitted by law, include **damages**:

- (1) for which **you** are liable to a third party by reason of a claim or suit against **you** by that third party to recover the **damages** claimed against such third party as a result of injury to **your** employee;
- (2) for care and **loss** of services; and
- (3) for consequential **bodily injury** to a spouse, child, parent, brother or sister of the injured employee;

provided that the aforesaid **damages** are the direct consequence of **bodily injury** that arises out of and in the course of the injured employee's employment by **you**; and

- (4) because of **bodily injury** to **your** employee that arises out of and in the course of employment, claimed against **you** in a capacity other than as employer.

We may not limit our liability to pay **damages** for which **we** become legally liable to pay because of **bodily injury** to an infant under the age of 18 years in a proceeding made pursuant to Article 2 as provided in N.J.S.A. 34:15-10.

- (D) **We Will Defend.** We have the right and duty to defend at **our** expense any claim, proceeding or suit against **you** for damages payable by this insurance in excess of your specific retention as shown in Item 5(b) of the Information Page. **We** have the right to investigate and settle these claims, proceeding or suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this coverage. **We** have no duty to defend or continue defending after we have paid **our** specific limit, as applicable, in Items 6(b), 7(b) or 8 (b) of the Information Page.

- (E) **We Will Also Pay.** We will also pay these costs, in addition to other amounts payable under this insurance, as part of any claim, proceeding or suit we defend:

- (1) reasonable expenses incurred at **our** request but not **loss** of earnings;
- (2) premiums for bonds to release attachments and for appeal bonds in bond amounts up to the limit of **our** liability under this coverage;
- (3) litigation costs taxes against **you**;
- (4) interest on a judgment as required by law until **we** offer the amount due under this insurance;
- (5) expenses **we** incur.

- (F) **Exclusions.** **You** are responsible (without reimbursement from **us**) for:

- (1) liability assumed under a contract;
- (2) punitive or exemplary **damages** because of **bodily injury** to an employee employed in violation of the law;
- (3) **bodily injury** to an employee while employed in violation of law with **your** actual knowledge;
- (4) any obligation imposed by workers' compensation, occupational **disease**, unemployment compensation, or disability benefits law, or similar law;
- (5) **bodily injury** intentionally caused or aggravated by or at **your** direction.

However, this insurance does not cover any and all intentional wrongs within the exception allowed by N.J.S.A. 34:15-8 including but not limited to, **bodily injury** caused or aggravated by an intentional wrong committed by you or your employees, or **bodily injury** resulting from an act or omission by you or your employees, which is substantially certain to result in injury;

- (6) **bodily injury** occurring outside the United States of America, its territories or possessions or Canada. This exclusion does not apply to **bodily injury** to a citizen or resident of the United States of America or Canada who is temporarily outside these countries;

- (7) **damages** arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any employee, or any personnel practices, policies, acts or omissions.

However, with respects to exclusion (7), **we** will defend any claim, proceeding or suit for **damages** where **bodily injury** is alleged. **We** have the right to investigate and settle. **We** will not defend or continue to defend after the applicable limits of the insurance have been paid. Such coverage limits include any legal costs assessed against **you** on behalf of **your** employee(s).

PART THREE - OTHER STATES INSURANCE

(A) **How This Insurance Applies**

- (1) This OTHER **STATES** INSURANCE applies only if one or more **States** are shown in Item 3 of the Information Page.
- (2) If **you** begin work in any of those **States** that are not insured or are not self-insured for such work, the policy will apply as though that **State** were listed in Item 3 of the Information Page, provided:
 - (a) the injured employee was working within the scope of his employment, and at the direction of the insured;
 - (b) the injured employee was regularly employed in a **State** listed in Item 2 of the Declarations;
 - (c) the work in the other **State** was incidental to work in a **State** listed in Item 2 of the Declarations;
 - (d) the work in such other **State** was temporary and transitory.
- (3) **We** will reimburse **you** for the benefits required by the **workers' compensation law** of that **State** if **we** are not permitted to pay the benefits directly to the person entitled to them.

- (B) **Notice.** Tell **us** at once if **you** begin work in any **State** listed in Item 3 of the Information Page.

PART FOUR - CLAIMS

- (A) **Your Claim Handling Duties.** It is **your** responsibility to investigate, settle, defend, and appeal any claim made against **you**. It also is **your** responsibility to investigate, settle, defend, and appeal any suit brought or other proceeding instituted against **you**.
- (B) **Claims Participation by Us.** At **our** own election and expense, **we** have the right to participate with **you** in the settlement, defense or appeal of any claim proceeding or suit which might involve this policy.
- (C) **Your Claim Reporting Duties.** **You** must give **us** written notice for all claims with a total incurred amount of at least 50% of retention, or which you would reasonably expect to reach 50% of retention will require a full captioned report within 30 days and updated on a quarterly basis.
- (D) In addition, the following categories of claims shall be reported to **us** immediately, regardless of any questions of potential involvement by **us**:
- (1) Any spinal cord injury;
 - (2) amputations of a major extremity;
 - (3) any serious head injury (including skull fracture) regardless of the degree of cognitive residual effect or permanency;
 - (4) internal injuries;
 - (5) injuries resulting in any loss of senses (vision, hearing, etc.);
 - (6) any second or third degree burns involving more than 25% of the body;
 - (7) multiple fractured bones or any non-union of a fracture;
 - (8) nerve damage causing loss of sensation or function; I). RSD;
 - (9) significant facial scarring;
 - (10) fatalities;
 - (11) exposure to pollutants, contaminants, chemicals, communicable diseases (such as AIDS, hepatitis) asbestos, mold, or toxins on a single incident or continuous exposure basis;
 - (12) any disability of more than one year or where it appears reasonably likely that there will be disability of more than one year;
 - (13) any accident which causes serious injury to two or more employees; or
 - (14) all employer liability claims.

PART FIVE - CONDITIONS

- (A) **Other Insurance.** We will not pay more than **our** share of damages and costs covered by this coverage and other insurance or self-insurance. Subject to any limits of liability that apply all shares will be equal until the **loss** is paid. If any insurance or self-insurance is exhausted, the shares of all remaining insurance and self-insurance will be equal until the **loss** is paid.

This insurance, however, is excess over any other applicable insurance with respects to claims for **bodily injury** arising out of employer practices, policies, acts or omissions, enumerated in F7 above, whether such other insurance is stated to be primary, contributory, excess contingent or otherwise.

- (B) **Transfer of Your Rights and Duties.** We have **your** rights to recover **our** payment from anyone liable for such **loss**. **You** will do everything necessary to protect those rights for **us** and to help **us** enforce them.

- (C) **Actions Against Us.** There will be no right of action against **us** unless **you** have complied with all the terms of this policy and the amount **you** owe has been determined with **our** consent or actual trial and final judgment.

This coverage document does not give anyone the right to add **us** as a defendant in an action against **you** to determine **your** liability.

- (D) **Limits of Liability.** **Our** limits apply as explained below.

- (1) Specific Excess Limit Bodily Injury by Accident-Each Accident. The specific limit shown for Bodily Injury by Accident-Each Accident is the most **we** will pay for **loss** covered by this policy because of **bodily injury** to one or more employees in any one **accident**. A **disease** is not **bodily injury** by **accident** unless it results directly from **bodily injury** by **accident**.
- (2) Specific Excess Limit Bodily Injury by Disease-Each Employee. The specific limit shown for Bodily Injury by Disease-Each Employee is the most **we** will pay for **loss** covered by this policy because of **bodily injury** by **disease** to any one employee.
- (3) Specific Excess Limit Bodily Injury by Disease-Policy Limit. The specific limit shown for Bodily Injury by Disease Policy Limit is the most **we** will pay for all **damages** covered by these coverages and arising out of **bodily injury** by **disease**, regardless of the number of employees who sustain **bodily injury** by **disease**.

Bodily injury by **disease** does not include **disease** that results directly from a **bodily injury** by **accident**.

- (4) **We** will not pay any claims for **damages** after **we** have paid the applicable limit of **our** liability, except as otherwise **stated** herein.
- (E) **Notice of Occurrence.** Whenever **you** have information from which **you** may reasonably conclude that an **occurrence** covered under any coverage part of this policy involves injury or damage, notice shall be given to the "claims servicing organization" as soon as practical. Claims shall not be prejudiced if **you** through clerical oversight or error, failed to notify the "claims servicing organization" of any **occurrence**.

- (F) **Arbitration.** Every controversy, dispute, difference, or claim between the **Fund** and a member of the **Fund** shall be submitted to and settled by arbitration. This includes any dispute concerning whether insurance coverage may be owed by the **Fund** to any employee, official, etc. of any member. Either the member or the **Fund** must request arbitration for a given controversy within the applicable statute of limitations for such controversy. Such arbitration shall be conducted by a panel of three arbitrators, which shall consist of a **Fund** commissioner designated by the affected member district(s) (which could include that unit's **Fund** commissioner), a **Fund** commissioner designated by the **Board of Trustees**, and an individual, independent from and not affiliated with the **Fund**, who shall be chosen by the aforesaid arbitrators from a list of individuals determined by the **Board of Trustees**. The arbitration shall be conducted in accordance with procedures established by the **Board of Trustees**. The arbitrator selected by the two **Fund** commissioner arbitrators shall be compensated for services in an amount mutually agreed to between the arbitrator and the **Board of Trustees**. The member and the **Fund** shall bear their own costs in prosecuting/defending the arbitration and shall split the costs of the arbitrator(s) and the arbitration. Judgment upon the award rendered by majority vote of the panel may be entered in any court having jurisdiction thereof.
- (G) **Authorization Clause and Notices.** By acceptance of this coverage, **you** agree that **you** shall act on behalf of all **members** with respect to the giving and receiving of notice of claim or cancellation, the payment of assessments and the receiving of any return of assessments that may become due under this Coverage. Notice to **you** at the business address of the Local unit shall also constitute notice to all **insureds** under this Coverage.

All notices of claims or any other notice required to be given to **us** under this coverage shall be addressed to:

School Excess Liability Fund
51 Everett Drive, Suite B-40
West Windsor, New Jersey 08550-5364

- (H) **Terms of Coverage Conformed to Statutes.** Terms of this coverage which are in conflict with the statutes of the State of New Jersey are hereby amended to conform to such statutes.
- (I) **Cancellation.** Any cancellation is expressly subject to the requirements of the laws of the State of New Jersey and all rules and regulations adopted thereunder, including those regulations currently codified in N.J.A.C. 11:15-4 adopted of N.J.S.A. 17:1-8.1, N.J.S.A. 17:1C-6 (e) and N.J.S.A. 18A:18B-1 et seq. and as hereafter amended. This Coverage may be canceled by **you** by surrender hereof to **us** or any of **our** authorized agents and only in accordance with the requirements for withdrawal from the **Fund** as set forth in the aforesaid statutes, rules and regulations and the **Fund's** by-laws adopted thereunder. If **you** cancel, **your** liability for any further assessment shall be computed in accordance with the aforesaid rules and regulations.

If **we** cancel, **we** shall mail to **you**, at **your** last mailing address know to **us**, written notice stating when not less than 30 days thereafter such cancellation shall be effective. Subject to the aforesaid rules and regulations, this Coverage may also be canceled by not less than 10 days notice when the cancellation is being effected by reason of **your** nonpayment of **your** assessment. The mailing of notice as aforesaid date and hour of cancellation stated in the notice shall become the end of the Coverage period. If **we** cancel, earned assessment shall be computed as provided in the aforesaid rules and regulations. Assessment adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment of tender of

unearned assessment is not condition of cancellation.

It is expressly recognized and agreed that **you** are required to be a member of the School Excess Liability Fund as a condition of eligibility for this Coverage and that, in the event that **you** withdraw from or are terminated or expelled from the Joint Insurance Fund, then this Coverage shall be canceled and terminated as of the effective date of **your** withdrawal, termination or expulsion.

Any such withdrawal, termination or expulsion from the School Excess Liability Fund shall be effectuated only in accordance with the School Excess Liability Fund's Bylaws and risk management plan as approved pursuant to the aforementioned authorizing statutes and rules and regulations.

- (J) **Acceptance.** By acceptance of this coverage, **you** agree that this coverage embodies all agreements existing between **you** and **us** or any of **our** agents relating to this Coverage.
- (K) **Service of Suit.** It is agreed that if we fail to pay any amount claimed to be due under this coverage, **we** at **your** request will submit to the jurisdiction of any court of competent jurisdiction within the United States and will comply with all the requirements necessary to give such court jurisdiction, and all matters arising under this Coverage shall be determined in accordance with the law and practice of such court. It is further agreed that service of process in such suit against **us** may be made upon **us** and that in any suit instituted against **us** under this Coverage, we will abide by the final decision of such court, or of any appellate court in the event of an appeal. Nothing in this condition constitutes or should be understood to constitute a waiver of **our** right to commence an action in any court of competent jurisdiction in the United States to remove an action to a United States District Court or to seek a transfer of a case to another court as permitted by the laws of the United States or of any **State** of the United States. It is further agreed that service of process in such suit may be made upon **us** at **our** offices located at:

School Excess Liability Fund
51 Everett Drive, Suite B-40
West Windsor, New Jersey 08550-5364

Further, pursuant to any statute of any **State**, territory or district of the United States which makes provision therefore, **we** hereby designate the Superintendent, Commissioner or Director of Banking and Insurance, or other officer specified for that purpose in the statute, or his successor or successors in office, as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on **your** behalf arising out of this Coverage and hereby designate the Administrator of the **Fund** as the person to whom said officers are authorized to mail such process or a true copy thereof.

PART SIX - DEFINITIONS SECTION

When used in this policy:

Accident means each accident or series of accidents arising from one event.

Bodily injury includes resulting death.

Board of Trustees means the governing body for the **Fund** as provided for by the *N.J.S.A. 18A:18B-5* and these Bylaws.

Damages include:

- (A) damages for which **you** are liable to a third party by reason of a claim, suit or proceeding against **you** by that third party to recover damages obtained by **your** injured employee from that third party;
- (B) damages for care and **loss** of services of **your** injured employee;
- (C) damages for consequential **bodily injury** to a spouse, child, parent, brother, or sister of **your** injured employee;

provided that such damages in (A), (B) and (C) above are the direct consequence of **bodily injury** that arises out of and in the course of the injured employee's employment by **you**; and

- (D) damages because of **bodily injury** to **you** employee arising out of and in the course of employment, claimed against **you** in a capacity other than as employer.

Disease is an **accident** only if it results directly from **bodily injury** by **accident**.

Fund means the School Excess Liability Fund.

Fund commissioner means an individual appointed by a member school board having the qualifications, powers, and duties outlined in these Bylaws.

Loss means:

- (A) Under Part One - Workers' Compensation, the amount actually paid by or imposed on you for regular benefits provided under the **workers' compensation law** in effect on the date the **accident** or **disease** exposure occurs. Loss includes:
 - (1) the amount paid by or imposed on you in the settlement of claims for regular benefits under the **workers' compensation law**;
 - (2) the amount paid by or imposed on you in satisfaction of awards or judgments for regular benefits under the **workers' compensation law**;
 - (3) court costs, interest on awards and judgment, and allocated investigation, adjustment and legal expenses pertaining to workers' compensation claims. This subparagraph A3 does not include:
 - (a) salaries paid to your employees;
 - (b) service company fees;

- (c) claims administrator fees.
- (B) under Part Two – Employer's Liability, the amount actually paid by you for **damages** imposed upon **you** by law. Loss includes:
- (1) The amount paid by or imposed on you in settlement of claims for legal **damages**;
 - (2) The amount paid by or imposed on you in satisfaction of awards or judgments for **damages**;
 - (3) Court costs, interest on awards and judgments, and allocated investigation, adjustment and legal expenses pertaining to employers liability claims. This subparagraph "3" does not include;
 - (a) salaries paid to **your** employees;
 - (b) service company fees;
 - (c) claims administrator fees.

Occurrence with respect to **bodily injury** shall mean **accident**.

State means any state of the United States of America and the District of Columbia.

Workers' compensation law means

- (A) The workers' or workmen's compensation law and occupational **disease** law of
- (1) New Jersey;
 - (2) a **State** or jurisdiction as shown in Item 3 of the Information Page;
 - (3) a **State** or jurisdiction not listed in Item 3 of the Information Page provided;
 - (a) the injured employee was working within the scope of his or her employment at **your** direction;
 - (b) the injured employee was regularly employed in a **State** or jurisdiction as listed in Item 2 of the Information Page;
 - (c) the work in the other **State** or jurisdiction was incidental to work in a **State** or jurisdiction listed in Item 2 of the Information Page;
 - (d) the work in such other **State** or jurisdiction was temporary or transitory.
- (B) the Longshoremen's and Harbor Workers' Compensation Act (33 USC Section 901-950), the Merchant Marine Act/Jones Act (46 USC Section 688);

Workers' compensation law includes any amendments to the applicable law in effect during the policy period. But it does not include the provisions of any law that provides nonoccupational disability benefits; nor the Defense Base Act, the Outer Continental Shelf Lands Act, or the Nonappropriated Fund Instrumentalities Act.

WORKERS' COMPENSATION ENDORSEMENT #1**LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT
MERCHANT MARINES/JONES ACT
INCIDENTAL OPERATIONS ENDORSEMENT**

This endorsement applies only to work subject to the Longshoremen's and Harbor Workers' Compensation Act in a **State** shown in the Schedule. The policy applies to that work as though that **State** were listed in Item 2 of the Information Page.

The definition of **workers' compensation law** includes the Longshoremen's and Harbor Workers' Compensation Act (33 USC Section 901-950) definition (1) Merchant Marine Act/Jones Act (46 USC Section 688) including and any amendment or revisions thereto during the policy period.

This endorsement does not apply to work subject to the Defense Base Act, the Outer Continental Shelf Lands Act, or the Nonappropriated Fund Instrumentalities Act.

SCHEDULE

State: New Jersey

Notes:

- (1) The Longshoremen's and Harbor Workers' Compensation Act is a federal **workers' compensation law** that applies to workers in maritime employment, including longshoremen, harbor workers, shipbuilders, ship breakers, and ship repairers. The Merchant Marine/Jones Act applies to masters or crews of vessels.
- (2) Use this endorsement to provide workers' compensation insurance and employers liability insurance for work subject to the Longshoremen's and Harbor Workers' Compensation Act and/or the Merchant Marine/Jones Act in any **State** in the Schedule.

2022-2023 PROPERTY INSURANCE

This coverage memorandum briefly summarizes the differences between the Fund's application of property coverage versus the application of coverage contained in the attached Alliant Property Insurance Program (APIP) policy, which is procured through the School Excess Liability Joint Insurance Fund (SEL) on behalf of its two JIF member entities, the Diploma Joint Insurance Fund (Diploma) and the School Alliance Insurance Fund (SAIF).

PROGRAM STRUCTURE

The program has a limit of liability for property of \$500,000,000. This limit, with certain exceptions, applies on a "per occurrence" basis and is shared by Diploma and SAIF. Major exceptions are addressed in subsequent sections of this memorandum. This limit of liability breaks down as follows:

Diploma: **\$100,000** per occurrence (subject to an annually determined aggregate)

SEL: **\$150,000** per occurrence (subject to an annually determined aggregate) excess of the Diploma retention of \$100,000. Higher retentions may apply to certain coverages.

APIP: **\$250,000,000** excess of the Diploma/SEL per occurrence combined retention of \$250,000. There are also sub-limits applicable to certain coverages.

An occurrence arising out of a loss traceable to the same event and not otherwise excluded under this policy affecting both Diploma and SAIF members shall be deemed to be a single occurrence with one \$100,000 limit of liability applying to the entire loss. Each Fund's share of the limit of liability shall be based upon the ratio of each Fund's individual loss to the total loss incurred.

Separate conditions apply to losses covered under the Named Storm Special Terms and Conditions.

MAJOR PROGRAM EXCEPTIONS

Peril of Flood

Locations situated in the Special Flood Hazard Areas A & V:

Diploma: Diploma does not insure any locations for flood at locations situated in the Special Flood Hazard Areas A & V.

SEL: SEL does not insure locations for flood at locations situated in the Special Flood Hazard Areas A & V.

APIP: APIP provides the coverage for locations for loss or damage resulting from the peril of flood at locations situated in the Special Flood Hazard Areas A & V. The coverage applies subject the following sub-limits:

\$50,000,000 sublimited to \$25,000,000 per occurrence per district (member) per occurrence and in the annual aggregate for all locations in Flood Zones A & V and all other 100 year exposures.

For flood losses in locations situated in Special Flood Hazard Areas A & V, the individual member district must retain or insure elsewhere the following deductibles:

\$500,000 per building

\$500,000 per building contents

This is the maximum coverage available through the National Flood Insurance Program (NFIP).

Flood Zone Designations

It is the responsibility of the member district to determine flood zone designations annually.

Named Storm

Diploma: \$200,000 per occurrence.

SEL: \$300,000 excess of the Diploma retention of \$200,000 per occurrence.

APIP: \$100,000,000 excess of the Diploma/SEL per occurrence combined retention of \$500,000 for loss or damage caused directly or indirectly by wind, windstorm, hurricane, tornado; including hail, sleet, or snow, storm surge or wave wash (I.E. the action of waves) or spray (all whether or not driven by wind) to property, when such loss results from a named storm.

An occurrence arising out of a Named Storm loss traceable to the same event and not otherwise excluded under this policy affecting both Diploma and SAIF members shall be deemed to be a single occurrence with one \$200,000 limit of liability applying to the entire loss. Each Fund's share of the limit of liability shall be based upon the ratio of each Fund's individual loss to the total loss incurred.

Auto Physical Damage

Diploma: **\$200,000** per occurrence (subject to an annually determined aggregate).

SEL: **\$300,000** "All Risk" per occurrence (subject to an annually determined aggregate) excess of the Diploma retention of \$200,000.

APIP: **Included in property limit** excess of the Diploma/SEL per occurrence combined retention of \$500,000.

Valuation: Replacement Cost coverage is provided on busses ten (10) years of age and less. The most we will pay for loss in any one accident to all other vehicles is the lesser of:

1. The actual cash value of the damaged or stolen property as of the time of the loss; or
2. The cost of repairing or replacing the damaged or stolen property with other property of like, kind and quality.

Temporary Transportation Expense: When there is a loss to a covered auto, we will pay up to \$2,500 per month for incurred transportation expenses. We will pay only for those covered autos for which you carry physical damage coverage.

Property Letter: Fund Year 2022-2023

This coverage applies only if:

1. Your covered auto is withdrawn from use for more than 24 hours; and
2. The loss is covered under this policy.

Our payment will be limited to that period of time reasonably required to repair or replace the covered auto.

Environmental Impairment Liability

Limit of Liability:	\$1,000,000 Per Incident /\$5,000,000 Fund Annual Aggregate

Sublimited to:

a. Sewage Backup Liability:	\$1,000,000 Per Incident/\$1,000,000 Aggregate

b. Indoor Environmental:	\$250,000 Per Incident/\$250,000 Aggregate for Bodily Injury/Property Damage

SAIF Self Insured Retention:	NIL

Member Deductible:	\$25,000 Per Incident Minimum ¹

Indoor Environmental Deductible:	\$100,000 Bodily Injury/Property Damage

¹This retention is expressed as a standard amount. Each member's retention will be predicated on the underwriter's evaluation of the member's application.

Diploma Joint Insurance Fund

**Section Reserved for
Property Coverage Document**

Diploma Joint Insurance Fund

Section Reserved for Cyber Liability Coverage Document

Diploma Joint Insurance Fund

**Section Reserved for
Crime Coverage Document**

DIPLOMA JOINT INSURANCE FUND

Casualty Insurance Provisions

Coverage Jacket

Throughout this Coverage Document the words **you**, **your** and **insured** are used interchangeably. These terms refer to the **Member** stated on the enclosed Declaration Pages and any other persons or organizations qualifying as such under the **Who is An Insured** provision of the respective Coverage Parts that comprise this Coverage. The words **we**, **us**, and **our** refer to the Diploma Joint Insurance Fund, hereinafter called the **Fund**, providing this insurance.

Other words and phrases that appear in **bold face** have specific meanings as they relate to this Coverage: Refer to the **General Definitions** in this Coverage Jacket and to each Coverage Part for additional definitions appropriate to that Coverage Part.

GENERAL INSURING AGREEMENT

In consideration of the agreement to become a part of the **Fund**, and subject to all of its terms including this insuring agreement, **we** agree with **you** as follows:

- (1) This Coverage is composed of this Coverage Jacket, the Declarations Page(s), any Endorsements included therein, and the following applicable Coverage Parts:

Part I.	Comprehensive General Liability
Part II.	Employee Benefits Liability
Part III.	Business Auto Liability
Part IV.	Abuse or Molestation Liability Coverage
- (2) The provisions of one Coverage Part do not apply to the insurance afforded under any other Coverage Part, unless otherwise stated.

SUPPLEMENTARY PAYMENTS

Supplementary Payments – Coverage Part I; Coverages A and B, Part II and Part IV

- (1) **We** will pay, within the applicable limit of liability, with respect to any **claim we** investigate or settle, or any **suit** against an **insured we** defend:
 - (a) All expenses **we** incur.
 - (b) Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the **Bodily Injury** Liability Coverage applies. **We** do not have to furnish these bonds.
 - (c) The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. **We** do not have to furnish these bonds.

- (d) All reasonable expenses incurred by the **insured** at **our** request to assist **us** in the investigation or defense of the **claim** or **suit**, including actual loss of earnings up to \$250 a day because of time off from work.
 - (e) All costs taxed against the **insured** in the **suit** we defend.
 - (f) Prejudgment interest awarded against the **insured** on that part of the judgment **we** pay. If **we** make an offer to pay the applicable limit of insurance, **we** will not pay any prejudgment interest based on that period of time after the offer.
 - (g) All interest on the full amount of any judgment that accrues after entry of the judgment and before **we** have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.
- (2) If **we** defend an **insured** against a **suit** and an indemnitee of the **insured** is also named as a party to the **suit**, **we** will defend that indemnitee if all of the following CONDITIONS are met:
- (a) The **suit** against the indemnitee seeks damages for which the **insured** has assumed the liability of the indemnitee in a contract or agreement that is an **insured contract**;
 - (b) This insurance applies to such liability assumed by the **insured**;
 - (c) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the **insured** in the same **insured contract**;
 - (d) The allegations in the **suit** and the information **we** know about the **occurrence** are such that no conflict appears to exist between the interests of the **insured** and the interests of the indemnitee.
 - (e) The indemnitee and the **insured** ask **us** to conduct and control the defense of that indemnitee against such **suit** and agree that **we** can assign the same counsel to defend the insurance and the indemnitee; and
 - (f) The indemnitee:
 - 1. Agrees in writing to:
 - (i) Cooperate with **us** in the investigation, settlement or defense of the **suit**;
 - (ii) Immediately send **us** copies of any demands, notices, summonses or legal papers received in connection with the **suit**;
 - (iii) Notify any other insurer whose coverage is available to the indemnitee; and
 - (iv) Cooperate with **us** with respect to coordinating other applicable insurance available to the indemnitee; and
 - 2. Provides **us** with written authorization to:
 - (i) Obtain records and other information related to the **suit**; and
 - (ii) Conduct and control the defense of the indemnitee in such **suit**.

However, **we** shall not be obliged to pay any **claim** or judgement to defend any **suit** if the applicable limit of **our** insurance has been exhausted by the payment of judgments, settlements or SUPPLEMENTARY PAYMENTS including legal costs associated with any **claim** or **suit** covered hereunder; all legal costs and other SUPPLEMENTARY PAYMENTS are included within the applicable limit of insurance.

GENERAL DEFINITIONS

When used in this Coverage:

Additional insured means that person, party, or entity designated as an **additional insured** in an amendatory ENDORSEMENT or through Certificate of Insurance, issued by the Underwriting Manager of the **JIF**, but coverage is only afforded to the extent provided therein subject to the Limits of Liability stated in the DECLARATIONS. If the Limits of Liability stated on the certificate exceeds the applicable Limits of Liability as set forth in Item C of the DECLARATIONS, the limit set forth in Item C of the DECLARATIONS apply.

Additional insured - volunteers - Board **Members** or other **Members** of the administrative staff, student teachers and authorized volunteers.

Advertisement means a notice that is broadcast or published to the general public or specific market segments about **your** goods, products or services for the purpose of attracting consumers or supporters. For the purpose of this definition:

- (1) Notices that are published include material placed on the internet or on similar electronic means of communication; and
- (2) Regarding websites, only the part of the website that is about **your** goods, products or services for the purposes of attracting customers or supporters is considered an **advertisement**.

Auto means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment or any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. However, it does not include **mobile equipment**.

Board of Trustees means the governing body for the **Fund** as provided for by N.J.S.A. 18A:18B-5 and the **Fund's** Bylaws.

Bodily injury

- (1) Under PART I. COMPREHENSIVE GENERAL LIABILITY, **bodily injury** means: **Bodily injury**, sickness, disease or mental anguish sustained by a person, including death at any time resulting from any of these. Damages because of **bodily injury** include damages claimed by any person or organization for care, loss of services or death resulting at any time from the **bodily injury**.
- (2) Under PART III. BUSINESS AUTO LIABILITY, **bodily injury** means **bodily injury**, sickness or disease, including death at any time resulting from the aforesaid.

Claim means a demand received by any **insured** for damages alleging injury or damage to persons or property including the institution of a **suit** for such damages against any **insured**.

Combined single limit means the most **we** will pay in one **occurrence** for all damages including all sums under the SUPPLEMENTARY PAYMENTS provision because of any **bodily injury, property damage, personal injury or advertising injury** and any act, error or omission in the **administration of employee benefit programs** and any combination thereof.

Employee includes a **leased worker** and **temporary worker**. **Employee** shall not include any person working on a retainer and/or as an independent contractor.

Employee benefit programs mean group life insurance, group health insurance, profit sharing plans, pension plans, **employee** stock subscription plans, workers' compensation, unemployment insurance, social security, disability benefits insurance, group accident and travel, savings or vacation plans or similar plans or programs.

Fund means the Diploma Joint Insurance Fund.

Fund commissioner means an individual appointed by a **Member** school board having the qualifications, powers, and duties outlined in the **Fund's** Bylaws.

Fungi means any type of form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by **fungi**.

Insured means the persons and entities qualifying as such under the **Who is an Insured** section of the respective Coverage Parts.

Insured Contract means:

- (1) A contract for lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, or explosion to premises while rented to **you** or temporarily occupied by **you** with permission of the owner is not an **insured contract**;
- (2) A sidetrack agreement;
- (3) Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- (4) An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- (5) An elevator maintenance agreement;
- (6) That part of any other contract or agreement pertaining to **your** business (including an indemnification of a municipality in connection with work performed for a municipality) under

which **you** assume the tort liability of another to pay for **bodily injury** or **property damage** to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement;

- (7) That part of any contract or agreement entered into, as part of **your** business, pertaining to the rental or lease, by **you** or any of **your** employees, of any **auto**. However, such contract or agreement shall not be considered an **insured contract** to the extent that it obligates **you** or any of **your** employees to pay for **property damage** to any **auto** rented or leased by **you** or any of **your** employees.

An **insured contract** does not include that part of any contract or agreement:

- (a) That indemnifies any person or organization for **bodily injury** or **property damage** arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
- (b) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (i) Preparing, approving or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; or
 - (ii) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- (c) Under which the **insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the **insured's** rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities; or
- (d) Under which the **insured** assumes liability for serving or furnishing alcoholic beverages.
- (e) That pertains to the loan, lease or rental of an **auto** to **you** or any of **your** employees, if the **auto** is loaned, leased or rented with a driver; or
- (f) That holds a person or organization engaged in the business of transporting property by **auto** for hire harmless for **your** use of a covered **auto** over a route or territory that person or organization is authorized to serve by public authority.

Leased worker means a person leased to **you** by a labor leasing firm under an agreement between **you** and the labor leasing firm, to perform duties related to the conduct of **your** business; **leased worker** does not include a **temporary worker**.

Loading and unloading means the handling of property:

- (1) After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or **auto**;
- (2) While it is in or on an aircraft, watercraft or **auto**; or

- (3) While it is being moved from an aircraft, watercraft or **auto** to the place where it is finally delivered;

but **loading** or **unloading** does not include the movement of property by means of a mechanical device, other than a hand truck that is not attached to the aircraft, watercraft or **auto**.

Member means a school district within the meaning of *N.J.S.A. 18A-18B-1 et. seq.* who is shown in the DECLARATIONS, and other persons or organizations qualifying as such under the **Who Is an Insured** provision of the respective Coverage Parts.

Mobile equipment means any of the following types of land vehicles, including any attached machinery or equipment:

- (1) Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- (2) Vehicles maintained for use solely on or next to premises **you** own or rent;
- (3) Vehicles that travel on crawler treads;
- (4) Vehicle, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted;
 - (a) Power cranes, shovels, loaders, diggers or drills; or
 - (b) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- (5) Vehicles not described in 1,2,3 or 4 above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (a) Air compressors, pumps and generators, including spraying, welding, building, cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (b) Cherry pickers and similar devices used to raise or lower workers;
- (6) Vehicles not described in 1, 2, 3, or 4 above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not **mobile equipment** but will be considered **autos**:
 - (a) Equipment designed primarily for:
 - (i) Snow removal
 - (ii) Road maintenance, but not construction or resurfacing; or
 - (iii) Street Cleaning;
 - (b) Cherry pickers and similar devices mounted on **auto** or truck chassis and used to raise and lower workers; and
 - (c) Air compressor, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or

principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

Occurrence(s)

- (1) Under PART I COMPREHENSIVE GENERAL LIABILITY and with reference to:
 - (a) **bodily injury or property damage**; an **occurrence(s)** means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
 - (b) **personal and advertising injury**; an offense described in the definition of **personal and advertising injury**.
- (2) Under PART II. EMPLOYEE BENEFITS LIABILITY, an **occurrence** means an act, error or omission in the **administration of your employee benefit programs** by the **Member** or by any person or organization for whose acts the **Member** is legally liable.

Personal and advertising injury means injury, including consequential **bodily injury** arising out of one or more of the following offenses committed during the Coverage period:

- (1) False arrest, detention, or imprisonment;
- (2) Malicious prosecution;
- (3) The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling, or premises that a person occupies, committed by or on behalf of its owner, landlord, or lessor;
- (4) Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products, or services; or
- (5) Oral or written publication, in any manner, of material that violates a person's right of privacy.
- (6) The use of another's advertising idea in **your advertisement**; or
- (7) Infringing upon another's copyright, trade dress or slogan in **your advertisement**.

Pollutants mean any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Property damage

Under PART I. COMPREHENSIVE GENERAL LIABILITY AND PART III. BUSINESS AUTO LIABILITY, **property damage** means:

- (1) Physical injury to tangible property including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- (2) Loss of use of tangible property that is not physically injured. All such loss shall be deemed to occur at the time of the **occurrence** or **accident** that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

Suit means a civil proceeding in which:

- (1) Damages because of **bodily injury** or **property damage**, **personal injury** or **advertising injury**; or,
- (2) A **covered pollution cost or expense**, to which this insurance applies, are alleged.

Suit includes:

- (a) An arbitration proceeding in which such damages are claimed and to which the **insured** must submit or does submit with **our** consent; or
- (b) Any other alternative dispute resolution proceeding in which such damages are claimed and to which the **insured** submits with **our** consent.

Temporary worker means a person who is furnished to **you** to substitute for a permanent **employee** on leave or to meet seasonal or short-term workload conditions.

Terrorism means activities against persons, organization or property of any nature:

- (1) That involves the following or preparation for the following:
 - (a) Use or threat of force or violence; or
 - (b) Commission or threat of a dangerous act; or
 - (c) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
- (2) When one or both of the following applies:
 - (a) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
 - (b) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

Trailer includes semi-trailer.

Wrongful act means:

- (1) Any act of actual or threatened abuse or molestation (including sexual misconduct or sexual molestation) which results in injury to another, or

- (2) The negligent:
- (a) Employment;
 - (b) Investigation;
 - (c) Supervision;
 - (d) Reporting to the proper authorities, or failure to so report; or
 - (e) Retention;
- Of a person for whom any **insured** is or ever was legally responsible and whose conduct would be excluded by Paragraph (1) above.

For the purpose of this coverage, abuse means an intentional, inherently harmful act.

Your product means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (a) **You**;
 - (b) Others trading under **your** name; or
 - (c) A person or organization whose business assets **you** have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

Your product includes:

- (1) Warranties or representatives made at any time with respect to the fitness, quality, durability, performance or use of **your product**; and
- (2) The providing of or failure to provide warnings or instructions.

Your product does not include vending machines or other property rented to or located for the use of others but not sold.

Your work means:

- (1) Work or operations performed by **you** or on **your** behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

Your work includes:

- (1) Warranties or representatives made at any time with respect to the fitness, quality, durability, performance or use of **your work**; and
- (3) The providing of or failure to provide warnings or instructions.

GENERAL CONDITIONS

(1) Limits of Liability

- a. The limits of liability shown in the Declarations and the stipulations made below fix the most **we** will pay including all sums under the SUPPLEMENTARY PAYMENTS provision regardless of the number of:
 - (i) **Insureds** under this Coverage.
 - (ii) Persons or organizations making **claims** or bringing **suits** who sustain **bodily injury, property damage, personal injury, or advertising injury** and damages by reason of an act error or omission in the **administration of your employee benefit programs**.
 - (iii) **Claims** made or **suits** brought against **you** on account of **bodily injury, property damage, personal injury or advertising injury** and damages by reason of an act, error or omission in the **administration of your employee benefit programs**.
 - (iv) Covered **autos, insureds**, assessment paid, **claims** made or vehicles involved in the **accident**, the most **we** will pay for the total of all damages and **covered pollution cost or expense** combined, resulting from any one **accident** is the Limit of Insurance for Liability Coverage shown in the Declarations. No one will be entitled to receive duplicate payments for the same elements of **loss** under these Coverage Parts.
- b. The Each Person limit is the most **we** will pay under item (D) of the declaration page for all medical expenses because of **bodily injury** sustained by any one person.
- c. Coverage I, II, III and IV combined

The most **we** will pay for damages including all sums under the SUPPLEMENTARY PAYMENTS provision because of all **bodily injury, property damage, personal injury or advertising injury** and an act, error or omission in the **administration of your employee benefit programs** arising from one **occurrence, or accident**, is the **combined single limit** stated in the Declarations Item C. as applicable to each **occurrence**.

All **bodily injury, property damage, personal injury, or advertising injury** arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising from one **occurrence, or accident**.

(2) Separation of Insured

Except with respect to Limits of Liability and any rights or duties specifically assigned to the first Named **Insured**, this Insurance applies:

- (a) As if each **insured** were the only **insured**; and
- (b) Separately to each **insured** against whom **claim** is made or **suit** is brought.

(3) Inspections and Surveys

We have the right but are not obligated to:

- (a) Make inspections and surveys at any time.
- (b) Give **you** reports on the conditions **we** find.
- (c) Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the assessment to be charged. **Our** inspections are not safety inspections. **We** do not undertake any duty to provide for the health or safety of any person. And **we** do not represent or warrant that conditions:

- (a) Are safe or healthful; or
- (b) Comply with laws, regulations, codes or standards.

This condition applies not only to **us**, but also to any commissioner, trustee, elected or appointed agent, servant, risk management consultant or **employee** of the **Fund** providing this coverage, and to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

(4) Examination of Your Books and Records

We may examine and audit **your** books and records as they relate to this Coverage.

(5) Legal Action Against Us

No person or organization has a right under this Coverage:

- (a) To join **us** as a party or otherwise bring **us** into a **suit** asking for damages from any **Member**; or
- (b) To sue **us** on this Coverage unless all of its terms have been fully complied with.

A person or organization may sue **us** to recover on an agreed settlement or on a final judgment against a **Member** obtained after an actual trial; but **we** will not be liable for damages that are not payable under the terms of this Coverage or that are in excess of the applicable limit of liability. An agreed settlement means a settlement and release of liability signed by **us**, the **Member** and either the claimant or the claimant's legal representative.

With respects to **Auto** liability, under Liability Coverage, **we** agree in writing that the **insured** has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this Coverage to bring **us** into an action to determine the **insured's** liability.

(6) Transfer of Rights of Recovery Against Others to Us

If any **Member** has rights to recover all or part of any payment **we** have made under this Coverage, those rights are transferred to **us**. Any **Member** must do nothing after loss to impair these rights. At **our**

request, any **insured** will bring **suit** or transfer those rights to **us** and help **us** enforce them. The **insured** must do everything necessary to secure **our** rights.

(7) Changes

This Coverage contains all the agreements between **you** and **us** concerning the insurance afforded.

If the terms are changed, the changes will be shown in an Endorsement issued by **us** and made a part of this Coverage.

(8) Assessment Computation

We will compute all assessments for these Coverage Parts in accordance with the **Fund's** Bylaws and Risk Management Plan.

(9) Transfer of Your Rights and Duties under this Coverage

No rights and duties under this Coverage may be transferred without **our** written consent except in the case of a death of an individual **insured**.

If any **insured** dies, the **insured's** rights and duties will be transferred to that **insured's** legal representative but only while acting within the scope of duties as that **insured's** legal representative. Until the legal representative is appointed, anyone having proper temporary custody of that **insured's** property will have that **insured's** rights and duties but only with respect to that property.

(10) Arbitration

Every controversy, dispute, difference, or **claim** between the **Fund** and a **Member(s)** of the **Fund** shall be submitted to and settled by arbitration. This includes any dispute concerning whether insurance Coverage may be owed by the **Fund** to any **employee**, official, etc. of any **Member**. Either the **Member** or the **Fund** must request arbitration for a given controversy within the applicable statute of limitations for such controversy. Such arbitration shall be conducted by a panel of three arbitrators, which shall consist of a **Fund** commissioner designated by the affected **Member(s)** (which could include that **Member's Fund Commissioner**), a **Fund Commissioner** designated by the **Board of Trustees**, and an individual, independent from and not affiliated with the **Fund**, who shall be chosen by the aforesaid arbitrators from a list of individuals determined by the **Board of Trustees**. The arbitration shall be conducted in accordance with procedures established by the **Board of Trustees**. The arbitrator selected by the two **Fund Commissioners** arbitrators shall be compensated for services in an amount mutually agreed to between the arbitrator and the **Board of Trustees**. The **Member(s)** and the **Fund** shall bear their own costs in prosecuting/defending the arbitration and shall split the costs for the arbitrator(s) and the arbitration. Judgment upon the award rendered by majority vote of the panel may be entered in any court having jurisdiction thereof.

(11) Authorization Clause and Notices

By acceptance of this Coverage, **you** agree that **you** shall act on behalf of all **insureds** with respect to the giving and receiving of notice of **claim** or cancellation, the payment of assessments and the

receiving of any return of assessments that may become due under this Coverage, the negotiation, agreement to and acceptance of ENDORSEMENTS, and the giving or receiving of any notice provided for in this Policy, and the **insureds** agree that **you** shall act on their behalf. Notice to **you** at the business address of the **Member** shall also constitute notice to all **insureds** under this Coverage.

All notices of **claims** or any other notice required to be given to **us** under this Coverage shall be addressed to:

Diploma Joint Insurance Fund
c/o Risk and Loss Managers, Inc. - Administrator
51 Everett Drive, Suite B-40
West Windsor, New Jersey 08550-5374

(12) Terms of Coverage Conformed to Statutes

Terms of this Coverage which are in conflict with the statutes of the State of New Jersey are hereby amended to conform to such statutes.

(13) Cancellation

Any cancellation is expressly subject to the requirements of the laws of the State of New Jersey and all rules and regulations adopted thereunder, including those regulations currently codified in N.J.A.C. 11:15-4 et seq. adopted of N.J.S.A. 17:1-8.1, N.J.S.A. 17:1C-6 (e) and N.J.S.A. 18A:18B et seq. and as hereafter amended. This Coverage may be canceled by **you** by surrender hereof to **us** or any of **our** authorized agents and risk management consultants and only in accordance with the requirements for withdrawal, termination or non-renewal from the **Fund** as set forth in the aforesaid statutes, rules and regulations and the **Fund's** by-laws adopted there under. If **you** cancel, **your** liability for any further assessment shall be computed in accordance with the aforesaid rules and regulations.

If **we** cancel, **we** shall mail to **you**, at **your** last mailing address known to **us**, written notice stating when not less than 30 days thereafter such cancellation shall be effective. The mailing of notice at the aforesaid date and hour of cancellation stated in the notice shall become the end of the Coverage period. If **we** cancel, earned assessment shall be computed as provided in the aforesaid rules and regulations. Assessment adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment of tender of unearned assessment is not condition of cancellation.

It is expressly recognized and agreed that **you** are required to be a **Member** of the **Fund** as a condition of eligibility for this Coverage and that, in the event that **you** withdraw from or are terminated or expelled from the Joint Insurance **Fund**, then this Coverage shall be canceled and terminated as of the effective date of **your** withdrawal, termination or expulsion. Any such withdrawal, termination or expulsion from the **Fund** shall be effectuated only in accordance with the **Fund's** by-laws and risk management plan as approved pursuant to the aforementioned authorizing statutes and rules and regulations.

(14) Acceptance

By acceptance of this coverage, **you** agree that this Coverage embodies all agreements existing between **you** and **us** or any of **our** agents relating to this Coverage.

(15) Service of Suit

It is agreed that if **we** fail to pay any amount claimed to be due under this coverage, **we** at **your** request will submit to the jurisdiction of any court of competent jurisdiction within the United States and will comply with all the requirements necessary to give such court jurisdiction, and all matters arising under this Coverage shall be determined in accordance with the law and practice of such court. It is further agreed that service of process in such **suit** against **us** may be made upon **us** and that in any **suit** instituted against **us** under this Coverage, **we** will abide by the final decision of such court, or of any appellate court in the event of an appeal. Nothing in this condition constitutes or should be understood to constitute a waiver of **our** right to commence an action in any court of competent jurisdiction in the United States to remove an action to a United States District Court or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state of the United States. It is further agreed that service of process in such **suit** may be made upon **us** at **our** offices located at:

Diploma Joint Insurance Fund
c/o Risk and Loss Managers, Inc.- Administrator
51 Everett Drive, Suite B-40
West Windsor, New Jersey 08550-5374

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefore, **we** hereby designate the Superintendent, Commissioner or Director of Insurance, or other officer specified for that purpose in the statute, or his successor or successors in office, as its true and lawful attorney upon whom may be served any lawful process in any action, **suit** or proceeding instituted by or on **your** behalf arising out of this Coverage and hereby designate the Administrator of the Diploma Joint Insurance **Fund** as the person to whom said officers are authorized to mail such process or a true copy thereof.

(16) Unintentional Failure to Disclose Hazards

It is agreed that based on **our** reliance on **your** representations as to existing hazards, if unintentionally **you** should fail to disclose all such hazards at the inception date of this Coverage, **we** shall not deny coverage under these Coverage Parts because of such failure.

(17) Liberalization

If the reinsurer/insurer adopts any revision that would broaden the coverage under this coverage document, the broadened coverage will immediately apply to this document.

If **we** revise any Coverage Parts to provide more coverage without additional assessment charge, **your** Coverage will automatically provide the additional coverage as of the date of the revision.

(18) Concealment, Misrepresentation or Fraud

All Coverage Parts are void in any case of fraud by **you** at any time as it relates to that Coverage Part. It is also void if **you** or any other **insured**, at any time, intentionally conceal or misrepresent a material fact concerning:

- (a) Any Coverage Part;
- (b) A **claim** under this Coverage Part.

(19) Bankruptcy

Bankruptcy or insolvency of the **Member** or of its successor will not relieve **us** of **our** obligations under this Coverage.

(20) Consolidation or Merger

If through consolidation or merger with, or purchase of assets of, another educational entity:

- (a) Any additional persona become employees of a **Member**; or
- (b) A **Member** acquires the use and control of additional premises;

Any coverage afforded for **employees** or premises also applies to those additional **employees** and premises, but only if:
- (c) Written notice is given to us within ninety (90) days of the consolidation, merger or acquisition; and
- (d) A **Member** pays any additional assessment that may be due.

COVERAGE PART I**COMPREHENSIVE GENERAL LIABILITY INSURANCE****Coverage A - Bodily Injury Liability and Property Damage Liability**

We will pay those sums that the **insured** becomes legally obligated to pay as damages because of **bodily injury** or **property damage** to which this insurance applies. We will have the right and duty to defend the **insured** against any **suit** seeking those damages. We may at **our** discretion investigate any **occurrence** or offense and settle any **claim** or **suit** that may result. However, there is no duty to defend an **insured** in any **suit** seeking damages for **bodily injury** or **property damage** to which this coverage does not apply. But:

- (1) The amount we will pay for damages including all sums under the SUPPLEMENTARY PAYMENTS provision is limited as described in LIMITS OF INSURANCE; and
- (2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments, settlements or SUPPLEMENTARY PAYMENTS including legal costs under Coverage A or B or medical expenses under Coverage C; all legal costs and other SUPPLEMENTARY PAYMENTS are included within the applicable limits of insurance

This insurance applies to **bodily injury** or **property damage** only if:

- (1) The **bodily injury** or **property damage** is caused by an **occurrence** that takes place in the coverage territory; and
- (2) The **bodily injury** or **property damage** takes place during the policy period.

EXCLUSIONS applicable to Coverage A:

This insurance does not apply to:

- (1) **Aircraft, Auto or Watercraft**
Bodily injury or **property damage** that arises out of the ownership, maintenance, operation, use, **loading** or **unloading** or entrustment to others of any aircraft, **auto** or watercraft which is owned, operated, or hired by any **insured**. For the purpose of this exclusion the word "hired" includes any contract to furnish transportation, loaned or rented, of pupils to and from schools.

However this exclusion does not apply to:

- (a) A watercraft that **you** own that is:
 - (i) Less than 27 feet long; and
 - (ii) Not being used to carry persons or property for a charge.
 - (iii) A crew boat, which is non-motor powered, regardless of length used by a crew team or similar organization which is under the direction or control of the **Member**.

- (b) A watercraft that you do not own that is:
 - (i) Less than 27 feet long; and
 - (ii) Not being used to carry persons or property for a charge.
- (c) An aircraft or watercraft, not owned or operated by an **insured**, that is hired, chartered or loaned with paid crew. This provision does not apply if the **insured** has any other insurance for **bodily injury** or **property damage** that would also be covered under this provision, whether the other insurance is primary, excess, contingent, or on any other basis. In that case, this provision does not provide any insurance.
- (d) A watercraft while ashore on premises **you** own or rent;
- (e) Parking an **auto** on, or on the ways next to, premises **you** own or rent, provided the **auto** is not owned by or rented or loaned to **you** or the **insured**;
- (f) Liability assumed under any **insured contract** for the ownership, maintenance or use of aircraft or watercraft; or
- (g) **Bodily injury** or **property damage** arising out of:
 - (i) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged; or
 - (ii) the operation of any of the machinery or equipment listed in the definition of **mobile equipment**.

(2) Mobile Equipment

Bodily injury or **property damage** arising out of:

- (a) The transportation of **mobile equipment** by an **auto** owned or operated by or rented or loaned to any **insured**; or
- (b) The use of **mobile equipment** in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

(3) Professional Services

- (a) **Bodily injury** or **property damage** arising out of the rendering or failure to render any professional services by any physician, dentist, or other medical professional, attorney, solicitor, **Member** solicitor, "clerk of the works", architect, actuary, engineer, surveyor, professional planner, auditor, accountant or other professional while acting in the scope of his/her professional duties, regardless of how compensated. However, this EXCLUSION does not apply to an **employee** or authorized volunteer who is a licensed or registered school nurse, school psychologist, school counselor, school audiologist or school athletic trainer while acting within the scope of their full-time or part-time employment by a **Member**, while in the course of their duties.

- (b) **Bodily injury or property damage** if the college or school owns or operates an infirmary with facilities for lodging and treatment or a public clinic or hospital arising out of:
- (i) The rendering or failure to render:
 - 1. Medical, surgical, dental, x-ray or nursing service or treatment or the related furnishing of food or beverages;
 - 2. Any health service or treatment; or
 - 3. Any cosmetic or tonsorial service or treatment.
 - (ii) The furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances; or
 - (iii) The handling or treatment of dead bodies, including autopsies, organ donation or other procedures.

(4) Pollution

- (a) **Bodily injury or property damage** arising out of the actual, alleged or threatened discharge, dispersal, leakage, seepage, migration, release or escape of **pollutants** of any kind, nature, quantity or composition, whatsoever:
- (i) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:
 - 1. **Bodily injury** if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building or equipment that is used to heat water for personal uses, by the buildings occupants or their guests;
 - 2. **Bodily injury or property damage** arising out of heat, smoke or fumes from a **hostile fire**;
 - (ii) At or from any premises, site or location which is or was at any time used by or for any **insured** or others for the handling, storage, disposal, processing or treatment of waste;
 - (iii) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - 1. Any **insured**; or
 - 2. Any person or organization for whom **you** may be legally responsible; or
 - (iv) At or from any premises, site or location on which any **insured** or any contractors or subcontractors working directly or indirectly on any **insured's** behalf are performing operations if the **pollutants** are brought on or to the premises, site or location in connection with such operations by such **insured**, contractor or subcontractor. However, this subparagraph does not apply to:
 - 1. **bodily injury or property damage** arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of **mobile equipment** or its parts,

if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the **bodily injury** or **property damage** arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such **insured**, contractor or subcontractor;

2. **bodily injury** or **property damage** sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by **you** or on **your** behalf by a contractor or subcontractor; or
3. **bodily injury** or **property damage** arising out of heat, smoke or fumes from a **hostile fire**.

- (v) At or from any premises, site or location on which any **insured** or any contractors or subcontractors working directly or indirectly on any **insured's** behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, **pollutants**.
- (b) Any loss, cost or expense arising out of any:
 - (i) Request, demand, order or statutory or regulatory requirement that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, **pollutants**; or
 - (ii) **Claim** or **suit** by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, **pollutants**.

However, this paragraph does not apply to liability for damages because of **property damage** that the **insured** would have in the absence of such request, demand, order or statutory or regulatory requirement, or such **claim** or **suit** by or on behalf of a governmental authority. This EXCLUSION also does not apply to **Bodily Injury** occurring on premises of a **Member** resulting from:

1. Use of or exposure to chemicals or explosive agent in a science laboratory or in an approved institutional program; or
2. Chemicals or other sanitizing agents used in the maintenance or operation of **Member** facilities or swimming pools; or
3. Use of pesticides, herbicides or fertilizers by **employees** of the **Member** on athletic fields or grounds; however,
4. Only if no other insurance of any kind is available.

(5) Employment Liability

Bodily injury arising out of any actual or alleged wrongful refusal to employ, dismissal, discharge or termination of employment, breach of any oral or written employment contract or

quasi-employment contract, employment-related misrepresentation, violation of employment discrimination laws, workplace harassment, wrongful failure to employ or promote, wrongful discipline, wrongful deprivation of a career opportunity, failure to grant tenure, negligent evaluation, invasion of privacy, employment-related defamation or employment related wrongful infliction of emotional distress committed, attempted or allegedly committed or attempted, by the **Member**.

This EXCLUSION applies whether the **Member** may be held liable as an employer or in any other capacity and to any obligation of the **Member** to share damages with or to repay someone else who must pay damages because of such **bodily injury**, or;

To the spouse, child, parent, brother or sister of that person as a consequence of **bodily injury** to that person at whom any of the employment-related practices described in the paragraphs above is directed.

(6) Abuse or Molestation

Bodily Injury arising out of any **wrongful act**.

(7) Liquor Liability

Bodily injury or **property damage** for which any **insured** or its indemnitee may be held liable by reason of:

- (a) Causing or contributing to the intoxication of any person;
- (b) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (c) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

Exclusion (7) applies only if **you**:

- (i) Are in the business of manufacturing, selling, or distributing alcoholic beverages;
- (ii) Serve or furnish alcoholic beverages for a charge whether or not such activity:
 - 1. requires a license;
 - 2. is for the purpose of financial gain or livelihood; or
- (iii) Serve or furnish alcoholic beverages without a charge, if a license is required for such activity.

However, exclusion (7) does not apply to **bodily injury** or **property damage** arising out of the selling, serving, or furnishing of alcoholic beverages at the specific activity(ies) reported to the **Fund** prior to the event.

(8) Workers' Compensation and Similar Laws

Any obligation for which the **Member** or any carrier as its **insured** may be held liable under any workers' compensation, unemployment compensation, disability benefits law, or any similar law.

(9) Corporal Punishment

Bodily injury or property damage, to any student or pupil arising out of any corporal punishment administered by or at the direction of the **insured** in accordance with New Jersey complied statutes - Title 18A:6-1; but the use and application of such amounts of force as is reasonable and necessary:

- (a) to quell a disturbance, threatening physical injury to others;
- (b) to obtain possession of weapons or other dangerous objects upon the person or within the control of a pupil;
- (c) for the purpose of self-defense; and
- (d) for the protection of persons or property;

shall not be considered corporal punishment.

(10) Damage to Property

Property damage to:

- (a) property the **Member** owns, rents, occupies;
- (b) property loaned to **you**;
- (c) premises the **Member** sells, gives away, abandons, if the **property damage** arises out of any part of those premises;
- (d) that particular part of real property on which the **Member** or any contractors or subcontractors working directly or indirectly on behalf of the **Member** are performing operations, if the **property damage** arises out of those operations;
- (e) that particular part of any property that must be restored, repaired or replaced because work of the **Member** was incorrectly performed on it; or
- (f) personal property in the care, custody or control of the **Member**, or for which the **Member** is for any purpose exercising physical control.

Paragraph (c) of this exclusion does not apply if the premises are **your work** and were never occupied, rented, or held for rental by **you**.

Paragraphs (b) (d) (e) and (f) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (e) of this exclusion does not apply to **property damage** included in the "products-completed operations hazard".

(11) Damage to Your Product

Property damage to your product arising out of it or any part of it.

(12) Damage to Your Work

Property damage to your work arising out of it or any part of it and included in the **products-completed operations hazard**.

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on **your** behalf by a subcontractor.

(13) Damage to Impaired Property or Property Not Physically Injured

Property damage to impaired property or property that has not been physically injured, arising out of:

- (a) A defect, deficiency, inadequacy or dangerous condition in **your product** or **your work**; or
- (b) A delay or failure by **you** or anyone acting on **your** behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to **your product** or **your work** after it has been put to its intended use.

(14) Recall of Products, Work or Impaired Property

Damages claimed for any loss, cost, or expense incurred by **you** or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (a) **your product**;
- (b) **your work**; or
- (c) **impaired property**

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

Exclusions (10) through (14) do not apply to damage by fire to premises while rented to **you** or temporarily occupied by **you** with the permission of the owner. A separate limit of insurance applies to this coverage.

(15) Expected or Intended Injury

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

(16) Contractual Liability

Bodily injury or **property damage** for which the **insured** 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:

- (a) Assumed in a contract or agreement that is an **insured contract** provided the **bodily injury** or **property damage** occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an **insured contract**, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an **insured** are deemed to be damages because of **bodily injury** or **property damage**, provided:
 - (i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same **insured contract**; and
 - (ii) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.; or
- (b) That the **insured** would have in the absence of the contract or agreement.

(17) War

Bodily injury or **property damage**, however caused, arising directly or indirectly, out of:

- (a) War, including undeclared or civil war;;
- (b) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (c) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these; or
- (d) **Terrorism**, including any action taken in hindering or defending against an actual or expected incident of **terrorism** regardless of any other cause or event that contributes concurrently or in any sequence to the injury or damage. However, with respect to **terrorism** this exclusion only applies if one or more of the following are attributable to an incident of **terrorism**.
 - (i) The total of **insured** damage to all types of property exceeds \$100,000. In determining whether the \$100,000 threshold is exceeded, **we** will include all **insured** damage sustained by property of all persons and entities affected by the **terrorism** and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, **insured** damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any **terrorism** exclusions; or
 - (ii) Fifty or more persons sustain death or serious physical injury. For the purpose of this provision, serious physical injury means:
 - 1. Physical injury that involves a substantial risk of death; or
 - 2. Protracted and obvious physical disfigurement; or
 - 3. Protracted loss of or impairment of the function of a bodily **Member** organ;or

- (iii) The **terrorism** involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or
- (iv) The **terrorism** is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
- (v) Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the **terrorism** was to release such materials.

Paragraphs (i) and (ii), immediately preceding, describe the thresholds used to measure the magnitude of an incident of **terrorism** and the circumstances in which the threshold will apply for the purpose of determining whether the **Terrorism** Exclusion will apply to that incident. When the **Terrorism** Exclusion applies to an incident of **terrorism**, there is no coverage under this Coverage Part.

In the event of any incident of **terrorism** that is not subject to the **Terrorism** Exclusion, coverage does not apply to any loss or damage that is otherwise excluded under this Coverage Part.

Multiple incidents of **terrorism** which occur within a seventy-two hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.

(18) **Employer's Liability**

Bodily injury or property damage to:

- (a) Any **employee** of the **insured**, including any authorized volunteer subject to New Jersey Workers' Compensation under Title 34, arising out of and in the course of:
 - (i) Employment by the **insured**; or
 - (ii) Performing duties related to the conduct of the **insured's** business; or
- (b) The spouse, child, parent, brother or sister of that **employee** as a consequence of paragraph (a) above.

This exclusion applies:

- (a) Whether the **insured** may be liable as an employer or in any other capacity; and
- (b) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the **insured** under an **insured contract**.

(19) Fungi**Bodily injury or property damage:**

- (a) Which would not have occurred, in whole or part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any **fungi** or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
- (b) Any loss, cost or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, **fungi** or bacteria, by any **insured** or by any other person or entity.

This exclusion does not apply to any **fungi** or bacteria that are, are on, or are contained in, a good or product intended for consumption.

(20) Personal and Advertising Injury

Bodily injury or property damage arising out of **personal and advertising injury**.

(21) Law Enforcement Activities

Bodily injury or property damage arising out of **Law Enforcement Activities**. For purposes of this EXCLUSION, **Law Enforcement Activity** means all operation of a police force or any other public safety organization that enforces the law and protects persons or property. This includes the maintenance, use or existence of any premises occupied by this organization. However, **law enforcement activity** does not include the services of security guards or school resource officers who are **employees** of the **member** when performing services for **members**.

(22) Violation of Statute

Bodily injury or property damage arising out of:

- (a) the violation of any municipal, state or federal Civil Rights law, regulation or ordinance, whether actual or alleged:
 - (i) If caused, in whole or in part by, any dishonest, fraudulent, criminal or malicious act committed by or with the knowledge of any **insured**, or
 - (ii) If the **insured** has waived any immunity to which they would otherwise have been entitled under the law, but this exclusion does not apply if the **Fund** gave prior written approval of such waiver of immunity to any **member**.

(23) Fines, Penalties

Fines or penalties, however determined, imposed as a penalty, deterrence or as an example, whether incurred by the **Member Entity** or any person or organization for whom the **Member Entity** may be legally responsible.

(24) Punitive, Exemplary Damages

Claim or award against the **Member Entity** or any **insured** for punitive or exemplary damages.

(25) Non-Monetary Relief

Any demands or actions seeking relief or redress in any form other than money damages; and for fees or expenses in relation to demands or actions seeking such relief or redress, including liability dealing with injunctive relief.

(26) ERISA and Similar Laws

Any **Insured's** activities in an investing or fiduciary capacity including, but not limited to, any **Employee Benefit Programs**, the **administration** of any self-insurance fund or any obligations under the Employees' Retirement Income Security Act (ERISA) of 1974 or any amendments

thereto or similar subsequent federal acts or any similar provisions of statutory or common law.

(27) Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data. As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

(28) Distribution Of Material In Violation Of Statutes

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (a) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- (b) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (c) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

Coverage B - Personal and Advertising Injury Liability

We will pay those sums that the **insured** becomes legally obligated to pay as damages because of **personal** and **advertising injury** to which this insurance applies. We will have the right and duty to defend any **suit** seeking those damages. We may at **our** discretion, investigate any **occurrence** or offense and settle any **claim** or **suit** that may result. However, there is no duty to defend an **insured** in any **suit** seeking damages for **personal** or **advertising injury** to which this coverage does not apply. But:

- (1) The amount we will pay for damages, including all sums under the SUPPLEMENTARY PAYMENTS provision, is limited as described in LIMITS OF INSURANCE; and
- (2) **Our** right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments, settlements or SUPPLEMENTARY PAYMENTS including legal costs under Coverage A or B or medical expenses under Coverage C; all legal costs and other SUPPLEMENTARY PAYMENTS are included within the applicable limits of insurance.

This insurance applies to **personal and advertising injury** caused by an offense arising out of **your** business but only if the offense was committed in the coverage territory during the Coverage period.

EXCLUSIONS applicable to Coverage B

This insurance does not apply to:

- (1) **Personal and advertising injury:**
 - (a) **Knowing Violation of Rights of Another**
Caused 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**.
 - (b) **Material Published with Knowledge of Falsity**
Arising out of oral or written publication of material, if done by or at the direction of the **insured** with knowledge of its falsity;
 - (c) **Material Published Prior To Policy Period**
Arising out of oral or written publication of material whose first publication took place before the beginning of the Coverage period;
 - (d) **Criminal Acts**
Arising out of a criminal act committed by or at the direction of the **insured**; or
 - (e) **Contractual Liability**
For which the **insured** has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the **insured** would have in the absence of the contract or agreement.
 - (f) **Breach Of Contract**
Arising out of a breach of contract, except an implied contract to use another's advertising idea in **your advertisement**;

- (g) **Quality or Performance Of Goods – Failure To Conform To Statement**
Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in **your advertisement**.
- (h) **Wrong Description Of Price**
Arising out of the wrong description of the price of goods, products or services stated in **your advertisement**;
- (i) **Infringement Of Copyright, Patent, Trademark or Trade Secret**
Arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".;

However, this exclusion does not apply to infringement, in **your advertisement**, of copyright, trade dress or slogan;

- (j) **Insureds in Media and Internet Type Businesses**
Arising out of an offense committed by an **insured** whose business is:
 - (i) Advertising, broadcasting, publishing or telecasting;
 - (ii) Designing or determining content of websites for others; or
 - (iii) An Internet search, access, content or service provider.

However, this exclusion does not apply to paragraphs (1), (2), and (3) of the definition of **personal and advertising injury** under the GENERAL DEFINITIONS section. For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for **you** or others anywhere on the Internet, is not by itself, considered the business of advertising, broadcasting, publishing or telecasting.

- (k) **Electronic Chatrooms Or Bulletin Board**
Arising out of an electronic chatroom or bulletin board the **insured** hosts, owns, or over which the **insured** exercises control.
- (l) **Unauthorized Use Of Another's Name Or Product**
Arising out of the unauthorized use of another's name or product in **your** email address, domain name or meta tag, or any other similar tactics to mislead another's potential customers.
- (m) **Pollution**
The actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants** at any time.
- (n) **Pollution-Related**
Any loss, cost or expense arising out of any:
 - (i) Request, demand or order that any **insured** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, **pollutants**; or

- (ii) **Claim or suit** by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, **pollutants**.
- (o) **Corporal Punishment**
Personal injury, to any student or pupil arising out of any corporal punishment administered by or at the direction of the **insured** in accordance with New Jersey compiled statutes - Title 18A:6-1; but the use and application of such amounts of force as is reasonable and necessary:
 - (i) to quell a disturbance, threatening physical injury to others;
 - (ii) to obtain possession of weapons or other dangerous objects upon the person or within the control of a pupil;
 - (iii) for the purpose of self-defense; and
 - (iv) for the protection of persons or property;

shall not be considered corporal punishment.

(2) **Employer's Liability**

Personal Injury to:

- (a) Any **employee** of the **Member Entity**, including any authorized volunteer subject to New Jersey Workers' Compensation under Title 34, arising out of and in the course of:
 - (i) Employment by the **Member Entity**; or
 - (ii) Performing duties related to conduct of the **insured's** business; or
- (b) The spouse, child, parent, brother or sister of that **employee** as a consequence of paragraph (a) above. This EXCLUSION applies:
 - (i) Whether the **insured** may be liable as an employer or in any other capacity; and
 - (ii) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This EXCLUSION does not apply to liability assumed by the **insured** under an **insured contract**.

(3) **Professional Liability**

Personal and Advertising Injury arising out of the rendering or failure to render any professional services by any physician, dentist, or other medical professional, attorney, solicitor, **Member** solicitor, "clerk of the works", architect, actuary, engineer, surveyor, professional planner, auditor, accountant or other professional while acting in the scope of his/her professional duties, regardless of how compensated. However, this EXCLUSION does not apply to an **employee** or authorized volunteer who is a licensed or registered school nurse, school psychologist, school counselor, school audiologist or school athletic trainer while acting within the scope of their full-time or part-time employment by a **Member**, while in the course of their duties.

(4) **Violation of Statute**

Personal injury arising out of:

- (a) The violation of any municipal, state or federal Civil Rights law, regulation or ordinance, whether actual or alleged:

- (i) If caused, in whole or in part by, any dishonest, fraudulent, criminal or malicious act committed by or with the knowledge of any **insured**, or
- (ii) If the **insured** has waived any immunity to which they would otherwise have been entitled under the law, but this exclusion does not apply if the **Fund** gave prior written approval of such waiver of immunity to any **member**.

(5) **Employment Liability**

Personal injury arising out of any actual or alleged wrongful refusal to employ, dismissal, discharge or termination of employment, breach of any oral or written employment contract or quasi-employment contract, employment-related misrepresentation, violation of employment discrimination laws, workplace harassment, wrongful failure to employ or promote, wrongful discipline, wrongful deprivation of a career opportunity, failure to grant tenure, negligent evaluation, invasion of privacy, employment-related defamation or employment related wrongful infliction of emotional distress committed, attempted or allegedly committed or attempted, by the **Member**.

This EXCLUSION applies whether the **Member** may be held liable as an employer or in any other capacity and to any obligation of the **Member** to share damages with or to repay someone else who must pay damages because of such **personal injury**, or **advertising injury**, or;

To the spouse, child, parent, brother or sister of any person as a consequence of **personal injury** or **advertising injury** to that person at whom any of the employment-related practices described in the paragraphs above is directed.

(6) **Fungi**

Personal injury or advertising injury:

- (a) Which would not have occurred, in whole or part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any **fungi** or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
- (b) Any loss, cost or expense arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, **fungi** or bacteria, by any **insured** or by any other person or entity.

This exclusion does not apply to any **fungi** or bacteria that are on, or are contained in, a good or product intended for consumption.

(7) **War**

Personal injury or advertising injury arising directly or indirectly, out of:

- (a) War including undeclared or civil war; or

- (b) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (c) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these; or
- (d) **Terrorism**, including any action taken in hindering or defending against an actual or expected incident of **terrorism** regardless of any other cause or event that contributes concurrently or in any sequence to the injury.

However, with respect to **terrorism**, this exclusion only applies if one or more of the following are attributable to an incident of **terrorism**.

- (a) The total of **insured** damage to all types of property exceeds \$100,000. In determining whether the \$100,000 threshold is exceeded, we will include all **insured** damage sustained by property of all persons and entities affected by the **terrorism** and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, **insured** damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any **terrorism** exclusions; or
- (b) Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - (i) Physical injury that involves a substantial risk of death; or
 - (ii) Protracted and obvious physical disfigurement; or
 - (iii) Protracted loss of or impairment of the function of a bodily **member** or organ; or
- (c) The **terrorism** involves the use, release or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination; or
- (d) The **terrorism** is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
- (e) Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the **terrorism** was to release such materials.

Paragraphs a and b, immediately preceding, describe the thresholds used to measure the magnitude of an incident of **terrorism** and the circumstances in which the threshold will apply for the purpose of determining whether the **Terrorism** Exclusion will apply to that incident. When the **Terrorism** Exclusion applies to an incident of **terrorism**, there is no coverage under this Coverage Part.

In the event of any incident of **terrorism** that is not subject to the **Terrorism** Exclusion, coverage does not apply to any loss or damage that is otherwise excluded under this Coverage Part.

Multiple incidents of **terrorism** which occur within a seventy-two-hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.

(8) **Law Enforcement Activities**

Personal Injury arising out of **Law Enforcement Activities**. For purposes of this EXCLUSION, **Law Enforcement Activity** means all operation of a police force or any other public safety organization that enforces the law and protects persons or property. This includes the maintenance, use or existence of any premises occupied by this organization. However, **law enforcement activity** does not include the services of security guards or school resource officers who are **employees** of the **member** when performing services for **members**.

Coverage C - Premises Medical Payments

This insurance does not apply under Coverage Parts II, III and IV.

We will pay to or for each person who sustains **bodily injury** caused by an accident all reasonable medical expenses on account of such **bodily injury**, provided such **bodily injury** arises out of: (a) a condition in the **insured** premises or (b) operations with respect to which the named **insured** is afforded Coverage for **bodily injury** liability under this Coverage provided that: (a) the accident takes place in the Coverage territory and during the policy period; (b) the expenses are incurred and reported to **us** within one year from the date of the accident; and (c) the injured person submits to examinations, at **our** expense, by physicians of **our** choice as often as **we** reasonably require.

We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. **We** will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

ADDITIONAL DEFINITIONS

When used in reference to this insurance (including Endorsements forming a part of the document):

Insured premises mean all premises owned by or rented to the named **insured** with respect to which the named **insured** is afforded Coverage for **bodily injury** liability under this Coverage and includes on ways next to premises **you** own or rent.

EXCLUSIONS applicable to Coverage C

This insurance does not apply to:

- (1) **Bodily Injury**
 - (a) To the named **insured**, any partner therein, any tenant or other person regularly residing on the **insured** premises or any **employee** of any of the aforesaid if the **bodily injury** arises out of and in the course of employment therewith.
 - (b) to any other tenant if the **bodily injury** occurs on that part of the **insured's** premises rented from the named **insured** or to any **employee** of such a tenant if the **bodily injury** occurs on the tenant's part of the **insured** premises and arises out of and in the course of employment for the tenant.
 - (c) to any person, whether or not an **employee** of any **insured**, if any benefits for such **bodily injury** are payable or required to be provided under any worker's compensation, unemployment compensation or disability benefits law, or under any similar law.

- (d) to an independent contractor or person hired to do work for on behalf of any **insured** or tenant of any **insured**.
 - (e) a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.
 - (f) excluded under Coverage A.
- (2) Any medical expense for services by the named **insured**, any **employee** thereof or any person or organization under contract to the named **insured** to provide such medical services.
- (3) **Bodily injury** to any student. However, this exclusion does not apply provided that the accident takes place in the coverage territory and during the Coverage period to first aid to any student at the time of an accident, if:
- (a) Such accident would otherwise be covered for **bodily injury** under the terms of this Coverage; and
 - (b) Such accident did not occur while the student was engaged in any athletic activities (including exercise drills and gymnasium classes) directed or organized by any **insured** or by any person acting on **your** behalf; and
 - (c) Such first aid expenses did not arise from services provided by **you** or **your employees** or by any person or organization under contract with **you** to provide such services.

WHO IS AN INSURED

The **Member** named on the declaration page is an **insured**. **Member** means:

- (1) The School District, Board of Education, Department, or Unit, which is named in the Declarations and is legally constituted at the inception date of this Coverage.
- (2) The heirs, executors, administrators, assigns and legal representatives of the persons or organizations in (1) above.
- (3) Any person or organization to whom the persons or organizations described in (1) and (2) are obligated by a written or oral **insured contract** or by Resolution of the Board of Education of the **Member** if such **insured contract** or resolution is made prior to any loss to provide insurance such as is afforded by this Coverage.

Each of the following is also an insured:

- (1) **Your employees** other than **your executive officers**, but only for acts within the scope of their employment by **you** or while performing duties related to the conduct of **your** business. However, no **employee** is an **insured** for:

- (a) **Bodily injury or personal and advertising injury:**
 - (i) To **you**, or **your** partners or **Members** (if **you** are a partnership or joint venture), or to a co-**employee** while in the course of his or her employment or while performing duties related to the conduct of **your** business;
 - (ii) To the spouse, child, parent, brother or sister of that co-**employee** as a consequence of paragraph (a) (i) above;
 - (iii) 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 (a)(i) or (ii) above; or
- (b) **Property damage** to property:
 - (i) Owned, occupied or used by,
 - (ii) 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** or, if **you** are a partnership or joint venture, by any partner or **Member**.
- (2) Any person (other than **your employee**), or any organization while acting as **your** real estate manager.
- (3) Any person or organization having proper temporary custody of **your** property if **you** die, but only:
 - (a) With respect to liability arising out of the maintenance or use of that property; and
 - (b) Until **your** legal representative has been appointed.
- (4) **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.
- (5) With respect to **mobile equipment** registered in **your** name under any motor vehicle registration law, any person is an **insured** while driving such equipment along a public highway with **your** permission. Any other person or organization responsible for the conduct of such person is also an **insured**, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an **insured** with respect to:
 - (a) **bodily injury** to a co-**employee** of the person driving the equipment; or
 - (b) **property damage** to property owned by, rented to, in the charge of or occupied by **you** or the employer of any person who is an **insured** under this provision.
- (6) Any organization **you** newly acquire or form, other than a partnership or joint venture, and over which **you** maintain ownership or majority interest, will qualify as a named **insured** if there is no other similar insurance available to that organization. However:
 - (a) Coverage under this provision is offered only until the 180th day after **you** acquire or form the organization or the end of the Coverage period, whichever is earlier;

- (b) Coverage A does not apply to **bodily injury** or **property damage** that occurred before **you** acquired or formed the organization; and
 - (c) Coverage B does not apply to **personal injury** or **advertising injury** arising out of an offense committed before **you** acquired or formed the organization.
- (7) Any person or organization with whom **you** agreed, because of a written or oral **insured contract**, agreement or permit, to provide insurance such as is afforded under this Coverage Part, but only with respect to:
- (a) **Your** operations, **your work**, **your product**, or premises owned or used by **you**; but this provision does not include any architects, engineers, or surveyors, with respect to any injury or damage arising out of the rendering or failure to render any professional services by or for **you**, including:
 - (i) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
 - (ii) Supervisory, inspection, architectural or engineering activities.
 - (b) **Bodily Injury** or **property damage** arising out of **your products** which are distributed or sold in the regular course of that person's or organization's business, but the insurance afforded that person or organization does not apply to:
 - (i) **Bodily Injury** or **Property Damage** for which that person or organization is obligated to pay damages by reason of the assumption of liability in a contract or agreement; but this exclusion does not apply to liability or damages that person or organization would have in the absence of the contract or agreement;
 - (ii) any express warranty unauthorized by **you**;
 - (iii) any physical or chemical change in the product made intentionally by that person or organization;
 - (iv) 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;
 - (v) any failure to make such inspections, adjustments, tests or servicing as that person or organization has agreed to make or normally undertakes to make in the usual course of business in connection with the sale of the product; or
 - (vi) products which, after distribution or sale by **you**, have been labeled or re-labeled or used as a container, part of ingredient of any other thing or substance by or for that person or organization; but this insurance does not apply to any **insured** person or organization, from who **you** have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

- (8) Any organization affiliated with and supporting the school such as Parent Teacher Associations, Boosters Clubs or organization(s) on file with the **Fund**;
- (9) the officers and **Members** of the organization(s), but only with respect to their liability for activities they perform on behalf of the designated organization.

With respect to items (8) and (9), this insurance is excess over any other insurance, whether primary, excess or any other basis.

- (10) No person or organization is an **insured** with respect to the conduct of any current or past partnership or joint venture that is not shown as a Named **Insured** in the Declarations.

The following is an insured, but only with respect to their duties in connection with the positions described below:

- (1) Any of **your** board **Members** or commissioners if **you** are a public board or commission;
- (2) Any student teachers teaching as part of their educational requirements; or
- (3) Any person(s) who are volunteer worker(s) for **you**, but only while acting at the direction of, and within the scope of their duties for **you**. However, no volunteer(s) are **insured** for:
 - (a) **Bodily injury** to:
 - (i) Co-volunteers of **your employees** arising out of and in the course of their duties for **you**; or
 - (ii) **You** or, if **you** are a partnership or joint venture, any partner or **Member**.
 - (b) **Property damage** to property owned, occupied or used by, rented to, in the care, custody, or control of, or over which physical control is being exercised for any purpose by:
 - (i) A co-volunteer or **your employee**; or
 - (ii) **You** or, if **you** are a partnership or joint venture, any partner or **Member**.
- (4) Any student while participating in beautician courses administered by the **Member** but only with respect to **bodily injury** arising out of any cosmetic or tonsorial service or treatment.
- (5) Any health care student while participating in training programs administered by the **Member** but only with respect to **bodily injury** arising out of the rendering or failure to render medical, surgical, dental, x-rays, nursing service or treatment or the related furnishing of food or beverages.

ADDITIONAL CONDITIONS

Where this Coverage Part Applies

We cover **occurrences** anywhere in the world with respect to **bodily injury, property damage, personal injury or advertising injury** arising out of the activities of any **insured** permanently domiciled in the United States of America, its territories, possessions, Puerto Rico or Canada, provided the original **suit** for damages because of any such **bodily injury, property damage, personal injury or**

advertising injury is brought within the United States of America, its territories, possessions, Puerto Rico or Canada.

Duties in the Event of Occurrence, Claim, Offense, or Suit

- (1) **You** must see to it that **we** are notified practicable of an **occurrence** or offense which may result in a **claim**. To the extent possible, notice should include:
 - (a) how, when and where the **occurrence** or offense took place; and
 - (b) the names and addresses of any injured persons and witnesses; and
 - (c) the nature and location of any injury or damage arising out of the **occurrence** or offense.
- (2) If a **claim** is made or a **suit** is brought against any **insured**, **you** must:
 - (a) Immediately record the specifics of the **claim** or **suit** and the date received; and
 - (b) Notify **us** as soon as practicable.

You must see to it that **we** receive written notice of the **claim** or **suit** as soon as practicable.

The above, (2), will not apply until after the **occurrence** is known to **you**, **your** elected or appointed officers/officials or Board **Members**, **your** designee or **your** Administrator.

- (3) **You** and any other involved **insured** must:
 - (a) Immediately send **us** copies of any demands, notices, summons or legal papers received in connection with the **claim** or **suit**;
 - (b) Authorize **us** to obtain records and other information;
 - (c) Cooperate with **us** in the investigation or settlement of the **claim** or defense against **suit**; and
 - (d) Assist **us**, upon **our** request, in the enforcement of any right against any person or organization which may be liable to any **insured** because of **injury** or **damage**, to which this insurance may also apply.
- (4) No **insured** will, except at that **insured**'s own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without **our** consent.

Other Coverage - Real Property, Liability & Fire

You agree with **us** that Coverage A. **Property damage** Liability applies to **property damage** to buildings and structures or portions thereof, which **you** rent from another, or which are loaned to **you** and are described in the Endorsement, if such **property damage** arises out of fire, lightning or explosion or any combination of the three, subject to the following additional provisions:

- (1) With respect to the insurance provided by this provision, all of the exclusions of Coverage Part I - Comprehensive General Liability Insurance, other than the Nuclear Energy Liability Exclusion (Broad Form), are deleted and replaced by the following:

This insurance does not apply to liability assumed by the **Member** under any contract or agreement.

- (2) The limit of liability stated applies separately to the insurance under this Coverage and is in lieu of any other limit stated in the Coverage.

Limit of Liability: \$100,000 per **occurrence**

The insurance afforded by this Coverage is excess over any other insurance whether primary, excess contingent, or any other basis with respect to property insurance such as, but not limited to, fire, extended coverage builder's risk coverage, or installation risk coverage or similar coverage for **your work** or fire insurance for premises rented to **you**.

Other Insurance

If other valid and collectible insurance is available to any **insured** for a loss **we** cover under this Coverage **our** obligations are limited as follows:

- (1) Primary Insurance

This insurance is primary insurance except when (2) below applies. If this insurance is primary, **our** obligations are not affected unless any of the other insurance is also primary. Then **we** will share with all said insurance by the method described in (3) below.

- (2) Excess Insurance

This insurance is excess over;

- (a) Any other insurance whether primary, excess, contingent or on any other basis:
- (i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for **your work**;
 - (ii) That is Fire insurance for premises rented to **you** or temporarily occupied by **you** with permission of the owner;
 - (iii) That is insurance purchased by **you** to cover **your** liability as a tenant for **property damage** to premises rented to **you** or temporarily occupied by **you** with permission of the owner; or
 - (iv) If the loss arises out of the maintenance or use of aircraft, **autos** or watercraft to the extent not subject to an EXCLUSION.
- (b) Any other primary insurance available to **you** covering liability for damages arising out of the premises or operations for which **you** have been added as an additional **insured**.

When this insurance is excess, **we** will have no duty under this Coverage to defend the **insured** against any **claim** or **suit** if any other insurer has a duty to defend the **insured** against that **suit**.

If no other insurer defends, **we** will undertake to do so; but **we** will be entitled to any of the **insured's** rights against those other insurers.

When this insurance is excess over other insurance, **we** will pay only **our** share of the amount of the loss, if any, that exceeds the sum of:

- (a) the total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (b) the total of all deductible and self-insurance amounts under all such other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Liability shown in the Declarations of this Coverage.

(3) Method of Sharing

If all of the other insurance permits contribution by equal shares, **we** will follow this method also. Under this method, each insurer contributes equal amounts until:

- (a) it has paid its applicable limit of liability or
- (b) none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal share, **we** will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of liability to the total applicable limits of liability of all insurers.

Other Insurance includes, but is not limited to, coverage or benefits provided by self-insurance arrangements, pools, self-insurance trusts, captive insurance companies, retention groups, reciprocal exchanges or any other plan or agreement of risk transfer or assumption.

COMPREHENSIVE GENERAL LIABILITY ENDORSEMENT #1**BODILY INJURY TO A CO-EMPLOYEE**

With respect to **your employees**, WHO IS AN INSURED is amended as follows:

Paragraph (1) (a) (i) is amended to read:

(a) **Bodily Injury:**

- (i) To you, or your partners or Member (if you are a partnership or joint venture);
- (ii) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraph (1) (a) above; or

Paragraph (5) (a) is deleted.

Each Occurrence Limit:	\$25,000
Aggregate Limit:	\$25,000

COMPREHENSIVE GENERAL LIABILITY ENDORSEMENT #2**MOBILE EQUIPMENT – UNINSURED AND UNDERINSURED MOTORISTS
COVERAGE EXTENSION**

This endorsement modifies insurance provided under the following:

With respect to **mobile equipment** to which this coverage applies, **we** will also provide the insurance required by any motor vehicle insurance law for uninsured motorists or underinsured motorists. Such insurance for uninsured motorists or underinsured motorists will be subject to the Each **Occurrence** Limit shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMPREHENSIVE GENERAL LIABILITY ENDORSEMENT #3

TITLE 18A – DEFENSE REIMBURSEMENT

It is agreed and understood that the Coverage has been amended as follows:

It is agreed that the following is added to **PART I – COMPREHENSIVE GENERAL LIABILITY INSURANCE, COVERAGE A BODILY INJURY LIABILITY AND PROPERTY DAMAGE LIABILITY, Insuring Agreement:**

We shall reimburse those sums that the **insured** becomes legally obligated to pay by reasons imposed by the New Jersey Compiled Statutes known as Title 18A 16:6, 18A: 16-6.1 and 18A: 12-20 including any amendment and revisions thereto. The most **we** will pay for the sum of all **claims** for reimbursement shall be \$50,000 in any one policy period. The Limits of Insurance do not apply to this defense reimbursement expenses.

With respect to the coverage provided by this endorsement:

1. **ADDITIONAL CONDITIONS, Other Insurance** is deleted in its entirety and replaced with the following:

If at the time of an **occurrence** any valid and collectible insurance is available to the **insured** (through this or any other carrier), except insurance purchased to apply excess of the limit of liability of the policy, no insurance shall be afforded hereunder as respects such **occurrence**.

COVERAGE PART II

EMPLOYEE BENEFITS LIABILITY INSURANCE

This is a claims made form. It covers only claims first made against an Insured during the policy period arising from negligent acts, errors or omissions occurring before the end of the Coverage Period. Please review the Form carefully.

We will pay on behalf of the **Member** all sums which the **Member** shall become legally obligated to pay as a result of damages sustained by an **employee**, prospective **employee**, former **employee** or the beneficiaries or legal representatives thereof of the **administration** of the **employee benefits programs**, as defined herein. This coverage applies to any negligent act, error, or omission of the **insured** or any other person for whose acts the **insured** is legally liable, provided:

- (1) A claim for damages because of the negligent act, error or omission is first made against an **insured** during the coverage period for any negligent act, error or omission occurring before the end of the coverage period; and
- (2) prior to the effective date of this Coverage the **Insured** had no knowledge of such negligent act, error or omission or any fact, circumstance, situation or incident which may have led a reasonable person to conclude that a **claim** was likely

We shall have the right and duty to defend any **suit** against the **Member** which seeks such damages even if any of the allegations are groundless, false or fraudulent, and may make such investigation and settlement of any **claim** or **suit** as we deem expedient, but we shall not be obligated to pay any **claim** or judgment or defend any **suit** after the applicable limit of our liability has been exhausted by payment of judgments, settlements or SUPPLEMENTARY PAYMENTS including legal costs; all legal costs and other SUPPLEMENTARY PAYMENTS are included within the applicable limits of insurance.. We shall have no duty to defend a **Member** in any **suit** seeking damages to which this Coverage does not apply.

A. Exclusions

This insurance does not apply to:

- (1) any dishonest, fraudulent, criminal or malicious act, libel, slander, discrimination, or humiliation.
- (2) **bodily injury**, sickness, disease, or death of any person, **personal and advertising injury**, or to injury to or destruction of any tangible property, including the loss of use thereof.
- (3) to any **claim** for failure of performance of contract by any insurer, any self-insured entity or any combination thereof, including failure of any **employee benefits program**.
- (4) to any **claim** on the **Member 's** failure to comply with any law concerning worker's compensation, unemployment insurance, social security or disability benefits;

- (5) to any **claim** based on:
 - (a) failure of investment to perform as represented by the **Member**;
 - (b) advice given by the **Member** to an **employee** to participate or not to participate in **your employee benefits program**;
 - (c) the investment or non-investment of funds; or
 - (d) failure of any plan to meet its obligations due to insufficient funds.
- (6) to liability arising out of any allegation(s) of any provision(s) of the **Employee Retirement Income Security Act of 1974, Public Law 93-406, commonly referred to as the Pension Reform Act of 1974, the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248 or the Consolidated Omnibus Budget Reconciliation Act of 1986, Pub. L. 99-509 and amendments hereto, or similar provisions of any Federal, State or Local Statutory Law or Common Law, or Internal Revenue Code and its amendments.**

B. Who Is An Insured

- (1) **Member**
- (2) **Employee** (provided such **employee** is authorized to act in the **administration** of the **Insured's Employee Benefit Programs**) while acting within the scope of his or her duties.
- (3) Any duly elected or appointed official while acting within the scope of his or her duties.

C. Additional Definitions

Administration means:

- (1) Giving counsel to employees with respect to the **employee benefit programs**;
- (2) Interpreting the **employee benefit programs**;
- (3) Handling of records in connection with the **employee benefit programs**;
- (4) Effecting enrollment, termination, or cancellation of employees under the **employee benefit programs**, provided all such acts are authorized by the **Member**;
- (5) Processing **claims** in connection with **your employee benefits programs**; or
- (6) Preparation of communications to inform **employees** about their benefits.

Employee for purposes of this ENDORSEMENT means **your** officers or any persons employed and compensated by **you**, whether actively employed, disabled or retired, **your** public officials, and any Title 34 Volunteer. **Employee** does not include a **leased worker or temporary worker**.

D. Deductible

The deductible amount stated in the Schedule shall be deducted from the amount of all **claims** arising out of the same negligent act, error or omission and the **Fund** shall be liable only for the difference between such deductible amount and the amount of insurance otherwise applicable. The terms of the Coverage, including those with respect to (a) the **Fund's** rights and duties with respect to the defense of **suits** and (b) the **Insured's** duties in the event of an **occurrence** apply irrespective of the application of the deductible amount.

The **Fund** may pay any part or all of the deductible amount to effect settlement of any **claim** or **suit** and upon notification of the action taken, the **Member** or **Member Insured** shall promptly reimburse the **Fund** for such part of the deductible amount as has been paid by the **Fund**.

E. Limits of Liability

The Limit of liability stated in the Schedule as applicable to each **claim** is the total limit of the **Fund's** liability for all damages arising out of all acts or omissions in connection with the same **Professional Service** regardless of the number of **claims** or claimants. Subject to the foregoing provision respecting each **claim**, the Limit of Liability stated in the Schedule as **aggregate** is the total limit of the **Fund's** liability hereunder for all damages during each Coverage year.

The inclusion in this Coverage Form of more than one **Insured** shall not operate to increase the limits of the **Fund's** liability.

F. Non-Assignable

The interest of the **Insured** under this Coverage Form shall not be assignable to any other interest.

G. Application

By acceptance of this Coverage Form the **Insured** agrees that the statements in the Application are his representations, that this Coverage Form is issued in reliance upon the truth of such representations and that this Coverage Form embodies all agreements existing between himself and the Company or any of its agents relating to this insurance.

H. Coverage Period and Territory

Coverage applies to negligent acts, errors or omissions which occur within the United States of America, its territories or possessions or Canada and to **claims** there from which are under the legal jurisdiction of a court of law or court of equity within the Territory as defined herein, and then only if **claim** is made or **suit** is brought against the **Insured** for:

- (1) Negligent acts, errors or omissions which occur during the Coverage period and then only if **claim** is made or **suit** is brought during the Coverage period. If during the Coverage period, the **Insured** shall have knowledge or become aware of any negligent act, error or omission and shall, during the Coverage period, give written notice thereof to the **Fund**; then such notice shall be considered a **claim** hereunder; or
- (2) Negligent acts, errors or omission which have occurred prior to the Coverage period but then only if, during the Coverage period, the **Named Insured** first has knowledge of or can reasonably foresee any circumstances which might result in a **claim** or **suit** and has

given written notice thereof to the **Fund** in accordance with Condition 3 of this Coverage Form.

I. Additional Conditions

Duties in the Event of Negligent Act, Error, Omission, Claim or Suit

- (1) Upon the **insured** becoming aware of the negligent act, error or omission, which may result in a **claim**, written notice containing particulars sufficient to identify the **insured** and also reasonably obtainable information with respect to the time, place and circumstances thereof, shall be given by or for the **insured** to **us** as soon as practicable.
- (2) If **claim** is made or **suit** is brought against the **insured**, the **insured** shall immediately forward to **us** every demand, notice, summons or other process received by him or his representative.
- (3) The **insured** shall cooperate with **us** and upon **our** request shall attend hearings and trials, assist in making settlements, in the conduct of **suits**, in securing and giving evidence and obtaining the attendance of witnesses and enforcing any right of contribution or indemnity against any person or organization who may be liable to the **insured** with respect to which insurance is afforded under this Coverage form. The **insured** shall not, except at his or her own cost, voluntarily make any payment, assume any obligation or incur any expense.

J. Other Insurance

If the **insured** has other insurance against a loss under this Coverage Part, **we** shall not be liable under this Coverage Part for a greater proportion of such loss than the limit of liability stated in the Declaration bears to the total limit of liability of all valid and collectible insurance against such loss.

K. Extended Reporting Periods

An automatic 60 day extended reporting period endorsement, with an option to extend to one year from the date of expiration or nonrenewal of coverage under COVERAGE PART II, is available at your written request for an additional charge. This automatic extended reporting period shall immediately expire upon the purchase of replacement coverage by the **Member**. To exercise this option, you must however provide written notice of your intention to purchase such an extended reporting endorsement, to the Executive Director identified in the GENERAL POLICY CONDITIONS within sixty (60) days after the date of cancellation or nonrenewal of this policy,

COVERAGE PART III

BUSINESS AUTO LIABILITY

A. Coverage

We will pay all sums an **insured** legally must pay as damages because of **bodily injury** or **property damage** to which this insurance applies, caused by an **accident** and resulting from the ownership, maintenance or use of a covered **auto**.

We will also pay all sums an **insured** legally must pay as a **covered pollution cost** or **expense** to which this insurance applies, caused by an **accident** and resulting from the ownership, maintenance or use of covered **autos**. However, we will only pay for the **covered pollution cost** or **expense** if there is either **bodily injury** or **property damage** to which this insurance applies that is caused by the same **accident**.

We have the right and duty to defend any **insured** against a **suit** asking for such damages or a **covered pollution cost** or **expense**. However, we have no duty to defend any **insured** against a **suit** seeking damages for **bodily injury** or **property damage** or a **covered pollution cost** or **expense** to which this insurance does not apply. We may investigate and settle any **claim** or **suit** as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance has been exhausted by payment of judgments, settlements or SUPPLEMENTARY PAYMENTS including legal costs; all legal costs and other SUPPLEMENTARY PAYMENTS are included within the applicable limits of insurance.

B. Exclusions

This insurance does not apply to any of the following:

(1) Expected or Intended Injury

Bodily injury or **property damage** expected or intended from the standpoint of the **insured**.

(2) Contractual Liability

Liability assumed under any contract or agreement.

But this exclusion does not apply to liability for damages:

- (a) Assumed in a contract or agreement that is an **insured contract** provided the **bodily injury** or **property damage** occurs subsequent to the execution of the contract or agreement; or
- (b) That the **insured** would have in the absence of the contract or agreement.

(3) Employer's Liability

Bodily injury to:

- (a) An **employee** of the **Member**, including any authorized volunteer subject to New Jersey Workers' Compensation under Title 34, arising out of and in the course of:
 - (i) Employment by the **Member**; or
 - (ii) Performing the duties related to the conduct of the **Member's** business; or

- (b) The spouse, child, parent, brother or sister of that **employee** as a **consequence** of Paragraph a. above. This EXCLUSION applies:
 - (i) Whether the **insured** may be liable as an employer or in any other capacity; and
 - (ii) To any obligation to share damages with or repay someone else who must pay damages because of the injury.
- (4) **Fellow Employee**
Bodily injury to:
 - (a) A co-**employee** of the **insured** arising out of and in the course of the co-**employee's** employment by the **insured** or while performing duties relation to the conduct of **your** business; or
 - (b) The spouse, child, parent, brother or sister of that co-**employee** as a consequence of paragraph a. above.
- (5) **Workers' Compensation and Similar Statutes**
Any obligation for which the **Member Entity**, or any carrier as its insurer may be held liable under any workers' compensation, unemployment compensation law and similar statutes, disability benefits, social security or any similar law.
- (6) **Care Custody or Control**
Property damage to or a **covered pollution cost** or **expense** involving property owned or transported by the **insured** or in the **insured's** care, custody or control. But this exclusion does not apply to liability assumed under a sidetrack agreement or to **property damage** to or **covered pollution cost** or **expense** involving property of the **insured's** passengers while such property is carried by the covered **auto**.
- (7) **Handling of Property**
Bodily injury or **property damage** resulting from the handling of property:
 - (a) Before it is moved from the place where it is accepted by the **insured** for movement into or onto the covered **auto**; or
 - (b) After it is moved from the covered **auto** to the place where it is finally delivered by the **insured**.
- (8) **Movement of Property by Mechanical Device**
Bodily injury or **property damage** resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to the covered **auto**.
- (9) **Operations**
Bodily injury or **property damage** arising out of the operation of any equipment listed in paragraphs 6.b. and 6.c. of the definition of **mobile equipment**.

(10) Completed Operations

Bodily injury or property damage arising out of **your** work after that work has been completed or abandoned.

In this exclusion, **your** work means:

- (a) Work or operations performed by **you** or on **your** behalf; and
- (b) Materials, parts or equipment furnished in connection with such work or operations.

Your work includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of any of the items included in paragraphs (a) or (b) above.

Your work will be deemed completed at the earliest of the following times:

- (i) When all of the work called for in **your** contract has been completed.
- (ii) When all of the work to be done at the site has been completed if **your** contract calls for work at more than one site.
- (iii) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

(11) Pollution

Bodily injury or property damage arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants**:

- (a) That are, or that are contained in any property that is:
 - (i) Being transported or towed by, handled, or handled for movement into, onto or from, the covered **auto**;
 - (ii) Otherwise in the course of transit by or on behalf of the **insured**; or
 - (iii) Being stored, disposed of, treated or processed in or upon the covered **auto**;
- (b) Before the **pollutants** or any property in which the **pollutants** are contained are moved from the place where they are accepted by the **insured** for movement into or onto the covered **auto**; or
- (c) After the **pollutants** or any property in which the **pollutants** are contained are moved from the covered **auto** to the place where they are finally delivered, disposed of or abandoned by the **insured**.

Paragraph (a) above does not apply to fuels, lubricants, fluids, exhaust gases or other similar **pollutants** that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered **auto** or its parts, if:

- (i) The **pollutants** escape, seep, migrate, or are discharged, dispersed or released directly from an **auto** part designed by its manufacturer to hold, store, receive or dispose of such **pollutants**; and
- (ii) The **bodily injury, property damage or covered pollution cost or expense** does not arise out of the operation of any equipment listed in paragraphs 6.b. and 6.c. of the definition of **mobile equipment**.

Paragraphs b. and c. above of this exclusion do not apply to **accidents** that occur away from premises owned by or rented to an **insured** with respect to **pollutants** not in or upon a covered **auto** if:

- (i) The **pollutants** or any property in which the **pollutants** are contained are upset, overturned or damaged as a result of the maintenance or use of a covered **auto**; and
- (ii) The discharge, dispersal, seepage, migration, release or escape of the **pollutants** is caused directly by such upset, overturn or damage.

This exclusion does not apply for coverage up to the minimum financial responsibility limits specified in N.J.S.A. 39:6B-1.

(12) War

Bodily injury or property damage arising directly or indirectly out of:

- (a) war, whether or not declared, or civil war;
- (b) warlike action by a military force, including action in hindering or defending against an actual or expected attack, by an government, sovereign or other authority using military personnel or other agents, or;
- (c) insurrection, rebellion, revolution usurped power or action taken by governmental authority in hindering or defending against any of these.

(13) Racing

Covered **autos** while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered **auto** is being prepared for such a contest or activity.

C. WHO IS AN INSURED

The following are **insureds**:

- (1) **You** for any covered **auto**.
- (2) Board **Members** and other **Members** of the administrative staff, student teachers and authorized volunteers while acting within the scope of their duties and while under the direction of the Named **Insured**.
- (3) Newly Acquired or Formed Organizations
Any organization **you** newly acquire or form, other than a partnership or joint venture, and over which **you** maintain ownership or majority interest, will be deemed to be a Named

Insured if there is no similar insurance available to that organization. However:

- (a) Coverage under this provision is afforded only until the 180th day after **you** acquire or form the organization or the end of the Coverage period, whichever is earlier.
- (b) Coverage does not apply to **bodily injury** or **property damage** resulting from an **accident** that occurred before **you** acquired or formed the organization.

No person or organization is an **insured** with respect to the conduct of any current or past partnership or joint venture that is not shown as a Named **Insured** in the Declarations.

(4) Employees and Volunteers (Non-Ownership Liability)

Any **employee**, board **Member** or other elected or appointed official, **Member** of the administrative staff, student teacher or other authorized volunteer or **Member** is an **insured** while using a covered **auto** **you** don't own, hire or borrow during the course of their duties for **you** as a **Member** or **Member District**.

(5) Blanket Additional **Insureds**

An **insured** is any person or organization with whom **you** agreed, because of a written contract, agreement or permit, to provide insurance such as is afforded under this Coverage Part, but only with respect to **your** ownership, maintenance or use of a covered **auto**.

This provision applies only if the written contract or agreement has been executed or permit issued prior to the **bodily injury** or **property damage**.

(6) Anyone else while using with **your** permission a covered **auto** **you** own, hire or borrow except:

- (a) The owner or anyone else from whom **you** hire or borrow a covered **auto**. This exception does not apply if the covered **auto** is a **trailer** connected to a covered **auto** **you** own.
- (b) **Your employee** if the covered **auto** is owned by that **employee** or a **Member** of his or her household.
- (c) Someone using a covered **auto** while he or she is working in a business of selling, servicing, repairing, parking or storing **autos** unless that business is **yours**.
- (d) Anyone other than **your** employees, partners, a lessee or borrower or any of their employees, while moving property to or from a covered **auto**.
- (e) A partner of **yours** for a covered **auto** owned by him or her or a **Member** of his or her household.

(7) Anyone liable for the conduct of an **insured** described above but only to the extent of that liability.

D. COVERAGE EXTENSIONS**(1) Out-of-State Coverage Extensions.**

While a covered **auto** is away from the state where it is licensed **we** will:

- (a) Increase the Limit of Insurance for Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered **auto** is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.
- (b) Provide the minimum amounts and types of other coverage, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered **auto** is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

E. ADDITIONAL DEFINITIONS

Accident includes continuous or repeated exposure to the same conditions resulting in **bodily injury** or **property damage**.

Covered auto means a land motor vehicle, trailer (trailers with a load capacity of 2,000 pounds or less designed primarily for travel on public roads) or semi-trailer designed for travel on public roads (including any machinery or apparatus attached thereto) that is:

- (1) Owned by the **Member**. This includes any **auto** the **Member** acquires ownership of after this Coverage Period begins.
- (2) Any trailer the **Member** does not own while attached to an **auto** the **Member** owns.
- (3) Hired by the **Member**. This is any **auto** the **Member** leases, hires, rents or borrows, except an **auto** the **Member** leases, hires, rents or borrows from any of its employees, authorized volunteers or **Members** of their households.
- (4) Non-owned by the **Member**. This is any **auto** the **Member** does not own, lease, hire, rent or borrow and is used on behalf of the **Member**. This includes any **auto** owned by its employees, authorized volunteers or **Members** of their household, but only while used on behalf of the **Member**.
- (5) Any **auto you** do not own while used with the permission of its owner as a temporary substitute for a covered **auto you** own that is out of service because of its:
 - (a) Breakdown;
 - (b) Repair;
 - (c) Servicing;
 - (d) **Loss**; or
 - (e) Destruction.

The term **covered auto** also includes **mobile equipment**, but only while being carried or towed by a **covered auto**.

Covered pollution cost or expense means any cost or expense arising out of:

- (1) Any request, demand or order or statutory or regulatory requirement that any **Member** or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects, of **pollutants**; or
- (2) Any **claim** or **suit** by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of **pollutants**.

Covered pollution cost or expense does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **pollutants**:

- (a) That are, or that are contained in any property that is:
 - (i) Being transported or towed by, handled, or handled for movement into, onto or from the **covered auto**;
 - (ii) Otherwise in the course of transit by or on behalf of the **insured**;
 - (iii) Being stored, disposed of, treated or processed in or upon the **covered auto**; or
- (b) Before the **pollutants** or any property in which the **pollutants** are contained are moved from the place where they are accepted by the **insured** for movement into or onto the **covered auto**; or
- (c) After the **pollutants** or any property in which the **pollutants** are contained are moved from the **covered auto** to the place where they are finally delivered, disposed of or abandoned by the **insured**.

Paragraph (a) above does not apply to fuels, lubricants, fluids, exhaust gases or other similar **pollutants** that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the **covered auto** or its parts, if:

- (i) The **pollutants** escape, seep, migrate, or are discharged, dispersed or released directly from an **auto** part designed by its manufacturer to hold, store, receive or dispose of such **pollutants**; and
- (ii) The **bodily injury, property damage or covered pollution cost or expense** does not arise out of the operation of any equipment listed in paragraphs 6.b. or 6.c. of the definition of **mobile equipment**.

Paragraphs b. and c. above do not apply to **accidents** that occur away from premises owned by or rented to an **insured** with respect to **pollutants** not in or upon a **covered auto** if:

- (i) The **pollutants** or any property in which the **pollutants** are contained are upset, overturned or damaged as a result of the maintenance or use of a covered **auto**; and
- (ii) The discharge, dispersal, seepage, migration, release or escape of the **pollutants** is caused directly by such upset, overturn or damage.

Loss means direct and accidental damage or loss.

Permanently attached equipment means equipment that is welded, bolted, or permanently screwed to the dashboard, firewall or body of the **auto**. Equipment inserted on permanently installed side brackets with or without the use of setscrews or tension, or portable firefighting and/or rescue related equipment shall not be construed as **permanently attached equipment**.

F. ADDITIONAL CONDITIONS

Other Insurance

- (1) For any **covered auto** the **Member** owns this Coverage provides primary insurance. For any **covered auto** the **Member** does not own, the insurance provided by this Coverage is excess over any other collectible insurance. Regardless of this provision liability coverage is primary for any liability assumed under an **insured contract** prior to a loss. However, while a **covered auto** which is a **trailer** is connected to another vehicle, the liability Coverage Part provide for the **trailer** is:
 - (a) excess while it is connected to a motor vehicle the **Member** does not own.
 - (b) primary while it is connected to a covered **auto** the **Member** owns.
- (2) When this Coverage and any other coverage form or policy covers on the same basis, either excess or primary, **we** will pay only **our** share. **Our** share is the proportion that the limit of **our** Coverage bears to the total of the limits of all the policies covering on the same basis.

Duties In The Event Of Accident, Claim, Suit or Loss

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

In the event of accident, **claim, suit** or loss, **you** must give **your** authorized representative, or **our** authorized representative prompt notice of the accident or loss. Include:

- (1) How, when and where the accident or loss occurred:
- (2) The **insured's** name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

This will not apply until after accident or loss is known to **you, your** elected or appointed officers/officials or Board **Members, your** Insurance Manager or **your** Administrator.

Additionally, **you** and any other involved **insured** must:

- (1) Assume no obligation, make no payment or incur no expense without **our** consent except at the **insured's** own cost.
- (2) Immediately send **us** copies of any request, demand order, notice, summons or legal paper received concerning the **claim** or **suit**.
- (3) Cooperate with **us** in the investigation, settlement or defense of the **claim** or **suit**.
- (4) Authorize **us** to obtain medical records or other pertinent information.
- (5) Submit to examination, at **our** expense, by physicians of **our** choice, as often as **we** reasonably require.

This will not apply until after accident or loss is known to **you**, **your** elected or appointed officers/officials or Board **Members**, **your** Insurance Manager or **your** Administrator.

If there is loss to a covered **auto** or its equipment **you** must also do the following:

- (1) Promptly notify the police if the covered **auto** or any of its equipment is stolen.
- (2) Take all reasonable steps to protect the covered **auto** from further damage. Also keep a record of **your** expenses for consideration in the settlement of the **claim**.
- (3) Permit **us** to inspect the covered **auto** and records proving the loss before its repair or disposition.
- (4) Agree to examinations under oath at **our** request and give **us** a signed statement of **your** answers.

Our Right to Recover from Others

If **we** make any payment, **we** are entitled to recover what **we** paid from other parties. Any person to or for whom **we** make payment must transfer to **us** his or her rights of recovery against any other party. This person must do everything necessary to secure those rights and must do nothing that would jeopardize them.

Coverage Period & Coverage Territory

Under this Coverage Form, **we** cover **accidents** and **losses** occurring:

- (1) During the Coverage period shown in the Declarations; and
- (2) Within the coverage territory.

The coverage territory is:

- (a) The United States of America;
- (b) The territories and possessions of the United States of America;

(c) Puerto Rico; and

(d) Canada.

We also cover **loss** to, or **accidents** involving, a covered **auto** while being transported between any of these places.

(e) Anywhere in the world if:

- (i) A covered **auto** is leased, hired, rented or borrowed without a driver for a period of 30 days or less; and
- (ii) The **insured's** responsibility to pay damages is determined in a **suit** on the merits, in the coverage territory or in a settlement **we** agree to.

**BUSINESS AUTO LIABILITY INSURANCE
UNINSURED/UNDERINSURED MOTORISTS INSURANCE**

ENDORSEMENT #BA-1

NEW JERSEY UNINSURED AND UNDERINSURED MOTORISTS COVERAGE

For a covered **auto** licensed or principally garaged in, or **garage operations** conducted in, New Jersey, this ENDORSEMENT modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this ENDORSEMENT, the provisions of the Policy apply unless modified by the ENDORSEMENT.

This ENDORSEMENT changes the Policy effective on the inception date of the Policy unless another date is indicated below.

ENDORSEMENT Effective:	Countersigned By:
Named Insured :	(Authorized Representative)

SCHEDULE

LIMITS OF INSURANCE	
\$	Each accident
If no entry appears above, information request to complete this ENDORSEMENT will be shown in the DECLARATIONS as applicable to this ENDORSEMENT.	

A. Coverage

1. **We** will pay all sums the **insured** is legally entitled to recover as compensatory damages from the owner or driver of an **uninsured motor vehicle** or an **underinsured motor vehicle**. The damages must result from **bodily injury** sustained by the **insured**, or **property damage** caused by an **accident**. The owner's or driver's liability for these damages must result from the ownership, maintenance or use of an **uninsured motor vehicle** or an **underinsured motor vehicle**.
2. With respect to damages resulting from an **accident** with an **underinsured motor vehicle**, **we** will pay under this coverage only if a. or b. below applies:
 - a. The limit of any applicable liability bonds or policies have been exhausted by judgments or payments; or

- b. A tentative settlement has been made between an **insured** and the insurer of an **underinsured motor vehicle** and **we**:
 - (1) Have been given prompt written notice of such tentative settlement; and
 - (2) Advance payment to the **insured** in an amount equal to the tentative settlement within 30 days after receipt of notification.
- 3. Any judgment for damages arising out of a **suit** brought without **our** written consent is not binding on **us**.

B. Who Is an Insured

If the Named **Insured** is designated in the DECLARATIONS as:

- 1. An individual, then the following are **insured**:
 - a. The Named **Insured** and any **family members**.
 - b. Anyone else **occupying** a covered **auto** or a temporary substitute for a covered **auto**. The covered **auto** must be out of service because of its breakdown, repair, servicing, loss or destruction.
 - c. Anyone for damages he or she is entitled to recover because of **bodily injury** sustained by another **insured**.
- 2. A partnership, limited liability company, corporation or any other form of organization, then the following are **insureds**:
 - a. Anyone **occupying** a covered **auto** or a temporary substitute for a covered **auto**. The covered **auto** must be out of service because of its breakdown, repair, servicing, **loss** or destruction.
 - b. Anyone for damages he or she is entitled to recover because of **bodily injury** sustained by another **insured**.

C. Exclusions

This insurance does not apply to any of the following:

- 1. With respect to an **uninsured motor vehicle**, any **claim** settled without **our** consent.
- 2. Damages for pain, suffering and inconvenience resulting from **bodily injury** caused by an **accident** involving an **uninsured motor vehicle** or an **underinsured motor vehicle** unless the injured person has a legal right to recover damages for such pain, suffering and inconvenience under the New Jersey Auto Reparation Reform Act. The injured person's legal right to recover damages for pain, suffering and inconvenience under the New Jersey Auto Reparation Reform Act will be determined by the liability tort limitation, if any, applicable to that person.
- 3. The direct or indirect benefit of any insurer or self-insurer under any workers' compensation, disability benefits or similar law.
- 4. The direct or indirect benefit of any insurer of property.
- 5. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.

6. **Property damage** for which the **insured** had been or is entitled to be compensated by other property or physical damage insurance.
7. The first \$500 of the amount of **property damage** to the property of each **insured** as the result of any one **accident**.
8. **Property damage** caused by a hit-and-run vehicle.
9. Punitive or exemplary damages.
10. **Bodily injury** or **property damage** sustained by any **insured** who is an owner of a motor vehicle:
 - a. **Insured** under a basic **auto** insurance policy issued in accordance with New Jersey law or regulation; or
 - b. Required to be **insured** in accordance with New Jersey law or regulation, but not **insured** for this coverage or any similar coverage.

However, this EXCLUSION does not apply to an individual Named **Insured**, and such Named **Insured**'s spouse, unless the individual Named **Insured** or such Named **Insured**'s spouse are **occupying**, at the time of an **accident**, a motor vehicle described in Subparagraph a. or b. above.

D. Limit of Insurance

1. Regardless of the number of covered **autos**, **insureds**, premiums paid, **claims** made or vehicles involved in the **accident**, the Limit of Insurance shown in the Schedule or DECLARATIONS for Uninsured Motorists Coverage and Underinsured Motorists Coverage is the most **we** will pay for all damages resulting from any one **accident** with an **uninsured motor vehicle** or an **underinsured motor vehicle**.
 - a. However, subject to **our** maximum Limit of Insurance for this coverage, if:
 - (1) An **insured** is not the individual named **insured** under this Policy;
 - (2) That **insured** is an individual named **insured** under one or more other policies providing similar coverage; and
 - (3) All such other policies have a limit of insurance for similar coverage which is less than the Limit of Insurance for this coverage; then the most **we** will pay for all damages resulting from any one **accident** with an **uninsured motor vehicle** or an **underinsured motor vehicle** shall not exceed the highest applicable limit of insurance under any coverage form or Policy providing coverage to that **insured** as an individual named **insured**.
 - b. However, subject to **our** maximum Limit of Insurance for this coverage, if:
 - (1) An **insured** is not the individual named **insured** under this Policy or any other Policy;
 - (2) That **insured** is **insured** as a **family member** under one or more other policies providing similar coverage; and
 - (3) All such other policies have a limit of insurance for similar coverage which is less than the Limit of Insurance for this coverage;

then the most **we** will pay for all damages resulting from any one **accident** with an **uninsured motor vehicle** or an **underinsured motor vehicle** shall not exceed the highest applicable limit of insurance under any coverage form or Policy providing coverage to that **insured** as a **family member**.

2. With respect to damages resulting from an **accident** involving an **uninsured motor vehicle**, **we** will not make a duplicate payment under this Coverage for any element of **loss** for which payment has been made by or for anyone who is legally responsible.
3. With respect to damages resulting from an **accident** involving an **underinsured motor vehicle**, the Limit of Insurance shall be reduced by all sums paid by or for anyone who may be legally responsible, including all sums paid under this Coverage Form's Liability Coverage.
4. No one will be entitled to receive duplicate payments for the same elements of **loss** under this Coverage Form and any Liability Coverage Form attached to this Coverage Part.

We will not pay for any element of **loss** if a person is entitled to receive payment for the same element of **loss** under any personal injury protection benefits.

E. **Changes in Conditions**

The CONDITIONS are changed for Uninsured and Underinsured Motorists Coverage as follows:

1. **Other Insurance** in the Business Auto and Garage Coverage Forms and **Other Insurance - Primary And Excess Insurance Provisions** in the Truckers and Motor Carrier Coverage Forms are replaced by the following:

If there is other applicable insurance available under one or more policies or provisions of coverage:

- a. The maximum recovery under all coverage forms or policies combined may equal but not exceed the highest applicable limit for any one vehicle under any coverage form or Policy providing coverage on either a primary or excess basis.

However, if an **insured** is:

- (1) An individual named **insured** under one or more policies providing similar coverage; and
- (2) Not **occupying** a vehicle owned by that individual named **insured**;

then any recovery for damages for **bodily injury** or **property damage** for that **insured** may equal but not exceed the highest applicable limit for any one vehicle under any coverage form or Policy providing coverage to that **insured** as an individual named **insured**.

However, if an **insured** is:

- (1) **Insured** as a **family member** under one or more policies providing similar coverage; and

- (2) Not an individual named **insured** under this or any other Policy;

then any recovery for damages for **bodily injury** or **property damage** for that **insured** may equal but not exceed the highest applicable limit for any one vehicle under any coverage form or Policy providing coverage to that **insured** as a **family member**.

- b. Any insurance **we** provide with respect to a vehicle the Named **Insured** does not own shall be excess over any other collectible uninsured motorists or underinsured motorists insurance providing coverage on a primary basis.
- c. If the coverage under this Coverage Form is provided:
- (1) On a primary basis, **we** will pay only **our** share of the loss that must be paid under insurance providing coverage on a primary basis. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits of liability for coverage on a primary basis.
- (2) On an excess basis, **we** will pay only **our** share of the loss that must be paid under insurance providing coverage on an excess basis. **Our** share is the proportion that **our** limit of liability bears to the total of all applicable limits of liability for coverage on an excess basis.
2. **Duties In The Event Of Accident** is changed by adding the following:
- a. Promptly notify the police if a hit-and-run driver is involved; and
- b. Promptly send **us** copies of the legal papers if a **suit** is brought.
- c. A person seeking coverage under this ENDORSEMENT must also promptly notify **us**, in writing, of a tentative settlement between the **insured** and the insurer of an **underinsured motor vehicle**, and allow **us** to advance payment to that **insured** in an amount equal to the tentative settlement within 30 days after receipt of notification to preserve **our** rights against the insurer, owner or operator of such **underinsured motor vehicle**.
3. **Transfer Of Rights Of Recovery Against Others To Us** is changed by adding the following:

If **we** make any payment and the **insured** recovers from another party, the **insured** shall hold the proceeds in trust for **us** and pay **us** back the amount **we** have paid.

Our rights do not apply under this provision with respect to damages caused by an **accident** with an **underinsured motor vehicle** if **we**:

- a. Have been given prompt notice in writing of a tentative settlement between an **insured** and the insurer of an **underinsured motor vehicle**; and
- b. Fail to advance payment to the **insured** in an amount equal to the tentative settlement within 30 days after receipt of notification.

If **we** advance payment to the **insured** in an amount equal to the tentative settlement within 30 days after receipt of notification:

- (1) That payment will be separate from any amount the **insured** is entitled to recover under the provisions of this ENDORSEMENT; and
- (2) **We** also have a right to recover the advanced payment.

4. The following CONDITION is added:

ARBITRATION

- a. If **we** and an **insured** disagree whether the **insured** is legally entitled to recover damages from the owner or driver of an **uninsured motor vehicle** or an **underinsured motor vehicle** or do not agree as to the amount of damages that are recoverable by that **insured**, then the matter may be arbitrated. However, disputes concerning coverage under this ENDORSEMENT may not be arbitrated. Either party may make a written demand for arbitration. In this event, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally.
- b. Unless both parties agree otherwise, arbitration will take place in the county in which the **insured** lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.

F. **Additional Definitions**

As used in this ENDORSEMENT:

1. **Family member** means a person related to an individual Named **Insured** by blood, marriage, or adoption who is a resident of such Named **Insured's** household, including a ward or foster child.
2. **Occupying** means in, upon, getting in, on, out or off.
3. **Property damage** means damage to a covered **auto**, or to any property of an **insured** while contained in a covered **auto**.
4. **Underinsured motor vehicle** means the following:
 - a. With respect to an **insured** who:
 - (1) Is not the individual named **insured** under this Policy; and
 - (2) Is an individual named **insured** under one or more other policies providing similar coverage.
 - underinsured motor vehicle** means a land motor vehicle or **trailer** of any type to which a liability bond or Policy applies at the time of an **accident** but its limit of liability is less than the highest applicable limit of liability under any coverage form or Policy providing coverage to that **insured** as an individual named **insured**.
 - b. With respect to an **insured** who:
 - (1) Is not the individual named **insured** under this Policy or any other Policy; and

- (2) Is **insured** as a **family member** under one or more other policies providing similar coverage,

underinsured motor vehicle means a land motor vehicle or **trailer** of any type to which a liability bond or Policy applies at the time of an **accident** but its limit for liability is less than the highest applicable limit of liability under any coverage form or Policy providing coverage to that **insured** as a **family member**.

- c. With respect to any other **insured** who is not described in Paragraphs a. or b. above, **underinsured motor vehicle** means a land motor vehicle or **trailer** of any type to which a liability bond or Policy applies at the time of an **accident** but its limit of liability is less than the Limit of Insurance for this Coverage.

However, an **underinsured motor vehicle** does not include any vehicle:

- (1) Owned or operated by a self-insurer under any applicable motor vehicle law;
- (2) Owned by any governmental unit or agency
- (3) Operated on rails or crawler treads;
- (4) Designed for use mainly off public roads while not on public roads; or
- (5) While located for use as a residence or premises.
- (6) Owned by or furnished or available for the regular use of the Named **Insured** or, if the Named **Insured** is an individual, any **family member**.

5. **Uninsured motor vehicle** means a land motor vehicle or **trailer**:

- a. For which no liability bond or Policy applies at the time of an **accident**;
- b. For which an insuring or bonding company denies coverage or is or becomes insolvent; or
- c. That, with respect to damages for **bodily injury** only, is a hit-and-run vehicle whose operator or owner cannot be identified and that hits, or causes an **accident** resulting in **bodily injury** without hitting:
 - (1) An individual Named **Insured** or any **family member**;
 - (2) A vehicle that the Named **Insured** or any **family member**, if the Named **Insured** is an individual, are **occupying**; or
 - (3) A covered **auto**.

However, **uninsured motor vehicle** does not include any vehicle:

- (1) Owned by or furnished or available for the regular use of the Named **Insured** or any **family member**, if the Named **Insured** is an individual;
- (2) Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer who is or becomes insolvent and cannot provide the amounts required by that motor vehicle law;
- (3) Owned by any governmental unit or agency;
- (4) **Insured** under a basic **auto** insurance Policy issued in accordance with New Jersey law or regulation;

- (5) Operated on rails or crawler treads;
- (6) Designed for use mainly off public roads while not on public roads; or
- (7) While located for use as a residence or premises.

BUSINESS AUTO INSURANCE**NEW JERSEY PERSONAL INJURY PROTECTION EXTENSION****ENDORSEMENT #BA-2**

For a covered **auto** licensed or principally garaged in, or **garage operations** conducted in, New Jersey, this endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
 GARAGE COVERAGE FORM
 MOTOR CARRIER COVERAGE FORM
 TRUCKERS COVERAGE FORM

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

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective	Countersigned by
Named Insured	

(Authorized Representative)

SCHEDULE

EXTENDED MEDICAL EXPENSE BENEFITS	
Benefits	Limits of Insurance
Medical Expenses	\$10,000 per person per accident

☐ **MEDICAL EXPENSE BENEFITS DEDUCTIBLE**

Unless otherwise indicated to the left, medical expense benefits are subject to a deductible of \$250 per **accident**.

When indicated to the left, medical expense benefits applicable to:

A. The **named insured** and, if the **named insured** is an individual, any **family members** will be subject to a deductible of \$_____ per **accident** instead of the \$250 deductible.

B. **Insured persons** other than the **named insured** and, if the **named insured** is an individual, any **family members** shall be subject to a separate deductible of \$250 per **accident**.

☐ **MEDICAL EXPENSE BENEFITS CO-PAYMENT**

Medical expense benefits are subject to a co-payment of 20% per **accident** for amounts payable between the applicable deductible and \$5,000.

☐ **DELETION OF BENEFITS OTHER THAN MEDICAL EXPENSES OPTION**

All Personal Injury Protection benefits other than medical expense benefits are deleted with respect to the **named insured** and, if the **named insured** is an individual, any **family members**, when indicated to the left. Refer to the Deletion Of Benefits Other Than Medical Expenses Provision.

☐ **MEDICAL EXPENSE BENEFITS-AS-SECONDARY OPTION**

If the **named insured** is an individual, medical expense benefits with respect to the **named insured** and **family members**, are secondary to the health benefits plans under which the **named insured** and **family members** are **insured**, when indicated to the left.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. COVERAGE

1. PERSONAL INJURY PROTECTION

We will pay personal injury protection benefits for **bodily injury** sustained by an **eligible injured person** or an **insured person** caused by an **accident** occurring during the policy period within the United States of America, its territories or possessions or Canada and arising out of the ownership, maintenance or use, including loading or unloading, of a **private passenger auto** as an auto.

These Personal Injury Protection Benefits consist of:

- a. Medical expense benefits.** An amount not exceeding \$100,000 per person per **accident** for reasonable and necessary expenses incurred for medical, surgical, rehabilitative and diagnostic treatments and services, hospital expenses, ambulance or transportation services, medication and non-medical expenses that are prescribed by a treating health care provider for a permanent or significant brain, spinal cord or disfiguring injury.

Non-medical expense means charges for products and devices, not exclusively used for medical purposes or as durable medical equipment, such as vehicles, durable goods, equipment, appurtenances, improvements to real or personal property, fixtures and services and activities such as recreational activities, trips and leisure activities.

All medical expenses must be rendered by a **health care provider**, be **clinically supported** and consistent with the symptoms, diagnosis or indications of the **insured**. They must also be consistent with the most appropriate level of service

that is in accordance with the standards of good practice and standard professional treatment protocols, including care paths for an **identified injury**. They must not be rendered primarily for the convenience of the **insured** or **health care provider** nor may they involve unnecessary testing or treatment.

However, medical expenses include any nonmedical remedial treatment rendered in accordance with recognized religious methods of healing.

- b. **Income continuation benefits.** An amount not exceeding a limit of \$100 per week and a total limit of \$5,200 payable for the loss of income of an **income producer** during his or her lifetime, as a result of **bodily injury** disability, not to exceed net **income** normally earned during the period in which benefits are payable.
 - c. **Essential services benefits.** An amount not exceeding a limit of \$12 per day and a total limit of \$4,380 payable to an **eligible injured person** as reimbursement for payments made to others, for substitute essential services of the type actually rendered during his or her lifetime and which he or she would ordinarily have performed not for income but for the care and maintenance of himself or herself and persons related to the **eligible injured person** by blood, marriage or adoption (including a ward or foster child) who are residents of the same household as the **eligible injured person**.
 - d. **Death benefits.** The amount or amounts payable in the event of the death of an **eligible injured person** as determined below:
 - (1) If the **eligible injured person** was an **income producer** at the time of the **accident**, an amount equal to the difference between \$5,200 and all basic income continuation benefits paid for any loss of **income** resulting from his or her injury prior to his or her death;
 - (2) If the **eligible injured person** ordinarily performed essential services for the care and maintenance of himself or herself, his or her family or family household, an amount equal to the difference between \$4,380 and all basic essential services benefits paid with respect to his or her injury prior to death.
 - e. **Funeral expense benefits.** An amount not exceeding \$1,000 for reasonable funeral, burial and cremation expenses incurred.
2. **EXTENDED MEDICAL EXPENSE BENEFITS**
- We will pay extended medical expense benefits for **bodily injury** sustained by an **insured person** caused by an **accident** occurring during the policy period within the United States of America, its territories or possessions or Canada and arising out of the ownership, maintenance or use, including **loading and unloading**, of a **highway vehicle** not owned by or furnished or available for the regular use of the **named insured** or any **family member**.

Subject to limits shown in the Schedule or DECLARATIONS, Extended Medical Expense Benefits consist of the following:

Reasonable expenses incurred for medical, surgical, rehabilitative and diagnostic treatments and services, hospital expenses, ambulance or transportation services, medication and non-medical expenses that are prescribed by a treating **health care provider** for a permanent or significant brain, spinal cord or disfiguring injury.

Non-medical expense means charges for products and devices, not exclusively used for medical purposes or as durable medical equipment, such as vehicles, durable goods, equipment, appurtenances, improvements to real or personal property, fixtures and services and activities such as recreational activities, trips and leisure activities.

All medical expenses must be rendered by a **health care provider**, be **clinically supported** and consistent with the symptoms, diagnosis or indications of the **insured**. They must also be consistent with the most appropriate level of service that is in accordance with the standards of good practice and standard professional treatment protocols, including care paths for an **identified injury**. They must be rendered primarily for the convenience of the **insured** or **health care provider** nor may they involved unnecessary testing or treatment.

However, medical expenses include any non-medical remedial treatment rendered in accordance with recognized religious methods of healing.

B. EXCLUSIONS

1. PERSONAL INJURY PROTECTION

We will not pay Personal Injury Protection benefits for **bodily injury**:

- a. To a person whose conduct contributed to the **bodily injury** in any of the following ways:
 - (1) While committing a high misdemeanor or felony or seeking to avoid lawful apprehension or arrest by a police officer; or
 - (2) While acting with specific intent to cause injury or damage to himself or herself or others;
- b. To any person who, at the time of the **accident**, was the owner or registrant of a **private passenger auto** registered or principally garaged in New Jersey that was being operated without personal injury protection coverage;
- c. To any person who is not occupying a covered **auto**, other than the **named insured** or any **family member** or a resident of New Jersey, if the **accident** occurs outside of New Jersey;
- d. Arising out of the ownership, maintenance or use, including loading or unloading, of any vehicle while located for use as a residence or premises other than for transitory recreational purposes;

- e. Due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing;
- f. Resulting from the radioactive, toxic, explosive or other hazardous properties of nuclear material;
- g. To any person, other than the **named insured** or any **family member**, if such person is entitled to New Jersey personal injury protection coverage as a **named insured** or **family member** under the terms of any other policy with respect to such coverage;
- h. To any **family member**, if such person is entitled to New Jersey personal injury protection coverage as a **named insured** under the terms of another policy; or
- i. To any person operating or occupying a **private passenger auto** without the permission of the owner or the **named insured** under the policy insuring that **auto**.
- j. For the following **diagnostic tests**
 - (1) Brain mapping, when not done in conjunction with appropriate neuro-diagnostic testing;
 - (2) Iridology;
 - (3) Mandibular tracking and simulation;
 - (4) Reflexology.
 - (5) Spinal diagnostic ultrasound;
 - (6) Surface electromyography (Surface EMG);
 - (7) Surrogate arm mentoring; or
 - (8) Any other **diagnostic test** that is determined to be ineligible for coverage under Personal Injury Protection Coverage by New Jersey law or regulation.
- k. For the following diagnostic tests when used to treat temporomandibular joint disorder (TMJ/D):
 - (1) Doppler ultrasound;
 - (2) Electroencephalogram (EEG);
 - (3) Needle Electromyography (needle EMG);
 - (4) Sonography;
 - (5) Thermograms/thermographs; or
 - (6) Videofluoroscopy.

2. EXTENDED MEDICAL EXPENSE BENEFITS

The exclusions that apply to Personal Injury Protection also apply to Extended Medical Expense Benefits. In addition, the following exclusion is added to Extended Medical Expense Benefits:

- a. **We will not pay Extended Medical Expense Benefits for **bodily injury** to any **insured** who is entitled to benefits for the **bodily injury** under:**
 - (1) Personal Injury Protection Coverage; or

- (2) Any:
 - (a) Workers compensation law; or
 - (b) Medicare provided under federal law.
- b. **We will not pay Extended Medical Expense Benefits for **bodily injury** to any **insured** who would be entitled to benefits for the **bodily injury** under Personal Injury Protection Coverage, except for the application of a:**
 - (1) Deductible;
 - (2) Co-payment; or
 - (3) Medical fee schedule promulgated by the New Jersey Department of Banking and Insurance.

C. LIMIT OF INSURANCE

1. Any amount payable by **us** as Personal Injury Protection benefits for **bodily injury** shall be reduced by:
 - a. All amounts paid, payable or required to be provided under any workers' compensation or employees' temporary disability law.
 - b. Medicare provided under federal law.
 - c. Benefits actually collected that are provided under federal law to active and retired military personnel.
2. Any amount payable by **us** as medical expense benefits will be limited by medical fee schedules, as promulgated by the New Jersey Department of Banking and Insurance for specific injuries or services.
3. Any amount payable for medical expense benefits as the result of any one **accident** shall be:
 - a. Reduced by the applicable deductible indicated in the Schedule or in the DECLARATIONS; and
 - b. Subject to the co-payment of 20% for the amount between the applicable deductible and \$5,000.
4. The applicable limit of income continuation benefits applies separately to each full regular and customary work week of an **eligible injured person**. If this disability from work or employment consists of or includes only a part of such a week, **we** shall be liable for only that proportion of such weekly limit that the number of days lost from work or employment during the partial week bears to the number of days in his or her full work week.
5. If the Schedule or DECLARATIONS indicates that the **named insured** has elected the Medical Expense Benefits As Secondary option, the following provisions apply to medical expense benefits:
 - a. **Priority Of Benefits**
 - (1) The health benefits plans under which the **named insured** and any **family member** are **insured** shall provide primary coverage for **allowable expenses** incurred by the **named insured** and any **family member** before

- any medical expense benefits are paid by **us**.
- (2) This insurance shall provide secondary coverage for the medical expense benefits for **allowable expenses**, which remained uncovered.
 - (3) The total benefits paid by the health benefits plans and this insurance shall not exceed the total amount of **allowable expenses**.

b. **Determination Of Medical Expense Benefits Payable**

- (1) To calculate the amount of **actual benefits** to be paid by **us**, **we** will first determine the amount of **eligible expenses** which would have been paid by **us**, after application of the deductible and co-payment indicated in the Schedule or DECLARATIONS, had the **named insured** not elected the Medical Expense Benefits As Secondary Coverage option.
- (2) If the remaining **allowable expenses** are:
 - (a) Less than the benefits calculated in Paragraph (1) above, **we** will pay **actual benefits** equal to the remaining **allowable expenses**, without reducing the remaining **allowable expenses** by the deductible or co-payment.
 - (b) Greater than the benefits calculated in Paragraph (1) above, **we** will pay **actual benefits** equal to the benefits calculated in Paragraph 1 above, without reducing the remaining **allowable expenses** by the deductible or co-payment.
- (3) **We** will not reduce the **actual benefits** determined in Paragraph 2:
 - (a) By any deductibles or co-payments of the health benefits plans which have provided primary coverage for medical expense benefits; or
 - (b) For any **allowable expense** remaining uncovered which otherwise would not be an **eligible expense** under Personal Injury Protection Coverage, except as set forth in Paragraph (4) below.
- (4) In determining remaining uncovered **allowable expenses**, **we** shall not consider any amount for items of expense which exceeds the dollar or percent amounts recognized by the medical fee schedules promulgated by the New Jersey Department of Banking and Insurance.
- (5) The total amount of medical expense benefits for the **named insured** or any **family member** per **accident** shall not exceed the maximum amount payable for medical expense benefits under this Policy.

c. **Health Benefits Plan Ineligibility**

- (1) If, after the **named insured** has elected the Medical Expense Benefits As Secondary Coverage option, it is determined that the **named insured** or any **family member** did not have a health benefits plan in effect at the time an **accident** occurred which resulted in **bodily injury** to the **named insured** or any **family member**, medical expense benefits shall be provided to the **named insured** or any **family member**, subject to the following:
 - (a) Only Paragraph 1. of the Limit Of Insurance Provision will apply with respect to medical expense benefits.
 - (b) Any amount payable for medical expense benefits for the **named**

insured and any **family member** as a result of any one **accident** shall;

1. Be reduced by a deductible equal to the sum of \$750 plus the applicable deductible indicated in the Schedule or in the DECLARATIONS; and
 2. Be subject to a co-payment of 20% for amounts less than \$5,000 after the deductible has been applied.
 3. Be determined:
 - (i) By the medical fee schedules promulgated by the New Jersey Department of Insurance; or
 - (ii) By **us**, on a reasonable basis, considering the medical fee schedules for similar services or equipment in the region where the service or equipment was provided, if an item or expense is not included on the medical fee schedules.
 4. Not exceed the maximum amount payable for medical expense benefits under this Policy.
- (2) All items of medical expense incurred by the **named insured** or any **family member** for the treatment of **bodily injury** shall be **eligible expenses** to the extent the treatment or procedure from which the expenses arose:
- (a) Is recognized on the medical fee schedules promulgated by the New Jersey Department of Banking and Insurance; or
 - (b) Are reasonable expenses in accordance with Section 4 of the New Jersey Reparation Reform Act.
- (3) **We** shall be entitled to recover the difference between:
- (a) The reduced premium paid under this Policy for the Medical Expense Benefits As Secondary option; and
 - (b) The premium which would have been paid under this Policy had the **named insured** not elected such option.

We will not provide any premium reduction for the Medical Expense Benefits As Secondary option for the remainder of the Policy period.

6. The limit of insurance shown in the Schedule or DECLARATIONS for weekly income continuation benefits shall be prorated for any period of **bodily injury** disability less than one week.

D. CHANGES IN CONDITIONS

1. The **Duties In The Event Of Accident**, CONDITION is amended by the addition of the following:
 - a. If an **eligible injured person** or the legal representative or survivors of either institutes legal action to recover damages for injury against a person or organization who is or may be liable in tort therefore, he or she must promptly

give **us** a copy of the summons and complaint or other process served in connection with the legal action.

- b. The **eligible injured person, insured person**, or someone on their behalf must promptly give **us** written proof of **claim** including:
 - (1) Full particulars of the nature and extent of the **Bodily Injury**; and
 - (2) Such other information that will help **us** determine the amount due and payable.
 - c. The **eligible injured person** or **insured person** must submit to physical examination by physicians when and as often as **we** reasonably require and a copy of the medical report will be forwarded to such **eligible injured person** or **insured person** if requested.
 - d. In the event of an **accident, claim, suit** or **loss**, if the notice, proof of **claim** or other reasonably obtainable information regarding the accident is received by **us** more than 30 days after the accident, **we** may impose an additional medical expense benefits co-payment in accordance with New Jersey law or regulation. The co-payment shall be in addition to:
 - (1) Any medical expense benefits deductible or co-payment; or
 - (2) Any penalty imposed in accordance with **our** Decision Point Review/Pre-Certification Plan.
2. The Policy Period, Coverage Territory Condition for Personal Injury Protection and Extended Medical Expense Benefits is replaced by the following:

This coverage part applies only to accidents which occur during the policy period anywhere in the world.
 3. For Extended Medical Expense Benefits, the **Two or More Coverage Forms or Policies Issued by Us Condition** does not apply. However, no one will be entitled to receive duplicate payments for the same elements of **loss**.
 4. The following Reimbursement and Trust Conditions is added:

Subject to any applicable limitations set forth in the New Jersey **Auto** Reparation Reform Act, if **we** make any payment to any **eligible injured person** or **insured person** under this coverage and that person recovers from another party, he or she shall hold the proceeds in trust for **us** and pay **us** back the amount **we** have paid. **We** will have a lien against such payment, and may give notice of the lien to the person or organization causing **bodily injury**, his or her agent or insurer or a court having jurisdiction in the matter.

5. **The following Payment of Personal Injury Protection Benefits Conditions are added:**

- a. Medical expense benefits and essential services benefits may be paid at **our** option to the **eligible injured person** or **insured person** or the person or organization furnishing the products or services for which such benefits are due. These benefits shall not be assignable except to providers of service benefits. Any such assignment is not enforceable unless the provider of service benefits agrees to be subject to the requirements of **our** Decision Point Review Plan. In the event of the death of an **eligible injured person** or **insured person** any amounts payable, but unpaid prior to death, for medical expense benefits are payable to the **eligible injured person's** estate.
- b. Benefits payable under paragraph A.1.d.(1) of the description of death benefits are payable to the **eligible injured person's** surviving spouse, or if there is no surviving spouse, to his or her surviving children, or if there is not a surviving spouse or any surviving children, to the **eligible injured person's** estate.
- c. Benefits payable under paragraph A.1.d. (2) of the description of death benefits are payable to the person who has incurred the expense of providing essential services.
- d. Funeral expense benefits are payable to the **eligible injured person's** or **insured person's** estate.

6. **The following Deletion Of Benefits Other Than Medical Expenses Option**

When the Schedule or the Declarations indicate that the Deletion of Benefits Other Than Medical Expenses Option applies, **we** will pay personal injury protection benefits consisting only of medical expense benefits for the **named insured** and family **Members**.

7. **The following Employee Benefits Reimbursement Condition is added:**

If the **eligible injured person** or **insured person** fails to apply for workers' compensation benefits or **employees'** temporary disability benefits for which that person is eligible, **we**

may immediately apply to the provider of these benefits for reimbursement of any personal injury protection benefits that **we** have paid.

8. **The following Proof Of Health Benefits Plan Coverage Condition is added:**

If the **named insured** has elected the MEDICAL EXPENSE BENEFITS-AS-SECONDARY option, the **named insured** shall provide proof that the **named insured** and **family members** are **insured** by health insurance coverage or benefits in a manner and to an extent approved by the New Jersey Department of Banking & Insurance.

9. The following **Special Requirements for Medical Expenses** Conditions are added:

a. **Care Paths For Identified Injuries (Medical Protocols)**

- (1) The New Jersey Department of Banking and Insurance has established by regulation the standard courses of medically necessary diagnosis and treatment for **identified injuries**. These courses of diagnosis and treatments are known as care paths.

The care paths do not apply to treatment administered during **emergency care**.

- (2) Upon notification to us of a **bodily injury** covered under this Policy, **we** will advise the **insured** of the care path requirements established by the New Jersey Department of Banking and Insurance.
- (3) Where the care paths indicate a decision point, further treatment or the administration of a diagnostic test is subject to **our** Decision Point Review Plan.

A decision point means the juncture in treatment where a determination must be made about the continuation or choice of further treatment of an **identified injury**.

b. **Coverage For Diagnostic Tests**

- (1) In addition to the care path requirements for an **identified injury**, the administration of any of the following diagnostic tests is also subject to the requirements of **our** Decision Point Review Plan:
- (a) Brain audio evoked potential (BAEP);
 - (b) Brain evoked potential (BEP)
 - (c) Computer assisted tomographic studies (CT, CAT Scan);
 - (d) Dynatron/cyber station/cybex;
 - (e) H-reflex Study;
 - (f) Magnetic resonance imaging (MRI);
 - (g) Nerve conduction velocity (NCV);
 - (h) Somasensory evoked potential (SSEP);
 - (i) Sonogram/ultrasound;
 - (j) Visual evoked potential (VEP); or
 - (k) Any other diagnostic test that is subject to the requirements of our Decision Point Review Plan by New Jersey law or regulation.
 - (i) Brain Mapping
 - (ii) Electroencephalogram (EEG);
 - (iii) Needle Electromyography (needle EMG);
 - (iv) Thermograms/thermographs; or
 - (v) Videofluoroscopy.
 - (l) Any other diagnostic test that is subject to the requirements of the Decision Point Review/Pre-Certification Plan by New Jersey Law or regulation or this policy.

- (2) The diagnostic tests listed under Paragraph (1)(a) must be administered in accordance with New Jersey Department of Banking and Insurance regulations which set forth the requirements for the use of diagnostic tests in evaluating injuries sustained in **auto accidents**.

However, those requirements do not apply to diagnostic tests administered during **emergency care**.

- (3) **We** will pay for other diagnostic tests that are:
- (a) Not subject to **our** Decision Point Review Plan; and
 - (b) Not specifically excluded under EXCLUSION j;

only if administered in accordance with the criteria for medical expenses as provided in this ENDORSEMENT.

c. **Decision Point Review Plan**

- (1) Coverage for certain medical expenses under this ENDORSEMENT is subject to **our** Decision Point Review Plan, which provides appropriate notice and procedural requirements that must be adhered to in accordance with New Jersey law or regulation. **We** will provide a copy of this plan upon request, or in the event of any **claim** for medical expenses under this coverage.
- (2) **Our** Decision Point Review Plan includes the following minimum requirements as prescribed by New Jersey law or regulation:
- (a) The requirements of the Decision Point Review Plan only apply after the tenth day following the **accident**.
 - (b) **We** must be provided prior notice as indicated in **our** plan, with appropriate **clinically supported** findings, that additional treatment for an **identified injury** or the administration of a diagnostic test listed under Paragraph (1)(a) is required.

The notice and **clinically supported** findings may include a comprehensive treatment plan for additional treatment.

- (3) Once **we** receive such notice with the appropriate **clinically supported** findings, **we** will, in accordance with **our** plan:
- (a) Promptly review the notice and supporting materials; and
 - (b) If required as part of **our** review, request any additional medical records or schedule a physical examination.
- (4) **We** will then determine and notify the **eligible injured person** or the **insured person** whether **we** will provide coverage for the additional treatment or **diagnostic test** or use of durable medical equipment as indicated in **our** plan and within the applicable three business day requirements specified in New Jersey Department of Banking and Insurance regulations.

Any determination **we** make will be based on the determination of a physician. If the physician prepares a written report concerning the

- examination **we** have required, such report will be made available to the **eligible injured person** upon request.
- (5) Any physical examination of an **eligible injured person** or **insured person** scheduled by **us** will be conducted in accordance with **our** plan.
 - (6) **We** may deny reimbursement of further treatment, testing or use of durable medical equipment for repeated unexcused failure of an **eligible insured person** or **insured person** to appear for a physical scheduled examination required by **us** in accordance with **our** plan.
 - (7) A penalty will be imposed in accordance with **our** plan if:
 - (a) **We** do not receive proper notice and **clinically supported** findings;
 - (b) Any **eligible injured** person or **insured** person fails to use a network in accordance with N.J.A.C. 11:3-4.8.
 - (c) **We** do not receive proper notice for treatment, **diagnostic** tests or durable medical equipment in accordance with the requirements of **our** Decision Point Review/Pre-Certification Plan.

However, no penalty will be imposed where the proper notice or finding were received by **us** and **we** thereafter failed to act in accordance with **our** plan to request further information, modify or deny reimbursement of further treatment, **diagnostic tests** or the use of durable medical equipment with respect to that notice or those findings.

d. **Dispute Resolution**

If **we** and any person seeking Personal Injury Protection Coverage do not agree as to the recovery of Personal Injury Protection Coverage under this ENDORSEMENT, then the matter may be submitted to dispute resolution, or the initiative of any party to the dispute, in accordance with New Jersey law or regulation.

Any request for dispute resolution may include a request for review by a medical review organization.

10. The following CONDITION is added for **Personal Injury Protection: COORDINATION AND NON-DUPLICATION**

- a. Regardless of the number of **autos insured** for basic personal injury protection coverage pursuant to Section 4 of the New Jersey **Auto** Reparation Reform Act or the number of insurers or policies providing such coverage, there shall be no duplication of payment of basis personal injury protection benefits and the aggregate maximum amount payable under this and all applicable policies with respect to **bodily injury** to any one person as the result of any one **accident** shall not exceed the applicable amounts or limits specified in Section 4 of said Act.
- b. If an **eligible injured person** under this coverage is also an **eligible injured person** under other complying policies, the insurer paying benefits to such person shall be entitled to recover from each of the other insurers an equitable pro rata is

the proportion that the insurer's liability bears to the total of all applicable limits. Complying Policy means a Policy of **auto** liability insurance maintained pursuant to the requirements of Section 3 of the New Jersey **Auto** Reparation Reform Act and providing basic personal injury protection coverage as approved by the Commissioner of Insurance.

11. The following **CONDITION** is added for **Personal Injury Protection** and **Extended Medical Expense Benefits**:

MEDICAL PAYMENTS DELETION

In consideration of the Coverage provided for Personal Injury Protection and Extended Medical Expense Benefits in Paragraphs A.1. and A.2. of this **ENDORSEMENT**, and the adjustment of applicable rates because of **bodily injury** to an **eligible injured person**, any auto medical payments coverage provided under the coverage part is deleted with respect to an **auto** which is a covered **auto**.

E. **DEFINITIONS**

The **Definitions** Section is amended as follows:

1. The definition of **bodily injury** is replaced by the following:
Bodily injury means bodily harm, sickness or disease, including an **identified injury** or death that results.
2. The following definitions are added for **Personal Injury Protection** and **Extended Medical Expense Benefits**:
 - a. **Actual benefits** means those benefits determined to be payable for **allowable expenses**.
 - b. **Allowable expense** means a medically necessary, reasonable and customary item of expense covered as benefits by the **named insured's** or **family member's** health benefits plan or personal injury protection benefits as an **eligible expense**, at least in part. When benefits provided are in the form of services, the reasonable monetary value of each such service shall be considered as both an **allowable expense** and a paid benefit.
 - c. **Clinically supported** means that a **health care provider**, prior to selecting, performing or ordering the administration of a treatment or diagnostics test, has:
 - (1) Physically examined the **eligible injured person** or **insured person** to ensure that the proper medical indications exist to justify ordering the treatment or test;
 - (2) Made an assessment of any current and/or historical subjective complaints, observations, objective findings, neurologic indications, and physical tests;
 - (3) Considered any and all previously performed tests that relate to the injury and the results and which are relevant to the proposed treatment or test; and

- d. Recorded and documented these observations, positive and negative findings and conclusions on the **insureds** medical records. **Diagnostic test(s)** means a medical service or procedure utilizing any means other than bioanalysis, intended to assist in establishing a:
- (1) Medical;
 - (2) Dental;
 - (3) Physical Therapy;
 - (4) Chiropractic; or
 - (5) Psychological diagnosis.

for the purpose of recommending or developing a course of treatment for the tested patient to be implemented by the treating practitioner or by the consultant.

- e. **Eligible expense** means:
- (1) In the case of health benefits plans, that portion of the medical expenses incurred for the treatment of **bodily injury** which is covered under the terms and CONDITIONS of the plan, without application of the deductible(s) and co-payment(s), if any.
 - (2) In the case of personal injury protection benefits, that portion of the medical expenses incurred for the treatment of **bodily injury** which, without considering any deductible and co-payment, shall not exceed:
 - (a) The percent or dollar amounts specified on the medical fee schedules, or the actual billed expense, whichever is less; or
 - (b) The reasonable amount, as determined by **us**, considering the medical fee schedules for similar services or equipment in the region where the service or equipment was provided, when an incurred medical expense is not included on the medical fee schedules.
- f. **Emergency care** means all treatment of a **bodily injury** which manifests itself by acute symptoms of sufficient severity such that absence of immediate attention could reasonably be expected to result in death, serious impairment to bodily functions or serious dysfunction to a bodily organ or part. Such emergency care shall include all medical necessary care immediately following an **accident**, including but not limited to, immediate pre-hospitalization care, transportation to a hospital or trauma center, emergency room care, surgery, critical and acute care. Emergency care extends during the period of initial hospitalization until the patient is discharged from acute care by the attending physician. Emergency care shall be presumed when medical care is initiated at a hospital within 120 hours of the **accident**.
- g. **Family member** means a person related to the **named insured** by blood, marriage or adoption (including a ward or foster child) who is a resident of the same household as the **named insured**.

- h. **Health care provider** means those persons licensed or certified to perform health care treatment or services compensable as medical expenses and shall include, but not be limited to:
- (1) Hospital or healthcare facilities that are maintained by a State or any of its political subdivisions or licensed by the Department of Health and Senior Services.
 - (2) Other hospitals or health care facilities designated by the Department of Health and Senior Services to provide health care services, or other facilities, including facilities for radiology and diagnostic testing, free-standing emergency clinics or offices, and private treatment centers;
 - (3) A non-profit voluntary visiting nurse organization providing health care services other than in a hospital;
 - (4) Hospitals or other health care facilities or treatment centers located in other states or nations;
 - (5) Physicians licensed to practice medicine and surgery;
 - (6) Licensed audiologists, chiroprodists (Podiatrists), chiropractors, dentists, health maintenance organizations, occupational therapists, occupational therapy assistants, optometrists, orthotists and prosthetists, pharmacists, physical therapists, physical therapists assistants, professional nurses, physician assistants, psychologists and speech language pathologists;
 - (7) Registered bio-analytical laboratories;
 - (8) Certified nurse-midwives and nurse practitioners/clinical nurse-specialists; or
 - (9) Providers of other health care services or supplies including durable medical goods.
- i. **Identify injury** means the following **bodily injuries** for which the New Jersey Department of Banking and Insurance has established standard courses of medically necessary diagnosis and treatment;
- (1) Cervical Spine: Soft Tissue Injury;
 - (2) Cervical Spine: Herniated Disc/Radiculopathy;
 - (3) Thoracic Spine: Soft Tissue Injury;
 - (4) Thoracic Spine: Herniated Disc/Radiculopathy;
 - (5) Lumbar-Sacral Spine: Soft Tissue Injury;
 - (6) Lumbar-Sacral Spine: Herniated disc/Radiculopathy; and
 - (7) Any other **bodily injury** for which the New Jersey Department of Banking and Insurance has established standard courses of appropriate diagnosis and treatment.
- j. **Income** means salary, wages, tips commissions, fees and other earnings derived from work or employment.
- k. **Income producer** means a person who, at the time of the **accident**, was in an occupational status, earning or producing income.
- l. **Named insured** means the person or organization named in Item One of the DECLARATIONS and, if an individual, includes his or her spouse if the spouse

is a resident of the household of the **named insured**, except that if the spouse ceases to be a resident of the same household, the spouse shall be a **named insured** for the full term of the Policy in effect at the time of cessation of residency. If the covered **auto** is owned by a farm family co-partnership or corporation, the term **named insured** also includes the head of the household of each family designated in the Policy as having a working interest in the farm.

- m. **Pedestrian** means the **named insured** and, if the **named insured** is an individual, any **family Member** who is not occupying, using, entering into, or alighting from a vehicle propelled by other than muscular power and designed primarily for use on highways, rails and tracks.
 - n. **Pre-certification** or **pre-certified** mean a program by which the medical necessity of certain diagnostic tests, medical treatments, procedures, other services or expenses and the duration of therapy are subject to prior authorization, utilization, utilization review and/or case management. **Pre-certification** will be administered in accordance with **our** approved Decision Point Review/Pre-Certification plan.
 - o. **Private passenger auto** means a self-propelled vehicle designed for use principally on public roads and which is one of the following types:
 - (1) A private passenger or station wagon type auto;
 - (2) A van, a pickup or panel truck or delivery sedan; or
 - (3) A utility auto designed for personal use as a camper or motor home or for family recreational purposes

A **private passenger auto** does not include:

 - (a) A motorcycle;
 - (b) An auto used as a public or livery conveyance for passengers;
 - (c) A pickup or panel truck, delivery sedan or utility auto customarily used in the occupation, profession or business of an **insured** other than farming or ranching; or
 - (d) A utility auto customarily used for the transportation of passengers other than **Members** of the user's family or their guests.
3. The following definition is added to the **Definitions** Section for **Personal Injury Protection**:
- Eligible injured person** means:
- a. The **named insured** and, if the **named insured** is an individual, any **family member**, if the **named insured** or the **family member** sustains **bodily injury**:
 - (1) As a result of any **accident** while occupying, using, entering into or alighting from a **private passenger auto**, or
 - (2) While a **pedestrian**, caused by a **private passenger auto** or by an object propelled by or from a **private passenger auto**.

- b. Any other person who sustains **bodily injury**:
 - (1) While, with **your** permission, that person is occupying, using, entering into or alighting from the covered **auto**; or
 - (2) While a **pedestrian**, caused by the covered **auto** or as a result of being struck by an object propelled by or from the covered **auto**.
- 4. The following are added to the **Definitions** Section for **Extended Medical Expense Benefits**:
 - a. **Highway vehicle** means a land motor vehicle or trailer other than:
 - (1) A **private passenger auto**;
 - (2) A farm type tractor or other equipment designed for use principally off public roads, while not upon public roads;
 - (3) A vehicle operated on rails or crawler treads; or
 - (4) A vehicle while located for use as a residence or premises.
 - b. **Insured person** means:
 - (1) The **named insured** or, if the **named insured** is an individual, any **family member** of the **named insured**, if the **named insured** or **family member** sustains **bodily injury**:
 - (a) While occupying, using, entering into or alighting from a **highway vehicle**;
 - (b) While a **pedestrian**, caused by a **highway vehicle**.
 - (2) Any other person who sustains **bodily injury** while occupying a **highway vehicle** (other than a motorcycle or a vehicle while being used as a public or livery conveyance) if such **highway vehicle** is being operated by the **named insured** or, if the **named insured** is an individual, a **family member**, or any other person using such **highway vehicle** with the permission of the **named insured**, or
 - (3) Any other person who sustains **bodily injury** occupying a covered **auto** if the covered **auto** is being operated by the **named insured** or, if the **named insured** is an individual, a **family member**, or any other person using the covered **auto** with the permission of the **named insured**.

**LAWSUIT THRESHOLD
ENDORSEMENT #BA-3**

**NOTICE
THIS ENDORSEMENT CHANGES YOUR COVERAGE, PLEASE READ IT
CAREFULLY.**

Your Coverage has been issued with a "Lawsuit Threshold". You, your spouse and children living with you who are not covered by name by another auto insurance Coverage will not be able to sue for non-economic loss (pain, suffering and inconvenience) unless the injury sustained appears on this list:

"death; dismemberment; significant disfigurement; a fracture; loss of a fetus; permanent loss of use of a body organ, member, function or system; permanent consequential limitation of use of a body organ or member; significant limitation of use of a body function or system; or a medically determined injury or impairment of a non-permanent nature which prevents the injured person from performing substantially all of the material acts which constitute that person's usual and customary daily activities for not less than 90 days during the 180 days immediately following the occurrence of the injury or impairment."

NUCLEAR ENERGY LIABILITY EXCLUSION (BROAD FORM)

It is agreed that this Coverage does not apply:

- (1) Under any Liability coverage, to **bodily injury**, including sickness, disease, or death or to **property damage**
 - (a) with respect to which an **member** under this Coverage is also a **member** under a nuclear energy liability Coverage issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, and their successors would be a **member** under any such Coverage but for its termination upon exhaustion of its limit of liability.
 - (b) resulting from the **hazardous properties of nuclear material** and with respect to which
 - (i) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or
 - (ii) the **member** is, or had this Coverage not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- (2) Under any Medical Payments coverage, or under any SUPPLEMENTARY PAYMENTS provision relating to immediate medical or surgical relief, to expenses incurred with respect to **bodily injury**, sickness, disease or death resulting from the **hazardous properties of nuclear material** and arising out of the operation of a **nuclear facility** by any person or organization.

- (3) Under any Liability Coverage, to **bodily injury**, including sickness, disease, or death or **property damage** resulting from the **hazardous properties** of **nuclear material**, if
- (a) the **nuclear material**
 - (i) is at any **nuclear facility** owned by or operated by or on behalf of, a **member** or
 - (ii) has been discharged or dispersed therefrom;
 - (b) the **nuclear material** is contained in **spent fuel** or **waste** at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an **insured**; or
 - (c) the **bodily injury**, sickness, disease, or death or **property damage** arises out of the furnishing by a **member** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to **property damage** to or destruction of property at such **nuclear facility** and any property thereat.

Additional Definitions

hazardous properties includes radioactive, toxic or explosive properties.

nuclear facility means:

- (a) any **nuclear reactor**.
- (b) any equipment or device designed or used for
 - (i) separating the isotopes of uranium or plutonium
 - (ii) processing or utilizing spent fuel, or
 - (iii) handling, processing or packaging waste.
- (c) any equipment or device used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the **member** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235.
- (d) any structure, basin, excavation, premises or place prepared or used for the storage of disposal of **waste**, and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

nuclear material means **source material**, **special nuclear material** or **byproduct material**.

nuclear reactor means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

property damage includes all forms of radioactive contamination of property.

source material, special nuclear material, and byproduct material have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

spent fuel means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**.

Waste means any waste material (a) containing **by-product material** other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **source material** content, and (b) resulting from the operation by any person or organization of any **nuclear facility** included under the first two paragraphs of the definition of **nuclear facility**.

ENDORSEMENT – #BA4**INTERLOCAL AGREEMENTS FOR REPAIR OF VEHICLES**

This ENDORSEMENT modifies such insurance as is afforded by the provisions of the Policy relating to the following:

COVERAGE PART III, BUSINESS AUTO LIABILITY, Item E. ADDITIONAL DEFINITIONS, Covered Auto is hereby amended to include as covered **autos** the following:

- (6) **autos** left with **you** for service, repair, storage or safekeeping pursuant to an interlocal agreement for repair of **autos**.

Item **A. COVERAGE** is hereby amended to include the following:

We will pay, within the applicable **Limits of Liability**, all sums an **insured** legally must pay as damages because of **bodily injury** or **property damage** to which this insurance applies, caused by an **occurrence** incidental to and resulting from **garage operations** for **autos** left with you for service, repair, storage or safekeeping pursuant to an inter-local agreement for repair of **autos**.

Item **C. WHO IS AN INSURED** provision is hereby amended to include as an **insured** for **garage operations** the following:

The **Member Town** and **your employees**, but only while acting within the scope of their duties.

For purposes of this ENDORSEMENT, this insurance does not apply to:

a. Loss Of Use

Loss of use of other property not physically damaged if caused by:

1. A delay or failure by **you** or anyone acting on **your** behalf to perform a contract or agreement in accordance with its terms.
2. A defect, deficiency, inadequacy or dangerous condition in **your products** or **your work**. But this exclusion does not apply if the loss of use was caused by sudden and accidental damage to or destruction of **your products** or **your work** after they have been put to their intended use.

For the purposes of this ENDORSEMENT:

Product includes:

- a. The goods or **products you** made or sold in a garage business; and
- b. The providing of or failure to provide warnings or instructions.

Garage operations means:

The ownership, maintenance or use of locations for garage business and that portion of the roads or other accesses that adjoin these locations. **Garage operations** include the ownership, maintenance or use of the **autos** indicated above. **Garage operations** also include all operations necessary or incidental to a garage business.

The coverage provided under this ENDORSEMENT is subject to all of the terms and CONDITIONS of this Policy. All other terms and CONDITIONS of this Policy remain unchanged.

COVERAGE PART IV**ABUSE OR MOLESTATION****(INCLUDING SEXUAL MISCONDUCT OR SEXUAL MOLESTATION)****A. Insurance Agreement**

- (1) We will pay on behalf of the insured those sums that the insured becomes legally obligated to pay for **loss** to which this insurance applies. We will have the right and duty to defend the insured against any **suit** seeking such payment even if the allegations of the **suit** are groundless, false, or fraudulent. However, we will have no duty to defend the insured against any **suit** seeking payment for **loss** to which this insurance does not apply. We may, at our discretion, investigate any incident and settle any **claim** or **suit** that may result. But:
 - a. The amount we will pay for damages is limited as described in Section III – Limits Of Insurance; and
 - b. Our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of **loss**

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under SUPPLEMENTARY PAYMENTS.

- (2) This insurance applies only to **loss** which results from a **wrongful act**, and then only when such **wrongful act** first takes place during the **policy period**. All **wrongful acts** which constitute one **loss** will be deemed to first take place at the time of the earliest of such **wrongful acts**.

B. Additional Exclusions

This insurance does not apply:

- (1) To any person who:
 - a. Participated in or who conspired with or directed a participant in any **wrongful act**; or
 - b. Knowingly allowed any **wrongful act** or failed to report any **wrongful act** to proper authorities.
- (2) To the cost of defense of, or payment of fines for, any person who actually or allegedly violated any penal or criminal statute.
- (3) If you fail to give us written notice within 90 days of your being notified of an incident which appears likely to result in a **claim** or **suit** involving a **wrongful act**.
- (4) To liability assumed by the insured under any contract or agreement, but this exclusion does not apply to liability for **loss** that the insured would have in the absence of the contract or agreement.

- (5) To any obligation of the insured under a workers' compensation, disability benefits, or unemployment compensation law, or any similar law.
- (6) To injury to:
 - a. An employee of the insured arising out of and in the course of employment by the insured; or
 - b. The spouse, child, parent, brother, or sister of that employee as a consequence of (1) above.

This exclusion applies:

- a. Whether the insured may be liable as an employer or in any other capacity; and
 - b. To any obligation to share damages with or repay someone else who must pay damages because of injury.
- (7) To **loss** arising from the ownership, maintenance, operation, use, entrustment, loading or unloading of any watercraft, or aircraft. This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the **wrongful act** which caused the **loss** involved the ownership, maintenance, use or entrustment to others of any aircraft, or watercraft.
 - (8) To exemplary or punitive damages.
 - (9) To **loss** arising from any violation of the civil rights of any person.
 - (10) **Loss** to a person arising out of any:
 - a. Refusal to employ that person;
 - b. Termination of that person's employment; or
 - c. Employment-related practices, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or

loss to the spouse, child, parent, brother or sister of that person as a consequence of injury to that person at whom any of the employment-related practices described in Paragraphs a, b, or c above is directed.

This exclusion applies:

- a. Whether the insured may be liable as an employer or in any other capacity; and
- b. To any obligation to share damages with or repay someone else who must pay damages because of the injury.

C. Who Is An Insured

Each of the following is an insured under this coverage subject to all the exclusions and provisions thereof:

- (1) You and any **affiliate**.
- (2) Your employees, directors, officers, trustees, clergy, wardens, deacons, elders, teachers, school nurses, Members of the vestry, Members of the Board of Trustees, Members of the board of governors, or Members of the board of education while acting within the scope of their duties as such.
- (3) With respect to the liability of insureds described above, the heirs, administrators, assigns, and legal representatives of each insured in the event of death, incapacity, or bankruptcy.
- (4) Employees, directors, officers, trustees, clergy, wardens, deacons, elders, teachers, school nurses, Members of the vestry, Members of the Board of Trustees, Members of the board of governors, or Members of the board of education of any **affiliate** acquired or formed after the effective date of this Coverage Part, while acting within the scope of their duties as such, but only if the first Named Insured shown in the Declarations:
 - a. Provides immediate written notice of such acquisition or formation to us,
 - b. Furnishes such additional information as we require as soon as practicable; and
 - c. Pays promptly such additional premium as is required.

However, coverage under this provision does not apply to any **wrongful act** that took place before you formed or acquired the **affiliate**.

- (5) Any other Member of yours but only while acting on your behalf.

Any volunteer worker but only while acting on your behalf with your consent and knowledge.

D. Additional Conditions

- (1) Duties in the Event of **wrongful act**, claim, or **suit**
 - a. You must see to it that we are notified as soon as practicable (and within 90 days of any notice to you) of any **wrongful act** which may result in a **claim**. To the extent possible, notice should include:
 - i. How, when, and where the **wrongful act** took place;
 - ii. The names and addresses of any persons involved in the **wrongful act** and witnesses; and
 - iii. The nature of the harm resulting from the **wrongful act**.
 - b. If a **claim** is made or **suit** is brought against any insured, you must:
 - i. Immediately record the specifics of the **claim** or **suit** and the date received; and

- ii. Notify us as soon as practicable.
You must see to it that we receive written notice of the **claim** or **suit** as soon as practicable.
- c. You and any other involved insured must:
 - i. Immediately send us copies of any demands, notices, summonses, or legal papers received in connection with the **claim** or **suit**;
 - ii. Authorize us to obtain records and other information;
 - iii. Cooperate with us in the investigation or settlement of the **claim** or defense against the **suit**, and
 - iv. Assist us, upon our request. In the enforcement of any right against any person or organization which may be liable to the insured because of **loss** to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent.

(2) Other Insurance

If other valid and collectible insurance is available to the insured for a **loss** we cover under this Coverage Part, our obligations are limited as follows:

- a. This insurance is primary with respect to insurance that is specifically written as excess over this insurance.
- b. Excess Insurance
 - i. This insurance is excess over any insurance that is not specifically described in item a. above, whether primary, excess, contingent, or on any other basis available to any insured under this Coverage Part.
 - ii. When this insurance is excess, we will have no duty to defend the insured against any **suit** if any other insurer has a duty to defend the insured against that **suit**. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's right against all those other insurers.
 - iii. When this insurance is excess over other insurance, we will pay only our share of the amount of **loss**, if any, that exceeds the sum of:

The total amount that all such other insurance would pay for the **loss** in the absence of this insurance; and
 - v. The total of all deductible and self-insured amounts under all that other insurance.

- iv. We will share the remaining **loss**, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insured contributes equal amounts until it has paid its applicable limit of insurance or none of the **loss** remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

(3) Two or More Coverage Forms

Except for the insurance provided by this Coverage Part, the policy to which this Coverage Part is attached does not apply to any **claim** or **suit** seeking damages arising out of any actual or alleged act of abuse or molestation (including sexual misconduct or sexual molestation).

(4) Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

E. Additional Definitions

- (1) **Affiliate** means any entity wholly owned by you or owned through one or more of your **affiliates**. Coverage shall apply to **affiliates** which existed prior to or at the inception date of this Coverage Part. In the event of sale or dissolution of any **affiliate** after the inception date of this Coverage Part, coverage shall continue to apply to all persons who were persons insured of the **affiliate** with respect to claims for **wrongful acts** prior to the time of sale or dissolution. However, in the event of sale, coverage shall cease as of the date of sale for subsequent persons in such positions.
- (2). a. **Loss** means any damages which the insured is legally obligated to pay for any **claim** to which this insurance applies and shall include judgments, settlements or SUPPLEMENTARY PAYMENTS including any legal costs associated with any

claim or **suit** covered hereunder; all legal costs and other SUPPLEMENTARY PAYMENTS are included within the applicable limits of insurance and also includes damages claimed by any person or organization for care, loss of services, or death resulting at any time from a **wrongful act**. **Loss** shall not include fines or penalties imposed by law or other matters which may be deemed uninsurable under the law pursuant to which the policy shall be construed.

- b. All:
 - i. Covered acts of abuse or molestation (including sexual misconduct or sexual molestation) by one person, or by two or more persons acting together; and
 - ii. Breaches of duty related to the acts in item (1) immediately above; will constitute one **loss** and be subject to the Each Loss Limit of Insurance.
- (3) **Policy period** means that period stated in the Declarations of the policy. But if the Coverage Part is issued subsequent to the issuance of the policy, the **policy period** hereunder will commence only as of the effective date of this Coverage Part and shall terminate with the policy termination.
- (4) **Suit** means a civil proceeding in which damages because of **loss** from **wrongful acts** to which this insurance applies are alleged. **suit** includes:
 - a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceedings in which such damages are claimed and to which the insured submits with our consent.
- (5) **Wrongful act** means:
 - a. Any act of actual or threatened abuse or molestation (including sexual misconduct or sexual molestation) which results in injury to another, or
 - b. The negligent:
 - i. Employment;
 - ii. Investigation;
 - iii. Supervision;
 - iv. Reporting to the proper authorities, or failure to so report; or
 - v. Retention;

of a person for whom any insured is or ever was legally responsible and whose conduct would be excluded by Paragraph (a) above.

For the purpose of this coverage, abuse means an intentional, inherently harmful act.

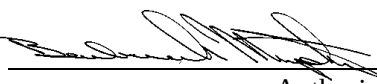
SCHOOL EXCESS LIABILITY FUND
51 Everett Drive, Suite B-40
West Windsor, New Jersey 08550

DECLARATION

- Item A. MEMBER JOINT INSURANCE FUND: Diploma Joint Insurance Fund
- MEMBER SCHOOL DISTRICT: See Attached Endorsement
- Item B. COVERAGE PERIOD: July 1, 2022 - July 1, 2023 12:01 a.m. standard time at the address of the member as stated herein.
- Item C. LIMITS OF LIABILITY:
- | | | |
|-----|-------------|---|
| (1) | \$400,000 | per occurrence combined single limit excess of item D. |
| (2) | \$2,500,000 | per occurrence/\$25,000,000 aggregate, General, Employee Benefits Liability in excess of item C(1). Business Automobile Liability is unaggregated |
| (3) | \$7,000,000 | per occurrence/\$21,000,000 annual aggregate in excess of Item C(2) |
| (4) | \$2,500,000 | per occurrence/\$7,500,000 annual aggregate, Abuse or Molestation in excess of item C(1) |
| (5) | \$7,000,000 | per occurrence/\$21,000,000 annual aggregate, Abuse or Molestation in excess of item C(4) |
| (6) | \$2,000,000 | per occurrence, Real Property, Liability and Fire in excess of item C(1) |
| (7) | \$150,000 | Medical Expense Benefits under New Jersey Personal Injury Protection |
- Item D. Underlying Insurance Limit:
- \$100,000 per occurrence combined single limit for General Liability, Employee Benefits Liability, Automobile Liability, Abuse or Molestation and Real Property, Liability and Fire.
- \$100,000 per person for Medical Expense Benefits under New Jersey Personal Injury Protection.
- Item E. NOTICE OF CLAIM TO BE GIVEN TO: School Excess Liability Fund
c/o Risk and Loss Managers, Inc. and
Public Entity Group Administrative Services
51 Everett Drive, Suite B-40
West Windsor, New Jersey 08550
- Item I. ENDORSEMENTS: Named Insured Endorsement
Excess Liability Limits Endorsement

This Declaration Page is issued in conjunction with and forms a part of Diploma Joint Insurance Fund Certificate.

Countersigned: July 1, 2022
Date

By:  Willard Ryngaert
Authorized Representatives

**School Excess Liability Fund
51 Everett Drive, Suite B-40
West Windsor, NJ 08550**

EXCESS LIABILITY POLICY DECLARATION

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SCHOOL EXCESS LIABILITY FUND POLICY

In consideration of the agreement to become part of the **School Excess Liability Fund (SEL)** and of the payment of **Assessments** and subject to the DECLARATIONS, INSURING AGREEMENT, CONDITIONS, DEFINITIONS, EXCLUSIONS and any ENDORSEMENTS hereof, the **School Excess Liability Fund** (herein called the **SEL**) and the **Member Joint Insurance Fund** named in Item A. of the DECLARATIONS do hereby agree as follows:

Words and phrases that appear in **bold** have special meanings. Refer to the DECLARATIONS and/or the DEFINITIONS for those special meanings.

Read the entire Policy carefully to determine rights, duties and what is and is not covered.

Throughout this Policy, the words **you**, **your**, and **Member Joint Insurance Fund** are used interchangeably. They mean the **Member Joint Insurance Fund** shown in the DECLARATIONS, Item A., and other persons or organizations qualifying as an insured in the **underlying insurance**. The words **we**, **us**, and **our** refer to the **SEL** providing this insurance are used interchangeably. Words as defined by the **underlying insurance** also are applicable to this Excess Liability Policy.

SECTION I - INSURING AGREEMENT

Subject to the applicable **Limits of Liability** and other provisions of this Excess Liability Policy, **we** will pay on behalf of the **Member Joint Insurance Fund** the **ultimate net loss** resulting from any **occurrence** covered by the **underlying insurance** as scheduled in Item E. of the DECLARATIONS of this Policy. The coverage provided by this Policy shall apply only as excess of and after all **underlying insurance** has been exhausted.

SECTION II – CONDITIONS

This Excess Liability Policy is subject to the following CONDITIONS, unless otherwise stated.

A. GENERAL PROVISIONS

Except as otherwise provided below, the coverage provided by this Excess Liability Policy shall follow the terms and CONDITIONS of the **underlying insurance**, as scheduled in Item E. of the DECLARATIONS of this Policy, including any ENDORSEMENTS attached thereto. In the event of a conflict in the terms and CONDITIONS of this Policy and the **underlying insurance**, the terms and CONDITIONS of this Policy control and supersede any conflicting terms and CONDITIONS of the underlying insurance.

The following provisions of the **underlying insurance** do not apply to the coverage provided by this Policy:

1. Cancellation provisions under the CONDITIONS of the **underlying insurance**;

2. **Limits of liability** provisions under the CONDITIONS of the **underlying insurance**;
3. Other insurance provisions of the Casualty Insurance Policy and ENDORSEMENTS attached thereto of the **underlying insurance**, where the **underlying insurance** is provided by the **Joint Insurance Fund**.

B. DEFENSE AND COSTS

The **SEL** shall not be called upon to assume charge of the investigation, defense or settlement of any **claim** or **suit** brought or proceeding instituted against the **Member Joint Insurance Fund** for which a provider of **underlying insurance** is obligated to defend. However, the **SEL** shall have the right and be given the opportunity to associate with the **Member Joint Insurance Fund** in the defense or trial of any **claim**, **suit** or proceeding relative to any event which, in the opinion of the **SEL**, may create liability on the part of the **SEL** under the terms and CONDITIONS of this Excess Liability Policy.

In the event the limit or limits of **underlying insurance** are exhausted, the **SEL** shall have the right and the duty to defend any **claim**, **suit** or proceeding covered by the terms and CONDITIONS of this Policy, and shall have the right to make such settlement as the **SEL** deems expedient.

However, the **SEL** shall not be obligated to pay any **claim** or judgment or to defend any **suit** after the applicable limit of the **SEL's** liability has been exhausted by the payment of judgments, settlements or **costs** and other SUPPLEMENTARY PAYMENTS associated with any **claim** or **suit** covered hereunder.

C. MAINTENANCE OF UNDERLYING COVERAGE

The **Member Joint Insurance Fund** agrees with the **SEL** that the **underlying insurance** shall be maintained in full effect during the term of this Excess Liability Policy.

In the event that any or all of the **underlying insurance** is canceled or nonrenewed for any reason, this Policy will not apply, as excess or otherwise, to any loss that would have been covered under such **underlying insurance** if it had remained in force.

D. LIMITS OF LIABILITY

1. The total **limits of liability** under this Excess Liability Policy shall not exceed the amount as shown in Item C of the DECLARATIONS, regardless of (a) the number of persons or organizations who are insured by the **underlying insurance**; (b) the number of coverages provided by the **underlying insurance**, as listed in Item E of the DECLARATIONS; (c) the number of **claims** made or **suits** brought against the **Member Joint Insurance Fund**; or (d) the number of persons or organizations making **claim** or bringing **suit**. This limit of liability shall not apply separately to each component of the **underlying insurance**.
2. With respect to any claim arising out of a **Certified Act of Terrorism**, if aggregate insured losses attributable to terrorist acts certified under the federal Terrorism Risk Insurance Act exceed \$100 billion in a Program Year (January 1 through December 31) and the **we** have met our insurer deductible under the Terrorism Risk Insurance Act, **we** shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case

insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

E. CANCELLATION

In the event of cancellation or termination of the **underlying insurance**, this Excess Liability Policy, to the extent of such cancellation or termination, shall cease to apply at the same time without notice to the entity shown in the DECLARATIONS, Item A. However, if such cancellation or termination of the **underlying insurance** is rescinded or the **underlying insurance** is otherwise reinstated, this Policy, to the extent of such reinstatement, shall commence to apply at the same time without notice to the entity shown in the DECLARATIONS, Item A.

F. SUBROGATION

In the event of any payment under this Excess Liability Policy, the **SEL** shall be subrogated to all of the **Member Joint Insurance Fund's** rights to recover against any person or organization for the **loss or costs** for which payment was made and the **Member Joint Insurance Fund** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights.

G. TERM

This Excess Liability Policy applies only to **occurrences** happening between the effective and expiration dates shown in Item B of the DECLARATIONS of this Policy, unless otherwise canceled.

H. LEGAL ACTION AGAINST THE SEL

No action shall lie against the **SEL** with respect to any **occurrence** unless as a **CONDITION** precedent thereto, the **Member Joint Insurance Fund** shall have fully complied with all of the terms of this Policy, nor until the amount of the **Member Joint Insurance Fund's** obligation to pay an amount of **ultimate net loss** shall have been finally determined either by judgment against the **Member Joint Insurance Fund** after actual trial or by written agreement of the **Member Joint Insurance Fund**, the claimant and the **SEL**. The **Member Joint Insurance Fund** shall make definite **claim** for any loss for which the **SEL** may be liable within a reasonable time after such final determination. If any subsequent payments are made by the **Member Joint Insurance Fund** on account of the same **occurrence**, the **Member Joint Insurance Fund** shall make additional **claims** from time to time and these **claims** shall be payable within thirty (30) days after proof in conformity with this Policy. Any person or organization or legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy to the extent of the coverage afforded by this Policy. Nothing contained in this Policy shall give any person or organization any right to join the **SEL** as a codefendant in any action against the **Member Joint Insurance Fund** to determine the **Member Joint Insurance Fund's** liability.

I. OTHER INSURANCE/SELF-INSURANCE

Coverage under this Excess Liability Policy is excess over any other insurance or self-insurance (including any self insured retention or deductible therein) available to the **Member Joint Insurance Fund** to cover a loss also covered under this Policy, whether such other insurance or self-insurance was provided by the **Member Joint Insurance Fund** or furnished to the **Member Joint Insurance Fund** by others pursuant to the requirements of a contract, ordinance, or law, unless such other insurance or self-insurance is specifically written to apply in excess of the insurance afforded by this Policy and identifies this Policy by its number. Nothing herein shall be construed to make this Policy subject to any of the terms and CONDITIONS of such other coverage.

J. ASSIGNMENT

Assignment of interest under this Excess Liability Policy shall not bind the **SEL** until its consent is endorsed hereon by the **SEL**.

K. AUTHORIZATION CLAUSE AND NOTICES

By acceptance of this Excess Liability Policy, the **Member Joint Insurance Fund** named on the DECLARATIONS, Item A., agrees that the **Member Joint Insurance Fund** shown on the DECLARATIONS, Item A., shall act on behalf of all **insureds** with respect to the giving and receiving of notice of **claim** or cancellation, the payment of **Assessments** and the receiving of any return of **Assessments** that may become due under this Policy. Notice to the **Member Joint Insurance Fund** shown on the DECLARATIONS, Item A., at the address of the **Member Joint Insurance Fund** as shown in Item A. of the DECLARATIONS shall also constitute notice to all **insureds**.

All notices of **claims** or any other notice required to be given to the **SEL** under this coverage shall be addressed to:

School Excess Liability Fund
c/o Risk and Loss Managers, Inc. and
Public Entity Group Administrative Services
51 Everett Drive Suite B-40
West Windsor, NJ 08550
Attention: Administrator

L. TERMS OF COVERAGE CONFORMED TO STATUTE

Terms of this Excess Liability Policy which may be in conflict with the statutes of the State of New Jersey are hereby amended to conform to such statutes.

M. ACCEPTANCE

By acceptance of this Excess Liability Policy, the **Member Joint Insurance Fund** agrees that this Policy embodies all agreements existing between the **Member Joint Insurance Fund** and the **SEL** or any of its agents relating to the coverage provided by this Policy.

N. SERVICE OF SUIT

It is agreed that in the event of the failure of the **SEL** to pay any amount claimed to be due hereunder, the **SEL** at the request of the **Member Joint Insurance Fund** will submit to the jurisdiction of any court of competent jurisdiction within the United States and will comply with all the requirements necessary to give such court jurisdiction, and all matters arising hereunder shall be determined in accordance with the law and practice of such court.

It is further agreed that service of process in such **suit** against the **SEL** may be made upon the **SEL** and that in any **suit** instituted against the **SEL** upon this Policy, the **SEL** will abide by the final decision of such court, or of any appellate court in the event of an appeal. Nothing in this CONDITION constitutes or should be understood to constitute a waiver of the **SEL's** right to commence an action in any court of competent jurisdiction in the United States to remove an action to a United States District Court or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state of the United States. It is further agreed that service of process in such **suit** may be made upon the:

School Excess Liability Fund
c/o Risk and Loss Managers, Inc. and
Public Entity Group Administrative Services
51 Everett Drive Suite B-40
West Windsor, NJ 08550
Attention: Administrator

Further, pursuant to any statute of any state, territory or district of the United States which makes provision for such designation, the **SEL** hereby designates the Superintendent, Commissioner or Director of Insurance, or other officer specified for that purpose in the statute, or his successor or successors in office, as its true and lawful attorney upon whom may be served any lawful process in any action, **suit** or proceeding instituted by or on behalf of the **Member Joint Insurance Fund** or any beneficiary hereunder arising out of the coverage provided by this Policy and hereby designates the **School Excess Liability Fund**, 51 Everett Drive Suite B40 West Windsor, NJ 08550 as the entity to whom said officers are authorized to mail such process or a true copy thereof.

All CONDITIONS contained in **underlying insurance** are incorporated herein as if fully set forth herein at length, except as otherwise provided above.

O. JOINT INSURANCE FUNDS AS ADDITIONAL INSURED

It is understood and agreed that the **Member Joint Insurance Fund** is included as **additional insured(s)** for coverage under this policy and for **limits of liability** of no more than \$4,750,000 per **occurrence** and annual aggregate, where applicable, as stated in this policy.

It is also understood and agreed that if any **claim** under this policy is also covered by one or more other policies issued by the **School Excess Liability Fund**, or by any other policies issued by any other **Joint Insurance Fund** member of the **School Excess Liability Fund**, then with respect to such **claim**:

- (a) This **School Excess Liability Fund** shall not be liable under this policy for a greater proportion of the loss than the applicable **limit of liability** under this policy bears to the total applicable **limits of liability** of all such policies, whether valid or collectible insurance, and
- (b) The maximum amount payable under all such policies shall not exceed the limit of \$4,750,000 and
- (c) The **Limits of Liability** shown in the DECLARATIONS fix the most we will pay per **occurrence** or in the aggregate regardless of the number of:
 - a. Members
 - b. Insureds
 - c. **Claims** made or **suits** brought; or
 - d. Persons or organizations making **claims** or bringing **suits**.

SECTION III - DEFINITIONS

A. **Certified Acts of Terrorism** means:

Any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "Certified Act of Terrorism" include the following:

1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property, or infrastructure and is committed by an individual or individuals; as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

It is further understood that multiple incidents of an acts of terrorism which occur within a seventy-two hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.

B. **Costs** means prejudgment and post-judgment interest, investigation, adjustment and legal expenses, including taxed court costs and assessment on bonds for which the **Member Joint Insurance Fund** is not covered by **underlying insurance**, excluding, however, all expenses for salaried employees and counsel on general retainer, all office expenses of the **Member Joint Insurance Fund** and regular fees paid to counsel on general retainer.

Costs incurred by the **Member Joint Insurance Fund** with the prior written consent of the **SEL**, shall be apportioned as follows:

1. If a **claim** or **suit** appears likely to exceed the **underlying insurance** limit or limits, no **costs** shall be incurred by the **Member Joint Insurance Fund** without prior consent of the **SEL**.

2. If a **claim** or **suit** is settled before going into court for not more than the **underlying insurance** limit or limits, then no **costs** shall be payable by the **SEL**.
 3. If the **Member Joint Insurance Fund** elects not to appeal a judgment in excess of the **underlying insurance** limit or limits, the **SEL** may elect to conduct such appeal at its own cost and expense and shall be liable for the taxable court costs and interest incidental thereto, but in no event shall the total liability of the **SEL** exceed its limit or **Limits of Liability**, as stated in the DECLARATIONS of this Policy.
- C. **Member Joint Insurance Fund** means the entity shown in the DECLARATIONS, Item A., of this Policy and persons and entities qualifying as such under the WHO IS AN INSURED Section of **underlying insurance** including any ENDORSEMENTS made a part thereof.
- D. **School Excess Liability Fund** and **SEL** means the **School Excess Liability Fund** organized and created pursuant to the provisions of *N.J.S.A. 18A:18B-5*.
- E. **Occurrence** means this policy follows the definition of occurrence used in all underlying insurance identified in Item E of the DECLARATIONS to this Excess Liability Policy.
- F. **Ultimate net loss** means the total sum which the **Member Joint Insurance Fund** is obligated to pay because of **costs** or damage covered under any section of this policy, either through adjudication or compromise, after first making proper deduction for all subrogation, recovery(ies) and salvages.
- G. **Underlying insurance** means either (1) the Casualty Insurance Policy of the **Joint Insurance Fund** Policy scheduled in Item E. of the DECLARATIONS, including all ENDORSEMENTS attached thereto, plus the applicable limits of any other underlying protection (whether insurance or self-insurance including any deductible amount or self-insured retention) collectible or payable by the **Member Joint Insurance Fund** or (2) the combined coverage of all Policy or policies of insurance scheduled in Item E of the DECLARATIONS, including all ENDORSEMENTS attached thereto, plus the applicable limits of any other underlying protection (whether insurance or self-insurance including any deductible amount or self-insured retention) collectible or payable by the **Member Joint Insurance Fund**. **Underlying insurance** also is intended to include any self-insured retention ENDORSEMENT.

All DEFINITIONS contained in **underlying insurance** are incorporated herein as if fully set forth herein at length, except as otherwise provided herein.

SECTION IV - EXCLUSIONS

The coverage provided by this Excess Liability Policy does not apply to any of the following:

- A. Any **claim** made against the **Member Joint Insurance Fund** allegedly due to, based upon, arising out of or directly or indirectly relating to any **occurrence** excluded from coverage under the provisions of the **underlying insurance**;
- B. Any **claim** (except a **claim** for medical expense benefits) under the New Jersey Personal Injury Protection or any **claim** under the New Jersey Uninsured Motorists or Underinsured Motorists ENDORSEMENTS of the **underlying insurance**;

All EXCLUSIONS contained in **underlying insurance** are incorporated herein as if fully set forth herein at length, except as otherwise provided herein.

NAMED INSURED ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY- PLEASE READ IT CAREFULLY

With regard to Item A of the DECLARATIONS, it includes the MEMBER SCHOOL DISTRICTS referred to below:

Achievers Early College Prep Charter School
Bridgeton Public Charter School
Cranford Board of Education
Long Branch Board of Education
Manville Board of Education
Middlesex County STEM Charter School
Middletown Township Board of Education
North Plainfield Board of Education
Ocean Academy Charter School
Summit Board of Education
Union County Educational Services Commission
Wall Board of Education
Watchung Borough Board of Education

**EXCESS LIABILITY LIMITS ENDORSEMENT
THIS ENDORSEMENT CHANGES THE POLICY- PLEASE READ IT CAREFULLY**

It is agreed and understood that the following is added to Item C Limits of Liability of the
DECLARATIONS:

(7) per occurrence/annual aggregate combined single limit excess of item C (2) - (Business Automobile Liability is unaggregated)

Member	Limits of Liability
Achievers Early College Prep Charter School	\$10,000,000
Bridgeton Public Charter School	\$10,000,000
Long Branch Board of Education	\$10,000,000
Middlesex County STEM Charter School	\$10,000,000
Ocean Academy Charter School	\$10,000,000

SCHOOL LEADERS PROFESSIONAL LIABILITY EMPLOYMENT PRACTICES LIABILITY

Throughout this Policy the words **you**, **your** and **insured** are used interchangeably. These terms refer to the **Member** stated on the enclosed Declaration Pages and any other persons or organizations qualifying as such under the **Who is An Insured** provision of the respective Coverage Parts that comprise this Coverage. The words **we**, **us**, and **our** refer to the Diploma Joint Insurance Fund, hereinafter called the **Fund**, providing this insurance.

1. INSURING AGREEMENTS

In consideration of the agreement to become a part of the **Fund**, and subject to all of its terms including this insuring agreement, and in reliance upon the material statements made to us by Application, which forms part of this policy, **we** agree with **you** as follows:

With respect to Coverages A and B, solely with respect to any **Claims** first made against an **Insured** during the **Policy Period** or any applicable **Extended Reporting Period** and reported to **Us** pursuant to the terms of this policy, including, but not limited to, the terms described in Clause 7(a), and subject to the other terms, conditions and limitations of this policy, this policy affords the following coverage:

COVERAGE A: LIABILITY FOR DAMAGES

We shall pay amounts, in excess of the applicable Retention, that an **Insured** is legally obligated to pay as **Damages** resulting from any **Claim** made against an **Insured** for any **Wrongful Act** of an **Insured**.

COVERAGE B: DEFENSE OF INSUREDS

Solely with respect to any **Claim** made against an **Insured**, in excess of the applicable Retention, for any **Wrongful Act** of an **Insured**, the following applies:

- (1) **Our Duty To Defend Insureds:** **We** have the right and duty to defend any covered **Claim** made against any **Insured**, even if such **Claim** is groundless, false or fraudulent.
- (2) **Defense Costs:** **We** shall, in excess of the applicable Retention and in addition to the **Limit of Liability** and the **Sublimit of Liability** (unless specifically stated otherwise), pay for Defense Costs incurred in the defense of any **Claim** against any **Insured**.
- (3) **We** shall have the right to appoint counsel and to make such investigation and defense of a covered **Claim** as it deems necessary.
- (4) **Settlement:** **We** have the right, with the written consent of an **Insured**, which consent shall not be unreasonably withheld, to settle any **Claim** if **We** believe that it is proper. An **Insured** may settle any **Claim** on behalf of all **Insureds** to which this insurance applies and which are subject to one Retention amount where the total incurred **Loss** does not exceed the Retention amount.

- (5) *When **Our Duty To Defend Ends***: Except as provided in paragraph (4) above, no **Insured** may admit liability or settle any **Claim** or incur any cost or expense without **Our** written consent. **Our** duty to defend ends if an **Insured** refuses to consent to a settlement that **We** recommend pursuant to paragraph (4) above and that the claimant will accept. As a consequence of such **Insured's** refusal, **Our** liability shall not exceed the amount for which **We** could have settled such **Claim** had such **Insured** consented, plus **Defense Costs** incurred prior to the date of such refusal, plus 50% of **Defense Costs** incurred with **Our** prior written consent after the date of such refusal; provided, however, such sum shall not exceed the unexhausted **Limit of Liability** or the **Sublimit of Liability**. This clause shall not apply to any settlement where the total incurred **Loss** does not exceed the applicable Retention amount.

Our duty to defend also ends, and **We** shall not be obligated to pay any **Damages** or **Defense Costs**, after (1) the **Limit of Liability** has been exhausted (2) the **Sublimit of Liability** has been exhausted or (3) **We** have deposited the remainder of the **Sublimit of Liability** in a court of competent jurisdiction. In such cases, **We** shall have the right to withdraw from the further defense of any pending **Claims** and tender control of the defense of such **Claims** to the **Named School Entity**.

2. DEFINITIONS

- (a) **Application** means
- (1) all applications, including any attachments thereto, and
 - (2) all other materials submitted therewith or incorporated therein and any other statements, information, representations of any **Insured** or documents submitted by any **Insured** in connection with the underwriting of this coverage or the underwriting of any other coverage, of which this coverage is in whole or part a renewal or replacement or which it succeeds in time.
- (b) **Bodily Injury** means physical injury, physical pain, sickness or disease (other than emotional distress or mental anguish), including death resulting therefrom.
- (c) **Claim** means:
- (1) a written demand for money, services, non-monetary or injunctive relief; (i) any demand for mediation, arbitration or any other alternative dispute resolution process or (ii) any request to toll or waive the statute of any limitations; or
 - (2) a civil, administrative or regulatory proceeding for **Damages**, non-monetary or injunctive relief, which is commenced by: (i) service of a complaint or similar pleading or (ii) receipt or filing of a notice of charges; or
 - (3) an arbitration proceeding in which **Damages** are alleged and to which an **Insured** must submit or does submit with **Our** consent; or
 - (4) an administrative or regulatory investigation by the Equal Employment Opportunity Commission, or any similar state, local or foreign agency, which is commenced by

the filing of a notice of charges, service of a complaint or similar document of which notice has been given to an **Insured**; or

- (5) an administrative or regulatory investigation of violations of the Uniformed Services Employment and Reemployment Rights Act when such investigation is conducted by the United States Department of Labor, Veterans Employment and Training Service, Justice Department or Office of Special Counsel and is commenced by the filing of a notice of charges, service of a complaint or similar document of which notice has been given to an **Insured**; or
- (6) including any appeal from any of above.

However, in no event, shall the term "**Claim**" include any labor or grievance proceeding, which is subject to a collective bargaining agreement.

- (d) **Damages** means compensatory damages judgments or settlements, including:
 - (1) punitive, exemplary and multiple damages (including multiple or liquidated damages awards under the Age Discrimination in Employment Act and the Equal Pay Act) where insurable by the applicable law which most favors coverage for such punitive, exemplary and multiple damages;
 - (2) pre-judgment or post-judgment interest on a covered judgment that accrues before **We** have paid, offered to pay or deposited in court that covered part of the judgment within the applicable limit of liability.
 - (3) any prevailing party fees that an **Insured** shall be required to pay pursuant to an **IEP Hearing** award.

With respect to any **Employment Practices Violation**, **Damages** shall also mean:

- (1) front pay and back pay;
 - (2) any attorney fees awarded to a prevailing plaintiff's counsel pursuant to a covered judgment against an **Insured** or which **We** have agreed to pay as part of a covered settlement of a **Claim** against an **Insured**;
- (e) **Defense Costs** means:
 - (1) reasonable and necessary fees and disbursements charged by an attorney appointed or approved in writing by **Us** (unless otherwise provided for in this document); and all other reasonable and necessary fees, costs and expenses consented to by **Us**; and
 - (2) the cost of premiums for any appeal bond, attachment bond or similar bond arising out of a covered judgment, but without any obligation to apply for or furnish any such bond, incurred in the investigation, adjustment, defense and/or appeal of a **Claim** by **Us** or by an **Insured** with **Our** written consent. **Defense Costs** shall not include: (1) compensation of any **Individual Insured**; or (2) any fees, costs or expenses incurred prior to the time that a **Claim** is first made against an **Insured**.

- (f) **EEOC Proceeding** means an Equal Employment Opportunity Commission (or similar state, local or foreign agency) proceeding commenced by the filing of a notice of charges, service of complaint or similar document of which notice has been given to an **Insured**.
- (g) **Employee** means any:
- (1) past, present or future employee of a **Named School Entity**, whether such employee is in a supervisory, co-worker or subordinate position or otherwise, including any full-time, part-time, seasonal or temporary employee or any volunteer, but only while acting in his or her capacity as such;
 - (2) individual who is an independent contractor for a **Named School Entity**, but only while performing services, on behalf of or at the direction of a **Named School Entity**; or
 - (3) an individual who is leased or contracted to perform work for a **Named School Entity**, but only while performing services as a leased worker for, or pursuant to a written contract with, a **Named School Entity**.
- (h) **Employment Practices Violation(s)** means any actual or alleged:
- (1) wrongful dismissal, discharge or termination (either actual or constructive) of employment, including breach of an implied contract;
 - (2) harassment (including workplace bullying, **Sexual Harassment** whether “quid pro quo,” hostile work environment or otherwise), including “same-sex” **Sexual Harassment**;
 - (3) discrimination (including, but not limited to, discrimination based upon age, gender, gender identity or expression, race, color, national origin, religion, sexual orientation or preference, genetic information, pregnancy, military status, or disability);
 - (4) **Retaliation**;
 - (5) employment-related misrepresentation(s) to an **Employee**;
 - (6) employment-related libel, slander, humiliation, defamation or invasion of privacy;
 - (7) false arrest or false imprisonment;
 - (8) wrongful failure to employ or promote;
 - (9) wrongful deprivation of career opportunity with the **Named School Entity**, wrongful demotion or negligent **Employee** evaluation, including the giving of negative or defamatory statements in connection with an employee reference;
 - (10) wrongful discipline;

- (11) failure to grant tenure; or
 - (12) with respect to any of the foregoing items (1) through (11) of this definition, negligent hiring, retention, training or supervision, infliction of emotional distress or mental anguish, failure to provide or enforce adequate or consistent policies and procedures, or violation of an individual's civil rights; but only if the **Employment Practices Violation** relates to an **Employee** of or an applicant for employment with a **Named School Entity**, whether committed directly, indirectly, intentionally or unintentionally.
- (i) **Extended Reporting Period** means whichever **Extended Reporting Period** described in Clause 9, if any, is applicable.
 - (j) **Failure(s) of Security** means:
 - (1) the actual failure and inability of the security of the **Named School Entity's** computer system to mitigate loss from or prevent a computer attack; or
 - (2) physical theft of hardware or firmware controlled by the **Named School Entity** (or components thereof) on which electronic data is stored, by a person other than an **Insured**, from a premises occupied and controlled by the **Named School Entity**.
 - (k) **IEP** means an individual education plan to address the special educational needs of a student with disabilities that is developed by the: (1) **Named School Entity**; and (2) parent(s) or guardian(s) of a student.
 - (l) **IEP Hearing** means a due process hearing: (1) conducted by an impartial officer; (2) arranged at the request of a parent(s) or guardian(s); and (3) regarding an **IEP**.
 - (m) **Individual Insured** means any
 - (1) past, present or future duly elected or appointed director, officer, trustee, trustee emeritus, executive director, department head, member of the Board of Regents, member of the Board of Education, staff, faculty, student teacher, student intern or faculty member (salaried or non-salaried) of the **Named School Entity**,
 - (2) any **Employee**, or any **Outside Entity Executive**. Coverage will automatically apply to all new persons who become **Individual Insureds** after the inception date of this policy, provided, however, an individual who is leased or contracted to perform work for a **Named School Entity**, or who is an independent contractor for a **Named School Entity**, shall only be an **Individual Insured** if such **Named School Entity** provides indemnification to such individual in the same manner as it provides to such **Named School Entity's** employees.
 - (n) **Insured** means: (1) the **Named School Entity**; (2) the Board of Education of the **Named School Entity** or other governing board or body of the **Named School Entity**, including the Board of Regents, Board of Trustees or Board of Directors, (3) Local Professional Development Committees, (4) Parent/Teacher Organization, Parent/Teacher Association,

- Booster Clubs or other Parent Organization sponsored by a **Named School Entity**; and (5) any **Individual Insured**.
- (o) **Limit of Liability** means the aggregate limit of liability for **Damages** set forth as such in Item 3(a) of the Declarations.
 - (p) **Loss** means **Damages** and **Defense Costs**.
 - (q) **Named School Entity** means the school, school district, college, university, or other academic entity stated in Item 1 of the Declarations.
 - (r) **Outside Entity Executive** means any director, trustee, trustee emeritus or governor (or equivalent position) of the **Named School Entity**, who is or was acting at the specific request or direction of the **Named School Entity** as a director, trustee, trustee emeritus or governor (or equivalent position) in an **Outside Entity**. It is understood and agreed that, in the event of a disagreement between the **Named School Entity** and an individual as to whether such individual was acting “at the specific request or direction of the **Named School Entity**,” this policy shall abide by the determination of the **Named School Entity** on this issue and such determination shall be made by written notice to the **Us** within ninety (90) days after the **Claim** is first reported to **Us** pursuant to the terms of the policy. In the event no determination is made within such period, this policy shall apply as if the **Named School Entity** determined that such **Individual Insured** was not acting at the **Named School Entity’s** specific request or direction.
 - (s) **Outside Entity** means any non-profit corporation, community chest, fund or foundation that is not included in the Definition of **Named School Entity** and that is exempt from federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.
 - (t) **Policy Damages Limit of Liability** means the aggregate limit of liability for **Damages** set forth as such in Item 3(a) of the Declarations.
 - (u) **Policy Period** means the period from the effective date of this policy to the expiration date or earlier cancellation date of this policy.
 - (v) **Pollutants** means, but is not limited to, any solid, liquid, gaseous, biological, radiological or thermal irritant or contaminant, including smoke, vapor, asbestos, dust, fibers, mold, spores, fungi, germs, lead, soot, fumes, acids, alkalis, chemicals and Waste. “Waste” includes, but is not limited to, materials to be recycled, reconditioned or reclaimed.
 - (w) **Private Information** means any confidential or personally identifiable information.
 - (x) **Property Damage** means damage to, or destruction of tangible or intangible property, including the loss of use thereof, or the loss of use of tangible or intangible property which has not been damaged or destroyed.

- (y) **Retaliation** means a retaliatory act of an **Insured** alleged to be in response to the actual or attempted exercise by an **Employee** of any right that such **Employee** has under law including, without limitation, any of the following activities: (1) the disclosure or threat of disclosure by an **Employee** to a superior or to any governmental agency of any act by an **Insured** which act is alleged to be a violation of any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder; (2) the of rights under worker's compensation laws, the Family and Medical Leave Act, the Americans with Disabilities Act or any other law relating to employee rights; (3) the filing of any claim under the Federal False Claims Act or any other federal, state, local or foreign "whistle-blower" law; or (4) strikes of an **Employee**.
- (z) **Related Wrongful Act** means a **Wrongful Act** which is the same, related or continuous, or **Wrongful Act** which arises from a common nucleus of facts. **Claims** can allege **Related Wrongful Acts** regardless of whether such **Claims** involve the same or different claimants, **Insureds** or legal causes of action.
- (aa) **Separate Limit of Liability** means any limit of liability set forth in Item 3(b) of the Declarations.
- (bb) **Sexual Abuse and Molestation:** Any actual, attempted or alleged criminal sexual conduct of a person by another person, or persons acting in concert, which causes physical and/or mental injuries. **Sexual Abuse and Molestation** includes:
- (1) sexual molestation,
 - (2) sexual assault,
 - (3) sexual exploitation, or
 - (4) sexual injury.
- Sexual Abuse and Molestation** does not include **Sexual Harassment**.
- (cc) **Sexual Harassment:** Any actual or alleged unwelcome sexual advances, requests for sexual favors or other conduct of a sexual nature, of a person by another person, or persons acting in concert, which causes physical and/or mental injuries. **Sexual Harassment** includes the above conduct when:
- (1) submission to or rejection of such conduct is made either explicitly or implicitly a condition of a person's employment, or a basis for employment decisions affecting a person; or
 - (2) such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile, or offensive work environment.
- (dd) **"Third Party Event"** means any **Wrongful Act**.

- (ee) **"Third Party Violation"** means any actual or alleged harassment or unlawful discrimination, as described in subparagraphs (2) and (3) of the definition of **Employment Practices Violation**, or the violation of the civil rights of an individual relating to such harassment or discrimination, when such acts are alleged to be committed against any individual other than an **Employee** or applicant for employment with the **Named School Entity**, including, but not limited to, students and parents.
- (ff) **Wrongful Act** means:
- (1) any breach of duty, negligent act, error or omission, misstatement, or misleading statement by an **Insured** prior to the end of the **Policy Period**, **solely in the performance of duties for or on behalf of a Named School Entity; or**
 - (2) **Employment Practices Violation or Third Party Violation.**

provided, however, that:

Wrongful Act shall not mean and this policy shall not cover any actual or alleged breach of duty, neglect, error, or omission that results in: (a) a **Failure of Security** or (b) wrongful disclosure of **Private Information**.

3. SPOUSAL, DOMESTIC PARTNER AND LEGAL REPRESENTATIVE EXTENSION

If a **Claim** against an **Individual Insured** includes a **Claim** against: (1) the lawful spouse or legally recognized domestic partner of such **Individual Insured**; or (2) a property interest of such spouse or domestic partner, and such **Claim** arises from any actual or alleged **Third Party Events** of such **Individual Insured**, this policy shall pay covered **Loss** arising from the **Claim** made against such spouse or domestic partner or the property of such spouse or domestic partner to the extent that such **Loss** does not arise from a **Claim** for any actual or alleged act, error or omission of such spouse or domestic partner. This policy shall pay covered **Loss** arising from a **Claim** made against the estates, heirs, or legal representatives of any deceased **Individual Insured**, and the legal representatives of any **Individual Insured** in the event of incompetence, insolvency or bankruptcy, who was an **Individual Insured** at the time the **Third Party Events** upon which such **Claim** is based were alleged to have been committed.

4. EXCLUSIONS

This policy shall not cover any **Loss** in connection with a **Claim**:

- (a) alleging, arising out of based upon or attributable to any dishonest, fraudulent, criminal or malicious act, error or omission, or any intentional or knowing violation of the law; provided, however, **We** will defend **Claims** that allege any of the foregoing conduct, and that are not otherwise excluded until there is a final judgment or final adjudication against an **Insured** in a **Claim**, adverse finding of fact against an **Insured** in a binding arbitration proceeding, or plea of guilty or no contest by an **Insured** as to such conduct, at which time the **Insureds** shall reimburse the **Us** for **Defense Costs**. For the purposes of determining the applicability of the exclusion in this paragraph (a), the conduct of and knowledge

- possessed by any **Individual Insured** shall not be imputed to any other **Individual Insured**.
- (b) alleging, arising out of, based upon or attributable to (1) false arrest, detention or imprisonment, (2) libel, slander or defamation of character, (3) assault or battery, (4) malicious prosecution or abuse of process, (5) wrongful entry or eviction, or invasion of any right of privacy, or (6) any allegation that an **Insureds** (i) negligent employment, investigation, supervision or retention of a person, (ii) practice, custom or policy or (iii) violation of any civil right(s) cause or resulted from any matter described in subparagraphs (1) through (6) above; provided, however, subparagraphs (1) and (2) shall not apply to any **Claim** alleging an **Employment Practices Violation** or any liability attributed to the **Named School Entity** by an **Individual Insured** employed as a security officer;
 - (c) alleging, arising out of based upon or attributable to (1) **Bodily Injury** (2) **Property Damage**, or (3) any allegation relating to the foregoing exclusions in subparagraphs (1) and (2) that an **Insured** negligently employed, investigated, supervised or retained a person, or based on an alleged practice, custom or policy and including, without limitation, any allegation that the violation of a civil right caused or resulted from such **Damages** or **Claim**;
 - (d) alleging, arising out of, based upon or attributable to:
 - (1) **Sexual Abuse and Molestation**; or
 - (2) any allegation relating to the foregoing exclusions in subparagraphs (1) that an **Insured** negligently employed, investigated, supervised or retained a person, or based on an alleged practice, custom or policy and including, without limitation, any allegation that the violation of a civil right caused or resulted from such **Damages** or **Claim**;
 - (e) alleging, arising out of, based upon or attributable to an **Insured's** advising, requiring, obtaining or failing to advise, require or obtain any bond, suretyship or other form of insurance, including without limitation self-insured arrangements, pools, self-insurance trusts, captive insurance companies, retention groups, reciprocal exchanges or any other plan or agreement of risk transfer or assumption; provided, however, **We** will defend such a **Claim** without any obligation to pay **Damages**.
 - (f) alleging, arising out of, based upon or attributable to any misappropriation of trade secret or infringement of patent, copyright, trademark, trade dress or any other intellectual property right;
 - (g) alleging, arising out of, based upon or attributable to (1) the publication, in a digital or digitized format, of; or (2) infringement upon any actual or alleged right to control: (i) the creation of compilations of; or (ii) publication of component parts of, including individual compositions from an album or compact disk or a combination of compositions consisting of some, but not all, of the original any audiovisual works, copies, literary works, motion pictures, phonorecords, pictorial, graphic and sculptural works, sound recordings, works of visual art, lesson plans, or course packs;

- (h) alleging, arising out of, based upon or attributable to:
- (1) presence of **Pollutants**;
 - (2) the actual, alleged or threatened discharge, dispersal, release or escape of **Pollutants**; or
 - (3) any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**, or in any way respond to or assess the effects of **Pollutants**;
- (i) alleging, arising out of based upon or attributable to any breach of fiduciary duty, responsibility or obligation in connection with any employee benefit or pension plan, including violation of the responsibilities, obligations or duties imposed upon fiduciaries by the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or similar statutory or common law of the United States of America or any state or jurisdiction therein; provided, however, **We** will defend such **Claim** without any obligation to furnish any benefits due or pay **Damages, subject to a Policy Period aggregate limit of \$25,000 for Defense Costs**, at which time the **Insureds** must defend the **Claim** at their own expense. Notwithstanding anything in this policy to the contrary, this limit shall be in addition to, and not part of, the **Limit of Liability** and the **Sublimit of Liability**.
- (j) brought by, or on behalf of:
- (1) any **Insured** against another **Insured**;
 - (2) any entity that is owned, managed or operated, directly or indirectly, in whole or in part, by the **Named School Entity**; or
 - (3) any parent company, subsidiary, director, officer, partner, trustee, successor or assignee of the **Named School Entity**, or anyone affiliated with the **Named School Entity** through common majority ownership or control; provided, however, this exclusion shall not apply to any **Claim**: (1) alleging an **Employment Practices Violation** brought by or on behalf of any **Individual Insured**; or (2) solely with respect to any **Insured** described in subparagraphs (2) or (3) of the definition of **Employee** that has supplied material or services to a **Named School Entity**, this exclusion shall only apply to **Claims** involving disputes over the ownership or exercise of rights in such material or services.
- This exclusion shall not apply to any **Claim** brought by an **Individual Insured** in the form of a cross-claim or third-party claim for contribution or indemnity which is part of, and results directly from a **Claim** that is covered by this policy;
- (k) alleging, arising out of, based upon or attributable to the failure to integrate or desegregate the student enrollment or participation in any **Named School Entity** (the foregoing shall be referred to as “**Desegregation**”); provided, however, **We** will defend a **Claim** alleging both: (1) **Desegregation**; and (2) **Wrongful Act(s)** not otherwise excluded until one of the following occurs: (i) there is a judgment against, final adjudication against, adverse finding of fact against, or adverse admission by, any **Insured**, with respect to the **Desegregation**;

- or (ii) **Defense Costs** of more than \$100,000 have been incurred, in excess of the applicable retention, at which time the **Insureds** must defend the **Claim** at their own expense; Notwithstanding anything in the policy to the contrary, this limit shall be in addition to, and not part of, the **Limit of Liability** and the **Sublimit of Liability**.
- (l) alleging, arising out of, based upon or attributable to any actual or alleged contractual liability of an **Insured** under any contract or agreement; provided, however:
- (1) this exclusion shall not apply to liability which would have attached in the absence of such contract or agreement; or (ii) **Defense Costs** for written employment contracts; and
- (2) **We** will defend a **Claim** alleging breach of contract until one of the following occurs: (i) there is a judgment against, final adjudication against, adverse finding of fact against, or adverse admission by, any **Insured**, with respect to the breach of contract or (ii) **Defense Costs** of more than \$100,000 have been incurred, in excess of the applicable retention, at which time the **Insured** must defend the **Claim** at its own expense. Notwithstanding anything in the policy to the contrary, this limit shall be in addition to, and not part of, the **Limit of Liability**.
- (m) alleging, arising out of or resulting, directly or indirectly, from, as of the **Policy First Inception Date**, any pending or prior: (1) **Claim**, demand, arbitration, mediation or litigation; or (2) administrative, bankruptcy or regulatory proceeding or investigation, of which any **Insured** had notice, or alleging or derived from the same or essentially the same facts as alleged in such pending or prior **Claim**, demand, arbitration, mediation or litigation or administrative, bankruptcy or regulatory proceeding or investigation;
- (n) alleging, arising out of, based upon or attributable to, directly or indirectly, from the facts alleged, or to the same **Wrongful Act, or Related Wrongful Act**, alleged or contained, in any **Claim** which has been reported, or in any circumstances of which notice has been given under any policy of which this policy is a renewal or replacement or which it may succeed in time;
- (o) alleging, arising out of, based upon or attributable to directly or indirectly, from any **Wrongful Act**, circumstance or event committed, omitted or occurring prior to the **First Inception Date**, if on or before the **First Inception Date** any **Insured** knew or could have reasonably foreseen that such **Wrongful Act**, circumstance or event could lead to a **Claim**;
- (p) for any **Wrongful Act** arising out of an **Individual Insured** serving as an **Outside Entity Executive**, if such **Claim** is brought by the **Outside Entity** or by any director, officer, trustee, trustee emeritus or governor thereof;
- (q) alleging, arising out of based upon or attributable to any:
- (1) purchase, sale, offer of or solicitation of an offer to purchase or sell securities, or violation of any securities law, including provisions of the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended;

- (2) violation of the Organized Crime Control Act of 1970 (commonly known as “Racketeer Influenced And Corrupt Organizations Act” or “RICO”), as amended;
 - (3) antitrust violations, restraint of trade, or unfair competition, or violations of the Sherman Act, the Clayton Act or the Robinson-Patman Act, as amended;
 - (4) regulation promulgated under the foregoing laws(a) regulating the same or similar conduct or services, whether such law is statutory, regulatory or common law; or
 - (5) any federal, state, local or foreign laws (a) similar to the foregoing laws (including “Blue Sky” laws) or (b) regulating the same or similar conduct or services, whether such law is statutory, regulatory or common law;
- (r) alleging, arising out of, based upon or attributable to any obligation pursuant to any workers’ compensation, disability benefits, unemployment compensation, unemployment insurance, retirement benefits, social security benefits or similar law; provided, however, this exclusion shall not apply to a **Claim** for **Retaliation**; or
- (s) alleging, arising out of, based upon or attributable to any violation(s) of any of the responsibilities, obligations or duties imposed by the Fair Labor Standards Act (except the Equal Pay Act), the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act, the Occupational Safety and Health Act, any rules or regulations of the foregoing promulgated thereunder and amendments thereto or any similar federal, state, local or foreign law or amendment to a law.
- (t) alleging, arising out of, based upon or attributable to any of the circumstances described in any of the following:
- (1) the refusal, failure or inability of any **Insured** to pay wages or overtime pay (or amounts representing such wages or overtime pay) for services rendered or time spent in connection with work related activities (as opposed to tort-based back pay or front pay damages for torts other than conversion);
 - (2) improper deductions from pay taken by any **Insured** from any **Employee** or purported **Employee**; or
 - (3) failure to provide or enforce legally required meal or rest break periods.

Provided, however, this exclusion shall not apply to the extent that a **Claim** is for **Retaliation**.

- (u) for any profit or advantage to which an **Insured** is not legally entitled. For the purposes of determining the applicability of the exclusion in this paragraph (b), the conduct of and knowledge possessed by any **Individual Insured** shall not be imputed to any other **Individual Insured**.

- (v) for any of the following:
 - (1) civil or criminal fines or penalties;
 - (2) taxes;
 - (3) any amounts for which an **Insured** is not financially liable or which are without legal recourse to an **Insured**;
 - (4) employment-related benefits, stock options, perquisites, deferred compensation or any other type of compensation other than salary, wages or bonus compensation;
 - (5) an **Insured's** costs and expenses of complying with any injunctive or other form of equitable relief, including, but not limited to, complying with the Americans with Disabilities Act, any liability or costs incurred by any **Insured** to modify any building or property in order to make said building or property more accessible or accommodating to any disabled person or any liability or costs incurred in connection with any educational, sensitivity or other corporate program, policy or seminar relating to a **Claim** alleging discrimination or other **Wrongful Act**; or
 - (6) matters which may be deemed uninsurable under the law pursuant to which this document shall be construed.
 - (7) the reimbursement of tuition, books, transportation expenses and other fees associated with educational activities; or
 - (8) any amount that an **Insured** shall be required to pay pursuant to an **IEP Hearing** award, other than prevailing party fees; or
 - (9) the monetary value of any electronic fund transfer or transaction by an **Insured** or on an **Insured's** behalf, which is lost or diminished during transfer into, out of or between an **Insured's** accounts; or
 - (10) alleging, arising out of, based upon or attributable to the awarding of, or failure to award, any scholarship.
- (w) alleging, arising out of, based upon or attributable to any violation of responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or any similar provisions of any state, local or foreign statutory or common law.

5. **POLICY DAMAGES LIMIT OF LIABILITY; SEPARATE LIMIT OF LIABILITY**

Our total liability for all **Damages**, in the aggregate, regardless of the number of persons, occurrences, **Claims** or entities covered by this policy, or claimants or **Claims** brought against any **Insured**, shall not exceed the **Policy Damages Limit of Liability** set forth in Item 3 (a) (1) of the Declarations.

Our total liability for all **Damages** for each **Wrongful Act** and **Related Wrongful Acts**, regardless of the number of persons, **Claims** or entities covered by the policy, shall not exceed the **Policy Damages Limit of Liability** set forth in Item 3 (a) (2) of the Declarations.

Our total liability for all **Damages** for any one **Member** set forth in the Schedule of Members in Endorsement No. 1, "SCHEDULE OF MEMBERS ENDORSEMENT", in the aggregate, regardless of the number of person, occurrences, **Claims** or entities covered by this policy, or claimants or **Claims** brought against such **Member** shall not exceed the **Policy Damages Limit of Liability** set forth in Item 3(a)(3) of the Declarations.

Defense Costs do not reduce the **Policy Damages Limit of Liability**. Each **Separate Limit of Liability** shall be in addition to, and not part of, the **Policy Damages Limit of Liability** or any other **Separate Limit of Liability**.

Our total liability for **Defense Costs** arising from any and all **IEP Hearings** shall not exceed \$100,000 (the IEP Hearing Limit of Liability).

The inclusion herein of more than one **Insured** shall not increase the **Policy Damages Limit of Liability** or the applicable **Separate Limit of Liability** (if any) of **Ours**. Further, a **Claim** that is made subsequent to the **Policy Period** or **Extended Reporting Period** (if applicable), which pursuant to Clause 7(a) ii is considered made during the **Policy Period** or **Extended Reporting Period**, shall also be subject to the **Policy Damages Limit of Liability** and applicable **Separate Limit of Liability** (if any).

If additional **Claims** are subsequently made which arise out of the same **Wrongful Act** or **Related Wrongful Act(s)**, then all such **Claims**, whenever made, shall be considered first made within the **Policy Period** or the **Extended Reporting Period** in which the earliest **Claim** arising out of such **Wrongful Act** or **Related Wrongful Act(s)** was first made and reported to **Us**, and all such **Claims** shall be subject to one such **Policy Damages Limit of Liability**.

6. RETENTION

Subject to the **Policy Damages Limit of Liability**, exclusions and other terms of this policy, with respect to each **Wrongful Act** other than an **Employment Practices Violation**, **We** shall only be liable for the amount of **Loss** that is in excess of the Retention amounts stated in Item 4(a) of the Declarations.

Subject to the **Policy Damages Limit of Liability**, exclusions and other terms of this policy, with respect to each **Employment Practices Violation**, **We** shall only be liable for the amount of **Loss** that is in excess of the Retention amounts stated in Item 4(b) of the Declarations.

Subject to the **Policy Damages Limit of Liability**, exclusions and other terms of this policy, with respect to each **IEP Hearing**, **We** shall only be liable for the amount of **Loss** that is in excess of the Retention amounts stated in Item 4(c) of the Declarations.

In the event a **Claim** triggers more than one Retention amount, then, as to that **Claim**, the highest of such Retention amounts shall be deemed the Retention amount applicable to the amount of **Loss** arising from such **Claim**.

The Retention shall apply to each **Wrongful Act** or **Related Wrongful Acts** and shall be borne by the **Named School Entity** and remain uninsured.

We will advance all or part of the applicable Retention amount, and each **Insured** agrees to repay **Us** its share of the applicable Retention amount immediately upon notification by **Us** of such advancement.

7. NOTICE / CLAIM REPORTING PROVISIONS

- (a) The **Insureds** shall, as a condition precedent to the obligations of the **Us** under this policy, give written notice to **Us** of any **Claim** made against an **Insured** as soon as practicable after any **Insured** first becomes aware of the **Claim**.

Notwithstanding the foregoing and regardless of whether any party described above has become aware, in all events each **Claim** must be reported no later than either:

- (i) during the **Policy Period** or any applicable **Discovery Period**; or
 - (ii) within ninety (90) days after the end of the **Policy Period**, as long as such **Claim** is reported no later than one hundred and eighty (180) days after the claim was first made against an **Insured**.
- (b) If notice has been given to **Us**, then any **Claim** which is subsequently made against an **Insured** and reported to **Us** alleging, arising out of, based upon or attributable to the facts alleged in the **Claim** for which such notice has been given, or alleging any **Wrongful Act** which is the same as or a **Related Wrongful Act** to that alleged in the **Claim** of which such notice has been given, shall be considered related to the first **Claim** and made at the time such notice was given; and
- (c) If during the **Policy Period** or during an applicable **Extended Reporting Period** an **Insured** shall become aware of any circumstances which may reasonably be expected to give rise to a **Claim** being made against an **Insured** for a **Wrongful Act** that occurs prior to the end of the **Policy Period**, and, during the **Policy Period** or any applicable **Extended Reporting Period** written notice is given to **Us** of (i) such circumstances, (ii) the **Wrongful Act** allegations that are anticipated, and (iii) the reasons for anticipating such a **Claim**, with full particulars as to dates, persons and entities involved, then any **Claim** that is subsequently made against an **Insured** arising out of such **Wrongful Act**, or the same **Wrongful Act** or **Related Wrongful Acts**, shall be treated as a **Claim** made against such **Insured** and reported to **Us** at the time such notice of such circumstances was given.

8. WHAT INSURED MUST DO IN THE EVENT OF A CLAIM

- (a) In addition to providing notice as required in this policy, the **Insured** must also:
- (1) send **Us** copies of all demands, suit papers, other legal documents and invoices for **Defense Costs** received by such **Insured**, as soon as practicable;

- (2) immediately record the specifics of any **Claim** and the date such **Insured** first received such **Claim**;
- (3) upon **Our** request, furnish to **Us** any and all documentation within the possession of the **Insured**; and
- (4) give to **Us**, and to any counsel **We** select to represent an **Insured** in connection with a **Claim**, full cooperation and such information as **We** or the counsel may require, including, but not limited to, assisting **Us** or the counsel in: (i) any investigation of a **Claim**, or other matter relating to the coverage afforded under this policy (including submission to an examination by **Us** or **Our** designee, under oath if required by **Us**); (ii) making settlements; (iii) enforcing any legal rights any **Insured** or **Us** may have against any person or entity who may be liable to an **Insured**; (iv) attending depositions, hearings and trials; (v) securing and giving evidence, and obtaining the attendance of witnesses; and (vi) any inspection or survey conducted by **Us**.

9. EXTENDED REPORTING PERIOD

- (a) *Automatic Extended Reporting Period:* If **We** or the **Named School Entity** shall cancel or refuse to renew this policy and the **Named School Entity** does not obtain replacement coverage as of the effective date of such cancellation or non-renewal, the **Named School Entity** shall have the right to a period of sixty (60) days following the effective date of such cancellation or non-renewal (the “**Automatic Extended Reporting Period**”) in which to give written notice to **Us** of any **Claim** made against the **Insured** during said sixty (60) day period for any **Wrongful Act** committed before the end of the **Policy Period**. This **Automatic Extended Reporting Period** shall immediately expire upon the purchase of replacement coverage by the **Named School Entity**.
- (b) *Optional Extended Reporting Period:* If **We** or the **Named School Entity** shall cancel or refuse to renew this policy, the **Named School Entity** shall have the right to a period of up to three (3) years following the effective date of such cancellation or nonrenewal (an “**Extended Reporting Period**”), upon payment of an additional assessment amount:
 - (1) for a one (1) year **Extended Reporting Period**, up to one hundred percent (100%) of the annualized assessment,
 - (2) for a two (2) year **Extended Reporting Period**, up to one hundred and fifty percent (150%) of the annualized assessment, or
 - (3) for a three (3) year **Extended Reporting Period**, up to two hundred percent (200%) of the annualized assessment,

in which to give written notice to **Us** of any **Claim** made against the **Insured** during said **Extended Reporting Period** and solely with respect to a **Wrongful Act** committed prior to the end of the **Policy Period** and otherwise covered by this policy. This right shall terminate, however, unless written notice of such election together with the additional

assessment due is received by **Us** within thirty (30) days after the effective date of cancellation or non-renewal. This clause and the rights contained herein shall not apply to any cancellation resulting from non-payment of assessment. If the **Named School Entity** exercises its right to purchase an **Extended Reporting Period**, that period incept at the end of the **Policy Period** and there shall be no **Automatic Extended Reporting Period**.

10. CANCELLATION CLAUSE

Any cancellation is expressly subject to the requirements of the laws of the State of New Jersey and all rules and regulations adopted thereunder, including those regulations currently codified in N.J.A.C. 11:15-4 et seq. adopted of N.J.S.A. 17:1-8.1, N.J.S.A. 17:1C-6 (e) and N.J.S.A. 18A:18B et seq. and as hereafter amended. This policy may be canceled by **you** by surrender hereof to **us** or any of **our** authorized agents and risk management consultants and only in accordance with the requirements for withdrawal, termination or non-renewal from the **Fund** as set forth in the aforesaid statutes, rules and regulations and the **Fund's** by-laws adopted there under. If **you** cancel, **your** liability for any further assessment shall be computed in accordance with the aforesaid rules and regulations.

If **we** cancel, **we** shall mail to **you**, at **your** last mailing address known to **us**, written notice stating when not less than 30 days thereafter such cancellation shall be effective. The mailing of notice at the aforesaid date and hour of cancellation stated in the notice shall become the end of the **Policy Period**. If **we** cancel, earned assessment shall be computed as provided in the aforesaid rules and regulations. Assessment adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment of tender of unearned assessment is not condition of cancellation.

It is expressly recognized and agreed that **you** are required to be a **Member** of the **Fund** as a condition of eligibility for this Coverage and that, in the event that **you** withdraw from or are terminated or expelled from the Joint Insurance Fund, then this Coverage shall be canceled and terminated as of the effective date of **your** withdrawal, termination or expulsion. Any such withdrawal, termination or expulsion from the **Fund** shall be effectuated only in accordance with the **Fund's** by-laws and risk management plan as approved pursuant to the aforementioned authorizing statutes and rules and regulations.

11. REIMBURSEMENT OF THE FUND

If **We** have paid any **Damages** in excess of the **Policy Damages Limit of Liability** or **Damages** and/or **Defense Costs** in excess of any applicable **Separate Limit of Liability** or within the applicable Retention, the **Named School Entity** shall be liable to **Us** for any and all such amounts and, upon demand, shall pay such amounts to **Us**.

12. SUBROGATION

In the event of any payment under this policy, **We** shall be subrogated to the **Insured's** rights of recovery therefore against any person or organization, and the **Insured** shall execute and deliver all instruments and papers and do whatever else is necessary to secure such rights for **Us**. The

Insured shall do nothing to prejudice such rights. Any amount recovered in excess of **Our** total payment shall be restored to the **Insured**, less the cost to **Us** of recovery.

13. OTHER INSURANCE

Such insurance as is provided under this policy shall apply only as excess over any other valid and collectible insurance, self insurance, or indemnification or any similar agreement, whether such other insurance or agreement is stated to be primary, pro rata, contributory, excess, contingent or otherwise.

In the event of a **Claim** against an **Insured** arising out of his or her service as an **Outside Entity Executive**, or a **Claim** against an **Insured** for the **Insured's** liability with respect to a leased **Employee** as described in the Definition of "**Employee**," coverage as is afforded by this policy shall be specifically excess of indemnification provided by such **Outside Entity** or such leasing company and any insurance provided to such **Outside Entity** or such leasing company.

14. NOTICE AND AUTHORITY

By acceptance of this Coverage, **you** agree that **you** shall act on behalf of all **insureds** with respect to the giving and receiving of notice of **claim** or cancellation, the payment of assessments and the receiving of any return of assessments that may become due under this Coverage, the negotiation, agreement to and acceptance of ENDORSEMENTS, and the giving or receiving of any notice provided for in this Policy, and the **insureds** agree that **you** shall act on their behalf. Notice to **you** at the business address of the **Member** shall also constitute notice to all **insureds** under this Coverage.

All notices of **claims** or any other notice required to be given to **us** under this Coverage shall be addressed to:

Diploma Joint Insurance Fund
c/o Risk and Loss Managers, Inc.- Administrator
51 Everett Drive, Suite B-40
West Windsor, New Jersey 08550-5374

15. ACTION AGAINST THE FUND

No action shall lie against **Us** unless, as a condition precedent thereto, the **Insured** shall have fully complied with all the terms of this policy, nor until the amount of the obligation of the **Insured** to pay shall have been finally determined either by judgment against the **Insured** after actual trial or by written agreement of the **Insured**, the claimant and the **Fund**.

Any **Insured** or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. No **Insured** shall have any right under this policy to join **Us** as a party to any action against other **Insureds** or the **Named School Entity** to determine the **Insureds'** liability, nor shall **We** be impleaded by the **Insureds** or the **Named School Entity** or their legal representatives. Bankruptcy or insolvency of the **Insured** or the estate of the **Insured** shall not relieve **Us** of any obligation hereunder.

16. TERRITORY

Unless prohibited by law, this policy applies to **Wrongful Acts** committed anywhere in the world provided the **Claim** is made in the United States of America, its territories or possessions, or Canada.

17. ARBITRATION

Every controversy, dispute, difference, or **Claim** between the **Fund** and an **Insured** of the **Fund** shall be submitted to and settled by arbitration. This includes any dispute concerning whether coverage may be owed by the **Fund** to any **employee**, official, etc. of any **Insured**. Either the **Insured** or the **Fund** must request arbitration for a given controversy within the applicable statute of limitations for such controversy.

Such arbitration shall be conducted by a panel of three arbitrators, which shall consist of a fund commissioner designated by the affected **Insured** (which could include that **Insured's** Fund Commissioner), a **Fund Commissioner** designated by the **Board of Trustees**, and an individual, independent from and not affiliated with the **Fund**, who shall be chosen by the aforesaid arbitrators from a list of individuals determined by the Board of Trustees. The arbitration shall be conducted in accordance with procedures established by the Board of Trustees. The arbitrator selected by the two Fund Commissioners arbitrators shall be compensated for services in an amount mutually agreed to between the arbitrator and the Board of Trustees. The **Insured** and the **Fund** shall bear their own costs in prosecuting/defending the arbitration and shall split the costs for the arbitrator(s) and the arbitration. Judgment upon the award rendered by majority vote of the panel may be entered in any court having jurisdiction thereof.

ENDORSEMENT #1**CRISISFUND COVERAGE ENDORSEMENT**

In reliance upon the statements in the application(s) attached hereto and made a part of the policy, the policy is amended as follows:

ENDORSEMENT SCHEDULE

Item 1. Sublimit of Liability:	\$25,000 per member

1. Unless otherwise set forth herein, the terms, conditions and exclusions contained in this endorsement shall apply only to the coverage afforded under this endorsement. Capitalized terms appearing herein have the meaning(s) provided for such terms in this endorsement or, if not defined in this endorsement, the meaning provided in the policy.
2. Solely with respect to the coverage afforded under this endorsement, Clause 1. INSURING AGREEMENTS is deleted in its entirety and replaced with the following:

1. INSURING AGREEMENTS**COVERAGE CF-A: CRISISFUND COVERAGE**

Solely with respect to a **CrisisFund Event** first occurring during the **Policy Period** and reported to the **Us** pursuant to the terms of this policy, including, but not limited to, the terms described in Clause 7(b)(1), and subject to the other terms, conditions and limitations of this policy, this policy affords the following coverage:

CRISISFUND INSURING AGREEMENT

We shall pay all Crisis Event-Related Loss that the School Entity incurs solely as a result of a CrisisFund Event.

3. Solely with respect to the coverage afforded under this endorsement, Clause 2. DEFINITIONS is amended by appending the following definitions to the end thereof:

CF(a) “**Crisis Event-Related Loss**” means the following reasonable expenses necessitated by or in connection with a **School Entity’s** response to a **CrisisFund Event**, and incurred by a **School Entity** during a **CrisisFund Event**, within ninety (90) days prior to and in anticipation of a **CrisisFund Event**, and/or within one year of the end of a **CrisisFund Event** for:

- (1) a public relations firm, crisis management firm or law firm agreed to by **Us** to advise the **School Entity** on minimizing the harm to such **School Entity**,

including, but not limited to, maintaining and restoring public confidence in such **School Entity**;

(2) printing, advertising, mailing of materials intended to inform or educate the general public about the **CrisisFund Event**; or

(3) travel;

provided, however, **Crisis Event-Related Loss** shall not include compensation, fees, benefits, overhead or internal charges of any **Insured**.

CF(b) “**CrisisFund Event**” means any of the following:

(1) **Management Crisis:** The death, incapacity or criminal indictment of any duly elected or appointed director, officer, trustee, trustee emeritus or executive director or any **Employee** on whom the **School Entity** maintains key person life insurance.

(2) **Downsizing or Employee Layoffs:** The public announcement of the closing of any academic department or school or layoffs of **Employees** of the **School Entity**.

(3) **School Violence:** The public announcement that an **Employee, Individual Insured** or student of the **School Entity** was the victim of a violent crime while on the premises of the **School Entity**.

(4) **Child Abduction:** The public announcement that a child was abducted or kidnapped while under the care or supervision of the **School Entity**.

(5) **Contribution Revocation:** The withdrawal or return of a non-governmental grant, contribution or bequest in excess of \$500,000.

(6) **Publicity Event:** The publication of materially unfavorable information in a newspaper (or other general circulation) or on a radio or television news report regarding an **Insured** that can reasonably be considered to lessen public confidence in the competence, integrity or viability of the **School Entity**.

CF(c) “**Sublimit of Liability**” means the Sublimit of Liability stated in Item 1 of the Endorsement Schedule.

4. Solely with respect to the coverage that is afforded under this endorsement, Clause 4. EXCLUSIONS is deleted in its entirety and replaced with the following:

4. EXCLUSIONS

We shall not be liable to make any payment for **Crisis Event-Related Loss**:

CF(a) alleging, arising out of, based upon or attributable to any dishonest, fraudulent, criminal

or malicious act, error or omission, or any intentional or knowing violation of the law, if committed by any of the **School Entity's**:

- (1) past or present trustees, directors or members of the Board of Regents of the **School Entity**, or members of the Board of Education of the **School Entity**, whether acting alone or in collusion with other persons; or
- (2) **Employees** (other than those set forth in subparagraph (1) above) or independent contractors employed by the **School Entity** if any of those referenced in subparagraph (1) above participated in, approved of, acquiesced to, or knew or had reason to know prior to the act of, the dishonest, fraudulent, malicious, or criminal act committed by such **Employee** or independent contractor that caused a direct loss to the **School Entity** or any other person.

CF(b) alleging, arising out of, based upon or attributable to any **CrisisFund Event** related to (1) any pending or prior litigation as of the **Policy First Inception Date** for this CrisisFund Coverage Endorsement, or (2) any related **CrisisFund Events**, which arise from a common nucleus of facts or legal causes of action, which has been reported, or in any circumstances of which notice has been given, under any policy of which the coverage afforded by this Endorsement is a renewal or replacement or which it may succeed in time.

CF(c) alleging, arising out of, based upon or attributable to any (1) presence of **Pollutants**; (2) the actual or threatened discharge, dispersal, release or escape of **Pollutants**; or (3) direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize pollutants, or in any way respond to or assess the effects of **Pollutants**.

5. Solely with respect to the coverage afforded under this endorsement, Clause 5. POLICY DAMAGES LIMIT OF LIABILITY; SEPARATE LIMIT OF LIABILITY is hereby amended by appending the following to the end thereof:

CF-A. **CRISISFUND SUBLIMIT OF LIABILITY**

The total liability of Us for all **Crisis Event-Related Loss** of the **School Entity** during the **Policy Period** and during the **Extended Reporting Period**, if applicable, shall not exceed the **Sublimit of Liability**. The **Sublimit of Liability** shall be part of and not in addition to the **Policy Damages Limit of Liability**.

6. Solely with respect to the coverage afforded under this endorsement, Clause 6. RETENTION/DEDUCTIBLE, is deleted in its entirety and replaced with the following

CF-A. **NO RETENTION/DEDUCTIBLE FOR CRISISFUND COVERAGE**

There shall be no Retention applicable to **COVERAGE CF-A: CRISISFUND COVERAGE** of this endorsement and We shall pay **Crisis Event-Related Loss** from the first dollar subject to all other terms and conditions of this endorsement and the policy.

ENDORSEMENT #2

ADDITIONAL INSURED ENDORSEMENT

It is hereby understood and agreed that the policy is amended as follows:

1. In Clause 2. **DEFINITIONS** the definition of “**Insured**” is amended to include the following entity(ies), but only with respect to **Claims** arising out of **Wrongful Acts** in the performance of services directly benefitting any **Covered Entity**:

Diploma Joint Insurance Fund

SCHOOL EXCESS LIABILITY FUND

51 Everett Drive, Suite B40

West Windsor, NJ 08550

EXCESS SCHOOL LEADERS PROFESSIONAL LIABILITY AND
EMPLOYMENT PRACTICES LIABILITY COVERAGE

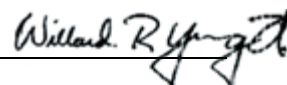
THIS IS A CLAIMS MADE COVERAGE – PLEASE READ IT CAREFULLY
DECLARATIONS

- Item A. MEMBER JOINT INSURANCE FUND: Diploma Joint Insurance Fund
- MEMBER SCHOOL DISTRICT: See Attached Endorsement
- Item B. COVERAGE PERIOD: July 1, 2022 - July 1, 2023 12:01 a.m. standard time at the address of the member as stated herein.
- Retroactive Date: As per underlying policy.
- Item C. Limits of Liability: \$4,700,000
- Item D. Controlling Underlying Insurance Limit:
- \$300,000 Combined Single Limit Per Claim and Annual Aggregate
- Item E. NOTICE OF CLAIM TO BE GIVEN TO: School Excess Liability Fund
c/o Risk and Loss Managers, Inc. and
Public Entity Group Administrative Services
51 Everett Drive, Suite B-40
West Windsor, New Jersey 08550
- Item F. Forms and Endorsements comprising this policy: Named Insured Endorsement
Excess Liability Limits Endorsement

This Declaration is issued in conjunction with, and forms a part of, the Diploma Joint Insurance Fund Certificate.

Countersigned: July 1, 2022

By: 



**School Excess Liability Fund
51 Everett Drive, Suite B-40
West Windsor, NJ 08550**

EXCESS LIABILITY POLICY DECLARATION

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SECTION I - COVERAGES

SECTION II - LIMITS OF LIABILITY

SECTION III - CLAIMS MADE EXTENDED REPORTING PERIOD

SECTION IV - CONDITIONS

SECTION V - DEFINITIONS

POLICY ENDORSEMENTS

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy, the words **you** and **your** refer to the **Insured** shown in Item A. of the Declarations, and any other person or organization qualifying as an **Insured** under this policy that is shown in the Schedule Of Named Insureds. The words **we**, **us** and **our** refer to the **SCHOOL EXCESS LIABILITY JOINT INSURANCE FUND** providing this insurance. The word "insured" means any person or organization qualifying as such under the **controlling underlying insurance**.

Other words and phrases that appear in bold type in this Coverage Part have special meaning. Refer to **Section V – Definitions**. Other words and phrases that are not defined under this Coverage Part but defined in the **controlling underlying insurance** will have the meaning described in the policy of **controlling underlying insurance**.

The insurance provided under this Coverage Part will follow the same provisions, exclusions and limitations that are contained in the applicable **controlling underlying insurance**, unless otherwise directed by this insurance. To the extent such provisions differ or conflict, the provisions of this Coverage Part will apply. However, the coverage provided under this Coverage Part will not be broader than that provided by the applicable **controlling underlying insurance**.

SECTION I – COVERAGES

1. Insuring Agreement

- a. **We** will pay on behalf of the insured the amounts in excess of the total limit(s) of **controlling underlying insurance** as shown in Item D. of the Declarations because of a **wrongful act(s)** to which insurance provided under this Coverage Part applies.

We will have the right and duty to defend the insured against any suit seeking damages for such a **wrongful act(s)** when the applicable limit(s) of **underlying insurance** have been exhausted in accordance with the provisions of such **controlling underlying insurance**.

When **we** have no duty to defend, **we** will have the right to defend, or to participate in the defense of, the insured against any other suit seeking damages for a **wrongful act(s)**.

However, **we** will have no duty to defend the insured against any suit seeking damages for which insurance under this policy does not apply.

At **our** discretion, **we** may investigate any **wrongful act(s)** that may involve this insurance and settle any resultant claim or suit, for which **we** have the duty to defend.

But:

- (1) The amount **we** will pay for **ultimate net loss** is limited as described in **Section II – Limits of Liability**; and
- (2) **Our** right and duty to defend ends when **we** have used up the applicable Limits of Liability in the payment of defense costs, judgments or settlements under this Coverage Part.

- b. This insurance applies to a **wrongful act(s)** that is subject to an applicable limit(s) of **controlling underlying insurance**. If any other limit, such as, a sublimit, is specified in the **controlling underlying insurance**, this insurance does not apply to a **wrongful act(s)** arising out of that exposure unless that limit is specified in Item D. of the Declarations.
- c. If the **controlling underlying insurance** requires, for a particular claim, that the **wrongful act(s)** occur on or after the Retroactive Date shown in the Declarations of that insurance in order for that coverage to apply, then this insurance will only apply to that **wrongful act** which occurs, or a series of related **wrongful acts** which occur, on or after the Retroactive Date shown in Item B. of the Declarations but before the end of the policy period of this Coverage Part.

A claim for damages for such a **wrongful act(s)** must be first made against the insured during this policy period or any Extended Reporting Period provided under this Coverage Part. A claim will be considered first made under this Coverage Part when notice of such claim is received and recorded by any insured or by **us**, whichever comes first.

All claims based on or arising out of the same **wrongful act**, or a series of related **wrongful acts**, by one or more insureds shall be considered first made when the first of such claims is made and shall be considered a single claim. Only one Each Claim Limit of Liability shall be applicable to such claim.

- d. Any additional insured under any policy of **controlling underlying insurance** will automatically be an additional insured under this insurance. If coverage provided to the additional insured is required by a contract or agreement, the most **we** will pay on behalf of the additional insured is the amount of insurance required by the contract, less any amounts payable by any **controlling underlying insurance**, but not exceeding **our** Limits of Liability.

Additional insured coverage provided by this insurance will not be broader than coverage provided by the **controlling underlying insurance**.

SECTION II – LIMITS OF LIABILITY

- 1. The Limits of Liability shown in Item C. of the Declarations, and the rules below fix the most **we** will pay regardless of the number of:
 - a. Insureds;
 - b. Claims made;
 - c. Persons or organizations making claims; or
 - d. Limits available under any **controlling underlying insurance**.
- 2. The Limits of Liability of this Coverage Part will apply as follows:
 - a. This insurance only applies in excess of the total limit(s) of **controlling underlying insurance**.

- b. The Aggregate Limit of Liability shown in Item C. of the Declarations or under the Schedule Of Named Insureds And Limits Of Liability is the most **we** will pay for the sum of all **ultimate net loss** for all covered claims deemed first made during the policy period under this Coverage Part.

However, this Aggregate Limit of Liability only applies to **wrongful acts** that are subject to an aggregate limit of insurance under the **controlling underlying insurance**.

- c. Subject to Paragraph **2.b.** above, the Each Claim Limit of Liability shown in Item C. of the Declarations or under the Schedule Of Named Insureds is the most **we** will pay for the sum of all **ultimate net loss** for any single claim.
 - d. Any payments will reduce **our** applicable Limits of Liability.
3. The limit(s) of **controlling underlying insurance** will only be reduced or exhausted by payments of claims, or defense expenses that are made during the policy period, or any Extended Reporting Period.

The Aggregate Limit of Liability of this Coverage Part applies separately to each consecutive annual period of this Coverage Part and to any remaining period of this Coverage Part of less than 12 months, starting with the beginning of the policy Period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Liability.

SECTION III – CLAIMS MADE EXTENDED REPORTING PERIOD

1. Any provisions under the **controlling underlying insurance** relating to an Extended Reporting Period for which a separate assessment charge is made do not apply to this insurance, unless an Extended Reporting Period is purchased under this insurance
2. If this policy and the **controlling underlying insurance** are cancelled or not renewed and an Extended Reporting Period has been provided under the **controlling underlying insurance**, then an Extended Reporting Period will be available for this Coverage Part for an additional charge. The Extended Reporting Period available under this Coverage Part will be consistent with the terms, conditions and duration of any Extended Reporting Period provided in accordance with the terms of the **controlling underlying insurance**.
3. **You** must give **us** a written request for the Extended Reporting Period endorsement under this Coverage Part no later than the time allowed to purchase such endorsement under the **controlling underlying insurance**. The Extended Reporting Period will not go into effect unless you pay the additional assessment promptly when due.

4. We will determine the additional assessment in accordance with our rules and rates. In doing so, we may take into account the following:
 - a. The exposures insured;
 - b. Previous types and amounts of insurance;
 - c. Limits of Liability available under this policy for future payment of damages; and
 - d. Other related factors.
5. If the provisions of the Extended Reporting Period in any **controlling underlying insurance** provide for reinstated, increased or supplemental aggregate limits of insurance when the Extended Reporting Period is purchased, a reinstated, increased or supplemental Aggregate Limit of Liability, equal to the Coverage Part Annual Aggregate Limit of Liability shown in Item C. of the Declarations or in the Schedule of Named Insured and Limits Of Liability of this Coverage Part, will apply to claims first made during the Extended Reporting Period if the Extended Reporting Period is purchased for this insurance; otherwise, the Extended Reporting Period provided by this Coverage Part does not reinstate, increase or supplement the Limits of Liability of this Coverage Part.

SECTION IV – CONDITIONS

The following Conditions apply. In addition, the Conditions applicable to any **controlling underlying insurance** are also applicable to the coverage provided under this insurance unless superseded by the following conditions.

1. **Appeals**
If the **controlling underlying insurer** or insured elects not to appeal a judgment in excess of the amount of the total limit(s) of **controlling underlying insurance**, we may do so at our own expense. We will also pay for taxable court costs, pre- and post judgment interest and disbursements associated with such appeal. In no event will this provision increase our liability beyond the applicable Limits of Liability described in **Section II – Limits of Liability**.
2. **Bankruptcy**
 - a. **Bankruptcy of Insured**
Bankruptcy or insolvency of the insured or of the insured's successor will not relieve us of our obligations under this Coverage Part.
 - b. **Bankruptcy of Controlling Underlying Insurer**
Bankruptcy of the **controlling underlying insurer** will not relieve us of our obligations under this Coverage Part.

However, insurance provided under this Coverage Part will not replace any **controlling underlying insurance** in the event of bankruptcy or insolvency of the **controlling underlying insurer**. The insurance provided under this Coverage Part will apply as if the **controlling underlying insurance** were in full effect and recoverable.

3. **Duties in The Event of A Claim Or Suit**
 - a. **You** must see to it that **we** are notified as soon as practicable of a **wrongful act(s)**, regardless of the amount, which may result in a claim under this insurance. To the extent possible, notice should include:

- (1) How, when and where the **wrongful act(s)** took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of the **wrongful act(s)**.
- b. If a claim is made or suit is brought against any insured, **you** must:
 - (1) Immediately record the specifics of the claim or suit and the date received; and
 - (2) Notify **us** as soon as practicable.**You** must see to it that **we** receive written notice of the claim or suit as soon as practicable.
- c. **You** and any other insured involved must:
 - (1) Immediately send **us** copies of any demands, notices, summonses or legal papers received in connection with the claim or suit;
 - (2) Authorize **us** to obtain records and other information;
 - (3) Cooperate with **us** in the investigation or settlement of the claim or defense against the suit; and
 - (4) Assist **us**, upon **our** request, in the enforcement of any right against any person or organization which may be liable to the insured because of a **wrongful act(s)** to which this insurance may also apply.
- d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without **our** consent.

4. Insured Duties

The **Insured** shown in Item A. of the Declarations and is responsible for the payment of all assessments. The **Insured** will act on behalf of all other **Insureds** for giving and receiving of notice of cancellation or the receipt of any return assessment that may become payable.

At **our** request, the **Insured** will furnish **us**, as soon as practicable, with a complete copy of any **controlling underlying insurance** and any subsequently issued endorsements or policies which may in any way affect the insurance provided under this Coverage Part.

5. Cancellation

- a. The **Insured** shown in Item A. of the Declarations may cancel this policy by mailing or delivering to **us** advance written notice of cancellation.
- b. **We** may cancel this policy by mailing or delivering to the **Insured** written notice of cancellation at least:
 - (1) 10 days before the effective date of cancellation if **we** cancel for nonpayment of assessment; or
 - (2) 30 days before the effective date of cancellation if **we** cancel for any other reason.
- c. **We** will mail or deliver **our** notice to the **Insured's** last mailing address known to **us**.
- d. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- e. If this policy is cancelled, **we** will send the **Insured** any assessment refund due. If **we** cancel, the refund will be pro rata. If the **Insured** cancels, the refund may be less than pro

rata. The cancellation will be effective even if **we** have not made or offered a refund.

- f. If notice is mailed, proof of mailing will be sufficient proof of notice.

6. Changes

This Coverage Part contains all the agreements between **you** and **us** concerning the insurance afforded. The **Insured** shown in Item A. of the Declarations is authorized by all other insureds to make changes in the terms of this Coverage Part with **our** consent. This Coverage Part's terms can be amended or waived only by endorsement.

7. Maintenance Of/Changes to Controlling Underlying Insurance

Any **controlling underlying insurance** must be maintained in full effect without reduction of coverage or limits except for the reduction of aggregate limits in accordance with the provisions of such **controlling underlying insurance** that results from **wrongful acts** to which this insurance applies.

Such exhaustion or reduction is not a failure to maintain **controlling underlying insurance**. Failure to maintain **controlling underlying insurance** will not invalidate insurance provided under this Coverage Part, but insurance provided under this Coverage Part will apply as if the **controlling underlying insurance** were in full effect.

The **Insured** must notify **us** in writing, as soon as practicable, if any **controlling underlying insurance** is cancelled, not renewed, replaced or otherwise terminated, or if the limits or scope of coverage of any **controlling underlying insurance** is changed.

8. Other Insurance

- a. This insurance is excess over, and shall not contribute with any of the other insurance, whether primary, excess, contingent or on any other basis. This condition will not apply to insurance specifically written as excess over this Coverage Part.

When this insurance is excess, if no other insurer defends, **we** may undertake to do so, but **we** will be entitled to the insured's rights against all those other insurers.

- b. When this insurance is excess over other insurance, **we** will pay only **our** share of the **ultimate net loss** that exceeds the sum of:
- (1) The total amount that all such other insurance would pay for the loss in the absence of the insurance provided under this Coverage Part; and
 - (2) The total of all deductible and self-insured amounts under all that other insurance.

9. Loss Payable

Liability under this Coverage Part does not apply to a given claim unless and until:

- a. The insured or insured's **controlling underlying insurer** has become obligated to pay the total limit(s) of **controlling underlying insurance**; and
- b. The obligation of the insured to pay the **ultimate net loss** in excess of the total limit(s) of **controlling underlying insurance** has been determined by a final settlement or judgment or written agreement among the insured, claimant, **controlling underlying insurer** (or a representative of one or more of these) and **us**.

10. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join **us** as a party or otherwise bring **us** into a suit asking for damages from an insured; or
- b. To sue **us** on this Coverage Part unless all of its terms have been fully complied with.

If a person or organization sues **us** to recover on an agreed settlement or on a final judgment against an insured; **we** will only be liable for damages that are payable under the terms of this Coverage Part or that are in excess of the applicable Limit of Liability. An agreed settlement means a settlement and release of liability signed by **us**, the insured, **controlling underlying insurer** and the claimant or the claimant's legal representative.

11. Transfer of Defense**a. Defense Transferred to Us**

When the total limit(s) of **controlling underlying insurance** have been exhausted, in accordance with the provisions of the **controlling underlying insurance**, **we** may elect to have the defense transferred to **us**. **We** will cooperate in the transfer of control to **us** of any outstanding claims or suits seeking damages to which this insurance applies and which would have been covered by the **controlling underlying insurance** had the applicable limit not been exhausted.

b. Defense Transferred by Us

When **our** Limits of Liability have been exhausted, **our** duty to provide a defense will cease.

We will cooperate in the transfer of control of defense to any insurer specifically written as excess over this Coverage Part of any outstanding claims or suits seeking damages to which this insurance applies and which would have been covered by the **controlling underlying insurance** had the applicable limit not been exhausted.

In the event that there is no insurance written as excess over this Coverage Part, **we** will cooperate in the transfer of control to the insured and its designated representative.

12. When We Do Not Renew

If **we** decide not to renew this Coverage Part, **we** will mail or deliver to the **Insured** shown in Item A. of the Declarations written notice of the nonrenewal not less than the requisite days in the **controlling underlying insurance**.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

The definitions applicable to any **controlling underlying insurance** also apply to this insurance. In addition, the following Definitions apply:

1. **Controlling underlying insurance** means any policy of insurance or self-insurance listed in Item D. of the Declarations or under the Schedule of Controlling Underlying Insurance. Additionally, this term is inclusive of any Retention Amounts payable by the insured as shown in "ITEM 3" of the Declarations Page of the **controlling underlying insurance**.

2. **Controlling underlying insurer** means any insurer who provides any policy of insurance listed in Item D. of the Declarations or under the Schedule of Controlling Underlying Insurance.
3. **Wrongful act** means any alleged or actual act, error, omission or breach of duty of an insured.
4. **Ultimate net loss** means the total sum, after reduction for recoveries, or salvages collectible, that the insured becomes legally obligated to pay as damages by reason of:
 - a. Settlements, judgments, binding arbitration; or
 - b. Other binding alternate dispute resolution proceeding entered into with **our** consent.

Ultimate net loss includes defense costs.

ACE American Insurance Company
Philadelphia, Pennsylvania

Declarations

This Policy is issued by the stock insurance company identified above (hereinafter *the Insurer*).

THIS POLICY PROVIDES LIABILITY COVERAGE ON A CLAIMS-MADE AND REPORTED BASIS, WHICH COVERS ONLY CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED TO THE INSURER, IN WRITING, DURING THE POLICY PERIOD OR WITHIN THIRTY DAYS THEREAFTER, UNLESS AN EXTENDED REPORTING PERIOD APPLIES. THIS POLICY ALSO PROVIDES FIRST-PARTY COVERAGES ON A DISCOVERED AND REPORTED BASIS, WHICH COVERS ONLY POLLUTION CONDITIONS AND INDOOR ENVIRONMENTAL CONDITIONS, AS APPLICABLE, FIRST DISCOVERED DURING THE POLICY PERIOD AND FOR WHICH A FIRST-PARTY CLAIM IS REPORTED TO THE INSURER, IN WRITING, DURING THE POLICY PERIOD OR WITHIN THIRTY DAYS THEREAFTER. FINALLY, THIS POLICY PROVIDES COVERAGE FOR EMERGENCY RESPONSE COSTS THAT IS LIMITED BY MORE SPECIFIC REPORTING CRITERIA AND COVERS ONLY EMERGENCY RESPONSE COSTS INCURRED, AND REPORTED TO THE INSURER, IN WRITING, WITHIN THE SPECIFIC TIMING REQUIREMENTS IDENTIFIED IN THIS POLICY. PLEASE READ THIS POLICY CAREFULLY. SOME OF THE PROVISIONS CONTAINED IN THIS POLICY RESTRICT COVERAGE, SPECIFY WHAT IS AND IS NOT COVERED AND DESIGNATE YOUR RIGHTS AND DUTIES. LEGAL DEFENSE EXPENSES ARE SUBJECT TO AND SHALL ERODE THE LIMITS OF LIABILITY AND ANY APPLICABLE SELF-INSURED RETENTION.

THE DECLARATIONS, TOGETHER WITH THE COMPLETED AND SIGNED APPLICATION, THIS POLICY, AND ANY ENDORSEMENTS OR SCHEDULES ATTACHED HERETO, CONSTITUTE THE INSURANCE POLICY.

Policy No.: PPL G7181399A 003	Renewal of: PPL G7181399A 002
Item 1.	First Named Insured: Diploma Joint Insurance Fund
	Address: 51 Everett Drive, Suite B-40 West Windsor, New Jersey 08550

Coverages Purchased: Coverage A. - ☒ Coverage B. - ☒ Coverage C. - ☒

Item 2.	Policy Period: (Local Time of the Address Shown in Item 1., above.)	Policy Inception Date: 07/01/2022 12:01 A.M.	Policy Expiration Date: 07/01/2023 12:01 A.M.
Item 3.	Limits of Liability: In U.S. Dollars	a. \$1,000,000 Per Pollution Condition or Indoor Environmental Condition Limit of Liability b. \$5,000,000 Total Policy and Program Aggregate Limit of Liability for all Pollution Conditions and Indoor Environmental Conditions	
Item 4.	Self-Insured Retention / Deductible Period: In U.S. Dollars	a. \$100,000 Per Pollution Condition or Indoor Environmental Condition b. Does Not Apply Days Per Pollution Condition or Indoor Environmental Condition	

Item 5.	Retroactive Dates:	☒ if checked Exposure-Specific Retroactive Dates are designated via endorsement. Coverage A Premises Pollution Condition Liability: 07/01/1999 Premises Indoor Environmental Condition Liability: PER PF-51290 (10/18) Premises Pollution Condition First-Party Claims: 07/01/1999 Premises Indoor Environmental Condition First-Party Claims: EXCLUDED Coverage B Transportation Liability: 07/01/1999 Transportation First-Party Claims: 07/01/1999 Coverage C Non-Owned Disposal Sites Liability : 07/01/1999 If “FULL RETRO” is indicated in the Retroactive Date column above, then retroactive coverage is afforded pursuant to this Policy for that specific exposure, subject to any other corresponding exposure-specific Retroactive Date added to this Policy by endorsement.

Item 7.	Producer: Name & Address	P L Services LLC 51 Everett Drive Suite B-40 West Windsor, New Jersey 08855

Item 8.	a. Notice of Claim or Pollution Condition	b. All other Notices
Notices	CHUBB Environmental Risk Claims Manager CHUBB USA Claims P.O. Box 5103 Scranton, PA 18505-0510 Fax: (866) 635-5687 First Notice Fax: (800) 951-4119 First Notice Email: XXXXXXXXXXXXXXXXXXXXXXXXXXXX@XXXX.XXX	Environmental Risk Underwriting Officer CHUBB Environmental Risk P.O. Box 1000 436 Walnut Street – WA 07A Philadelphia, PA 19106

	Environmental Incident Alert - 24 Hour Emergency Response Hotline	1-888-310-9553

Item 9.	Covered Locations:	As per Named Insured-Specific Retroactive Date Amendatory Endorsement ☒ if checked here, schedule of Covered Locations is designated via endorsement.

Policy Form No. PF-44887b (08/18) Premises Pollution Liability Insurance Policy**Endorsements and Notices Attached at Policy Issuance:**

Endorsement Number:	Form Number:	Form Name:
001	PF-44899a (01/17)	Automatic Acquisition and Due Diligence (Fungi – No Lease Due Diligence) Endorsement
002	PF-48608 (01/17)	Business Interruption Coverage Limitations Endorsement
003	PF-55008 (03/21)	Communicable, Infectious Or Contagious Diseases Exclusionary Endorsement
004	PF-48662 (01/17)	Specific Pollution Conditions Or Indoor Environmental Conditions Exclusionary Endorsement
005	PF-51290 (10/18)	Fungi Exclusionary (BI/PD & Water Intrusion Event Give-Back) Endorsement
006	PF-44944 (09/14)	Indoor Environmental Conditions Limitations Endorsement
007	PF-44968 (09/14)	Prior Claims Exclusionary (Broad) Endorsement
008	PF-54576 (01/21)	Public Entity Coverage Amendatory Endorsement
009	MS-347441.1 (06/22)	Named Insured-Specific Amendatory (Retroactive Dates) Endorsement
010	MS-347441.2 (06/22)	Playground Equipment Confirmation Endorsement
011	PF-23728b (02/20)	Terrorism Risk Insurance Act Endorsement
012	ALL-21101 (11/06)	Trade Or Economic Sanctions Endorsement
013	LD-2S76 (03/92)	New Jersey Changes - Cancellation And Nonrenewal
014	CC-1K11j (03/21)	Signatures
	TRIA11e (08/20)	Disclosure Pursuant To Terrorism Risk Insurance Act
	ALL-20887a (03/16)	Chubb Producer Compensation Practices & Policies
	ILP 001 01 04	U. S. Treasury Department's Office of Foreign Assets Control ("OFAC") Advisory Notice to Policyholders

IN WITNESS WHEREOF, the Insurer has caused this Policy to be countersigned by a duly authorized representative of the Insurer.

DATE: 07/01/2022
MO/DAY/YR



JOHN J. LUPICA, President
AUTHORIZED REPRESENTATIVE

This Policy is issued by the stock insurance company identified in the Declarations (hereinafter *the Insurer*).

THIS POLICY PROVIDES LIABILITY COVERAGE ON A CLAIMS-MADE AND REPORTED BASIS, WHICH COVERS ONLY CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED TO THE INSURER, IN WRITING, DURING THE POLICY PERIOD OR WITHIN THIRTY DAYS THEREAFTER, UNLESS AN EXTENDED REPORTING PERIOD APPLIES. THIS POLICY ALSO PROVIDES FIRST-PARTY COVERAGES ON A DISCOVERED AND REPORTED BASIS, WHICH COVERS ONLY POLLUTION CONDITIONS AND INDOOR ENVIRONMENTAL CONDITIONS, AS APPLICABLE, FIRST DISCOVERED DURING THE POLICY PERIOD AND FOR WHICH A FIRST-PARTY CLAIM IS REPORTED TO THE INSURER, IN WRITING, DURING THE POLICY PERIOD OR WITHIN THIRTY DAYS THEREAFTER. FINALLY, THIS POLICY PROVIDES COVERAGE FOR EMERGENCY RESPONSE COSTS THAT IS LIMITED BY MORE SPECIFIC REPORTING CRITERIA AND COVERS ONLY EMERGENCY RESPONSE COSTS INCURRED, AND REPORTED TO THE INSURER, IN WRITING, WITHIN THE SPECIFIC TIMING REQUIREMENTS IDENTIFIED IN THIS POLICY. PLEASE READ THIS POLICY CAREFULLY. SOME OF THE PROVISIONS CONTAINED IN THIS POLICY RESTRICT COVERAGE, SPECIFY WHAT IS AND IS NOT COVERED AND DESIGNATE YOUR RIGHTS AND DUTIES. LEGAL DEFENSE EXPENSES ARE SUBJECT TO AND SHALL ERODE THE LIMITS OF LIABILITY AND ANY APPLICABLE SELF-INSURED RETENTION.

Throughout this Policy the words *the Insurer* shall refer to the company providing this insurance. Other words and phrases that appear in quotation marks have special meanings and are defined in Section V., **DEFINITIONS**.

In consideration of the payment of the premium and in reliance upon all statements made in the Application to this Policy, including the information furnished in connection therewith, and subject to all terms, definitions, conditions, exclusions and limitations of this Policy, the Insurer agrees to provide insurance coverage to the “insured” as described herein.

I. INSURING AGREEMENTS

Solely to the extent that the coverages below are identified on the Declarations to this Policy as being underwritten by the Insurer, the Insurer agrees to pay on behalf of the “insured” for “loss”, in excess of the “self-insured retention” or deductible period (as applicable), resulting from:

A. POLLUTION CONDITIONS OR INDOOR ENVIRONMENTAL CONDITIONS COVERAGE (Coverage A.)

“Claims” and “first-party claims” arising out of: **1)** a “pollution condition” on, at, under or migrating from a “covered location”; or **2)** an “indoor environmental condition” at a “covered location”, provided the “claim” is first made, or the “insured” first discovers the “pollution condition” or “indoor environmental condition” that is the subject of such “first-party claim”, during the “policy period”. Any such “claim” or “first-party claim” must be reported to the Insurer, in writing, during the “policy period” or within thirty (30) days after the expiration of the “policy period”, or during any applicable “extended reporting period”.

The coverage afforded pursuant to this Coverage **A.** only applies to “pollution conditions” or “indoor environmental conditions” that first commence, in their entirety, on or after the retroactive date identified in Item **5.** of the Declarations, if applicable, and prior to the expiration of the “policy period”.

B. TRANSPORTATION COVERAGE (Coverage B.)

“Claims” and “first-party claims” arising out of a “pollution condition” resulting from “transportation”, provided the “claim” is first made, or the “insured” first discovers the “pollution condition” that is the subject of such “first-party claim”, during the “policy period”. Any such “claim” or “first-party claim” must be reported to the Insurer, in writing, during the “policy period” or within thirty (30) days after the expiration of the “policy period”, or during any applicable “extended reporting period”.

The coverage afforded pursuant to this Coverage **B.** only applies to “pollution conditions” that first commence, in their entirety, on or after the retroactive date identified in Item **5.** of the Declarations, if applicable, and prior to the expiration of the “policy period”.

C. NON-OWNED DISPOSAL SITE COVERAGE (Coverage C.)

“Claims” arising out of a “pollution condition” on, at, under or migrating from a “non-owned disposal site”, provided the “claim” is first made during the “policy period”. Any such “claim” must be reported to the Insurer, in writing, during the “policy period” or within thirty (30) days after the expiration of the “policy period”, or during any applicable “extended reporting period”.

The coverage afforded pursuant to this Coverage **C.** only applies to “pollution conditions” that are attributable to a “named insured’s” waste generated at a “covered location” and received at the “non-owned disposal site”, in its entirety, on or after the retroactive date identified in Item **5.** of the Declarations, if applicable, and prior to the expiration of the “policy period”.

II. LIMITS OF LIABILITY AND SELF-INSURED RETENTION

- A.** It is expressly agreed that the Insurer’s obligation to pay for any covered “loss” (exclusive of “business interruption loss”) pursuant to this Policy shall attach to the Insurer only after the “first named insured” has paid, or has provided evidence to the Insurer that another “named insured” has paid, the full amount of the “self-insured retention” with respect to any covered “pollution condition” or “indoor environmental condition”. Under no circumstances, including, but not limited to, an “insured’s” insolvency and/or bankruptcy, shall the Insurer be liable to pay any amount within the “self-insured retention”. In the event that the “first named insured” cannot provide satisfactory evidence that a “named insured” has paid the full amount of the “self-insured retention” with respect to any covered “pollution condition” or “indoor environmental condition”, the “first named insured” shall remain responsible to pay the “self-insured retention” before the Insurer’s payment obligation pursuant to this Policy shall attach with respect to coverage sought by any “insured”.

Notwithstanding the foregoing, if the “insured” agrees with the Insurer to use “mediation” to successfully resolve any “claim” for which “legal defense expenses” have been incurred, then the “self-insured retention” applicable to the “pollution condition” or “indoor environmental condition” that corresponds to such “claim” shall be reduced by fifty percent (50%), subject to a maximum reduction in the “self-insured retention” of twenty-five thousand dollars (\$25,000).

In addition to the foregoing, it is expressly agreed that the Insurer’s obligation to pay for any covered “business interruption loss” pursuant to this Policy shall attach to the Insurer only after the relevant “insured” has also borne the full amount of the “business interruption loss” within the deductible period identified in Item **4.** of the Declarations to this Policy.

- B.** One “self-insured retention” shall apply to all “loss” (exclusive of “business interruption loss”) arising out of the same, continuous, repeated, or related “pollution condition” or “indoor environmental condition”. If the same, continuous, repeated, or related “pollution condition” or “indoor environmental condition” triggers coverage pursuant to multiple coverage parts, or otherwise involves multiple exposures that have been assigned exposure-specific “self-insured retention” amounts by endorsement to this Policy, the single largest of the associated “self-insured retention” amounts identified in: **1)** Item **4.** of the Declarations; **2)** any Supplemental Coverage added by endorsement to this Policy; or **3)** any exposure-specific “self-insured retention” endorsement identified as part of this Policy, shall apply to all “loss” and other covered exposures arising out of such “pollution condition” or “indoor environmental condition”, except for any “catastrophe management costs” that are assigned an exposure-specific “self-insured retention” by endorsement to this Policy, if any (hereinafter Catastrophe Management-Specific SIR Obligation). Amounts within any such Catastrophe Management-Specific SIR Obligation shall be independent of, and shall not otherwise erode, the single largest “self-insured retention” applicable to all other covered exposures arising out of the same “pollution condition” or “indoor environmental condition” as contemplated herein.
- C.** One deductible period shall apply to all “business interruption loss” arising out of the same, continuous, repeated, or related “pollution condition” or “indoor environmental condition”.
- D.** Subject to Subsections **E.** and **F.**, below, the most the Insurer shall pay for all “loss” arising out of the same, continuous, repeated, or related “pollution condition” or “indoor environmental condition” is the Per Pollution Condition or Indoor Environmental Condition Limit of Liability identified in Item **3.a.** of the Declarations to this Policy.

- E.** Subject to Subsection **D.**, above, and Subsection **F.**, below, **\$250,000** shall be the maximum amount the Insurer shall pay for all “catastrophe management costs” arising out of all “pollution conditions” and “indoor environmental conditions”.
- F.** Subject to Subsections **D.** and **E.**, above, the Total Policy and Program Aggregate Limit of Liability identified in Item **3.b.** of the Declarations shall be the maximum liability of the Insurer pursuant to this Policy with respect to all “loss”.
- G.** If the Insurer or an affiliate has issued pollution liability coverage afforded on a discovered and reported basis or claims-made and reported basis consistent with coverage afforded pursuant to this Policy in one or more policy periods, and a “pollution condition” or “indoor environmental condition” is first discovered and reported to the Insurer, or a “claim” is first made and reported to the Insurer with respect to a “pollution condition” or “indoor environmental condition”, in accordance with the terms and conditions of this Policy, then:
 - 1.** Any continuous, repeated, or related “pollution condition” or “indoor environmental condition” that is subsequently reported to the Insurer during later policy periods shall be deemed to be one “pollution condition” or “indoor environmental condition” discovered during this “policy period”; and
 - 2.** All “claims” arising out of:
 - a.** The same, continuous, repeated, or related “pollution condition” or “indoor environmental condition” that was discovered during this “policy period”; or
 - b.** The same, continuous, repeated, or related “pollution condition” or “indoor environmental condition” that was the subject of a “claim” first made and reported in accordance with the terms and conditions of this Policy,

shall be deemed to have been first made and reported during this “policy period” and no other policy shall respond.

III. DEFENSE AND SETTLEMENT

- A.** The Insurer shall have the right and, subject to the “self-insured retention” obligation, the duty to defend the “insured” against a “claim” to which this insurance applies. The Insurer shall have no duty to defend the “insured” against any “claim” to which this insurance does not apply. The Insurer’s duty to defend the “insured” ends once the Limits of Liability are exhausted or are tendered into a court of applicable jurisdiction, or once the “insured” refuses a settlement offer as provided in Subsection **E.**, below.
- B.** The Insurer shall have the right to select legal counsel to: **1)** represent the “insured” for the investigation, adjustment, and defense of any “claims” covered pursuant to this Policy; and **2)** assist the “insured” with clarifying the extent of, and to help minimize, any “first-party remediation costs”. Selection of legal counsel by the Insurer shall not be done without the consent of the “insured”; such consent shall not be unreasonably withheld.

In the event the “insured” is entitled by law to select independent counsel to defend itself at the Insurer’s expense, the attorney fees and all other litigation expenses the Insurer shall pay to that counsel are limited to the rates the Insurer actually pays to counsel that the Insurer normally retains in the ordinary course of business when defending “claims” or lawsuits of similar complexity in the jurisdiction where the “claim” arose or is being defended. In addition, the “insured” and the Insurer agree that the Insurer may exercise the right to require that such counsel: **1)** have certain minimum qualifications with respect to their competency, including experience in defending “claims” similar to those being asserted against the “insured”; **2)** maintain suitable errors and omissions insurance coverage; **3)** be located within a reasonable proximity to the jurisdiction of the “claim”; and **4)** agree in writing to respond in a timely manner to the Insurer’s requests for information regarding the “claim”. The “insured” may at any time, by its signed consent, freely and fully waive its right to select independent counsel.

- C.** The “insured” shall have the right and the duty to retain a qualified environmental consultant or “catastrophe management firm” to: **1)** perform any investigation and/or remediation of any “pollution condition” or “indoor environmental condition” covered pursuant to this Policy; or **2)** perform “catastrophe management services” covered pursuant to this Policy, respectively. The “insured” must

receive the consent of the Insurer prior to the selection and retention of such consultant or “catastrophe management firm”, except in the event of a “first-party claim” that results in “emergency response costs”.

- D. “Legal defense expenses” reduce the Limits of Liability identified in the Declarations to this Policy, and, unless specifically stated otherwise herein, any applicable Limits or Sublimits of Liability identified in any endorsement hereto. “Legal defense expenses” shall also be applied to the “self-insured retention”.
- E. The Insurer shall present all settlement offers to the “insured”. If the Insurer recommends a settlement which is acceptable to a claimant, exceeds any applicable “self-insured retention”, is within the Limits of Liability, and does not impose any additional unreasonable burdens on the “insured”, and the “insured” refuses to consent to such settlement offer, then the Insurer’s duty to defend shall end. Thereafter, the “insured” shall defend such “claim” independently and at the “insured’s” own expense. The Insurer’s liability shall not exceed the amount for which the “claim” could have been settled if the Insurer’s recommendation had been accepted, exclusive of the “self-insured retention”.

IV. COVERAGE TERRITORY

The coverage afforded pursuant to this Policy shall only apply to “pollution conditions” or “indoor environmental conditions” located, and “claims” made, within the United States of America.

V. DEFINITIONS

- A. **“Additional insured”** means any person or entity specifically endorsed onto this Policy as an “additional insured”, if any. Such “additional insured” shall maintain only those rights that are specified by endorsement to this Policy.
- B. **“Adverse media coverage”** means national or regional news exposure in television, radio, print or internet media that is reasonably likely to have a negative impact on the “insured” with respect to its income, reputation, community relations, public confidence or good will.
- C. **“Bodily injury”** means physical injury, illness, disease, mental anguish, emotional distress, or shock, sustained by any person, including death resulting therefrom, and any prospective medical monitoring costs that are intended to confirm any such physical injury, illness or disease.
- D. **“Business income”** means:
 - 1. Net profit or loss, before income taxes, including “rental income” from tenants, that would have been realized had there been no “business interruption”;
 - 2. The “insured’s” continuing operating and payroll expense (excluding payroll expense of officers, executives, department managers and contract employees);
 - 3. Costs incurred by the “insured” as rent for temporary premises when a portion of a “covered location” becomes untenable due to a “pollution condition” or “indoor environmental condition” and temporary premises are required to continue the “insured’s” operations. Such rental costs cannot exceed the fair rental value of the untenable portion of the “covered location” immediately preceding the “pollution condition” or “indoor environmental condition”.
- E. **“Business interruption”** means the necessary partial or complete suspension of the “insured’s” operations at a “covered location” for a period of time, which is directly attributable to a “pollution condition” or “indoor environmental condition” to which Coverage A. of this Policy applies. Such period of time shall extend from the date that the operations are necessarily suspended and end when such “pollution condition” or “indoor environmental condition” has been remediated to the point at which the “insured’s” normal operations could reasonably be restored.
- F. **“Business interruption loss”** means:
 - 1. “Business income”;
 - 2. “Extra expense”; and
 - 3. “Delay expense”.

G. “Catastrophe management costs” means reasonable and necessary expenses approved by the Insurer, in writing, except for those expenses incurred during the same seven (7) day period associated with “emergency response costs”, which have been incurred by the “insured” for the following:

1. Responsive consulting services rendered by a “catastrophe management firm”;
2. Printing, advertising, mailing of materials of public relations materials;
3. Travel by directors, officers, employees or agents of the “insured”, or the “catastrophe management firm”, incurred at the direction of a “catastrophe management firm”;
4. To secure the scene of a “pollution condition” or “indoor environmental condition”; or
5. Sums advanced to third-parties directly harmed by the “pollution condition” or “indoor environmental condition” for their medical costs; funeral costs; psychological counseling; travel expenses costs; temporary living costs or other necessary response costs,

but solely in those instances when, in the good faith opinion of a “key executive”, the associated “pollution condition” or “indoor environmental condition” has resulted in or is reasonably likely to result in: **a)** “loss” (exclusive of “catastrophe management costs”) that will exceed the applicable “self-insured retention”; and **b)** a need for “catastrophe management services” due to “adverse media coverage”.

“Catastrophe management costs” do not include any “legal defense expense”.

H. “Catastrophe management firm” means any firm that is approved, in writing, except for firms retained for the same seven (7) day period associated with “emergency response costs”, by the Insurer to perform “catastrophe management services” in connection with a “pollution condition” or “indoor environmental condition”.

I. “Catastrophe management services” means advising the “insured” with respect to minimizing potential harm to the “insured” from a covered “pollution condition” or “indoor environmental condition” by managing “adverse media coverage” and maintaining and restoring public confidence in the “insured”, and its services or products.

J. “Claim” means the written assertion of a legal right received by the “insured” from a third-party, or from another “insured” that is party to an “environmental indemnity obligation”, including, but not limited to, a “government action”, suits or other actions alleging responsibility or liability on the part of the “insured” for “bodily injury”, “property damage” or “remediation costs” arising out of “pollution conditions” or “indoor environmental conditions” to which this insurance applies.

K. “Covered location” means:

1. Any location specifically identified in Item **9.** of the Declarations to this Policy;
2. Any location that is specifically identified on a Schedule of Covered Locations attached to this Policy; and
3. Any location that meets the prerequisites to coverage identified in the Automatic Acquisition and Due Diligence Endorsement attached to this Policy, if any.

L. “Delay expense” means, for a “covered location” under development where a “pollution condition” or “indoor environmental condition” causes a delay in the completion or development during the “business interruption”, any of the following expenses:

1. Additional interest on money the “insured” has borrowed to finance the construction, development, or remediation of a project at a “covered location”;
2. Additional realty taxes and other assessments;
3. Additional advertising or promotional expense;
4. Additional expenses incurred resulting from the renegotiation of leases, including associated usual and customary legal representation expense; and
5. Additional engineering, architectural, and consulting fees.

- M. “Emergency response costs”** means “first-party remediation costs” incurred within seven (7) days following the discovery of a “pollution condition” or “indoor environmental condition” by a “responsible person” in order to abate or respond to an imminent and substantial threat to human health or the environment arising out of:
1. A “pollution condition” or “indoor environmental condition” on, at, under or migrating from a “covered location”; or
 2. A “pollution condition” resulting from “transportation”,
- provided such “emergency response costs” are reported to the Insurer within fourteen (14) days of when that “responsible person” first became aware of such “pollution condition” or “indoor environmental condition”.
- N. “Environmental indemnity obligations”** means an “insured’s” obligations to defend or indemnify a third-party with respect to a “pollution condition” or “indoor environmental condition” to which this insurance otherwise applies, provided that such defense or indemnity obligation is explicitly included within a contract identified or described on the Schedule of Insured Contracts Endorsement attached to this Policy, if any.
- O. “Environmental law”** means any Federal, state, commonwealth, municipal or other local law, statute, ordinance, rule, guidance document, regulation, and all amendments thereto (collectively Laws), including voluntary cleanup or risk-based corrective action guidance, or the direction of an “environmental professional” acting pursuant to the authority provided by any such Laws, along with any governmental, judicial or administrative order or directive, governing the liability or responsibilities of the “insured” with respect to a “pollution condition” or “indoor environmental condition”.
- P. “Environmental professional”** means a licensed professional that is:
1. Mutually agreed upon by the Insurer and the “insured”, except with respect to “emergency response costs”; and
 2. Qualified by licensure, knowledge, skill, education and training to perform an assessment, prepare an investigation protocol, interpret the results and prepare a scope of work to remediate a “pollution condition” or “indoor environmental condition”.
- Q. “Extended reporting period”** means the additional period of time in which to report a “claim” first made against the “insured” during or subsequent to the end of the “policy period”.
- R. “Extra damages”** means punitive, exemplary or multiplied damages, and civil fines, penalties and assessments, but solely to the extent that the punitive, exemplary or multiplied damages, and civil fines, penalties and assessments:
1. Are insurable under applicable law; and
 2. Arise out of a “pollution condition” or “indoor environmental condition” that results in “bodily injury”, “property damage”, “remediation costs” or “first-party remediation costs” to which this insurance otherwise applies.
- S. “Extra expense”** means costs incurred by the “insured” due to a “pollution condition” or “indoor environmental condition” that are necessary to avoid or mitigate any “business interruption”. Such costs must be incurred to actually minimize the amount of foregone “business income” that would otherwise be covered pursuant to this Policy.
- T. “First named insured”** means the person or entity as identified in Item 1. of the Declarations to this Policy. The “first named insured” is the party responsible for the payment of any premiums and the payment of, or evidencing payment of, any applicable “self-insured retention” amounts. The “first named insured” shall also serve as the sole agent on behalf of all “insureds” with respect to the provision and receipt of notices, including notice of cancellation or non-renewal, receipt and acceptance of any endorsements or any other changes to this Policy, return of any premium, assignment of any interest pursuant to this Policy, as well as the exercise of any applicable “extended reporting period”, unless any such responsibilities are otherwise designated by endorsement.

- U. **“First-party claim”** means the first-party discovery of a “pollution condition” or an “indoor environmental condition” during the “policy period” by an “insured” to which this insurance applies.
- V. **“First-party remediation costs”** means reasonable and necessary “remediation costs” incurred by an “insured” resulting from a “first-party claim”. If no applicable laws exist that govern the remediation, investigation, quantification, monitoring, removal, disposal, treatment, neutralization, or immobilization of such “pollution condition” or “indoor environmental condition” in the jurisdiction of the “covered location”, necessary “remediation costs” may be established by securing the written professional recommendations of an “environmental professional”.

“First-party remediation costs” also means reasonable and necessary expenses required to restore, repair or replace real or personal property to substantially the same condition it was in prior to being damaged during the course of responding to a “pollution condition” or “indoor environmental condition”. Such expenses shall not include costs associated with betterments or improvements, except to the extent that such betterments or improvements are exclusively associated with the use of building materials which are environmentally superior to those materials which comprised the original damaged property. Any such environmentally superior material must be: **a)** certified as such by an applicable independent certifying institution, where such certification is available; or **b)** in the absence of any such certification, based solely on the judgment of the Insurer and at its sole discretion.

- W. **“Fungi”** means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents, or byproducts produced or released by “fungi”.
- X. **“Government action”** means action taken or liability imposed by any Federal, state, commonwealth, municipal or other local government agency or body acting pursuant to the authority of “environmental law”.

- Y. **“Illicit abandonment”** means:

1. Solely with respect to coverage for “covered locations”, the intentional placement or abandonment of any solid, liquid, gaseous or thermal irritant, contaminant, or pollutant, including contaminated soil, contaminated silt, contaminated sedimentation, smoke, soot, vapors, fumes, acids, alkalis, chemicals, hazardous substances, hazardous materials, or waste materials, including “low-level radioactive waste”, “mixed waste” and medical, red bag, infectious and pathological wastes, on, at or into a “covered location”, by a person or entity that:
 - a. Is not an “insured”; and
 - b. Is not affiliated by common ownership with an “insured”, and,
2. Solely with respect to coverage for “transportation”, the intentional placement or abandonment of any waste, goods, materials or product beyond the boundaries of a “covered location” during “transportation” by a person or entity that:
 - a. Is not an “insured”; and
 - b. Is not affiliated by common ownership with an “insured”.

“Illicit abandonment” does not mean any such placement or abandonment, above, which takes place, in whole or in part, prior to the inception date identified in Item 2. of the Declarations of this Policy.

- Z. **“Indoor environmental condition”** means:

1. The presence of “fungi” in a building or structure, or the ambient air within such building or structure; or
2. The discharge, dispersal, release, escape, migration or seepage of *legionella pneumophila* in a building or structure, or the ambient air within such building or structure,

provided that such “fungi” or *legionella pneumophila* are not naturally occurring in the environment in the amounts and concentrations found within such building or structure.

AA. “Insured” means the “first named insured”, any “named insured”, any “additional insured”, and any past or present director or officer of, partner in, employee of, temporary or leased worker of, or, with respect to a limited liability company, a member of, any of the foregoing while acting within the scope of his or her duties as such.

BB. “Key executive” means the Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, President, General Counsel, general partner or managing partner (if the “insured” is a partnership), managing member (if the “insured” is a limited liability company) or sole proprietor (if the “insured” is a sole proprietorship) of the “insured”. A “key executive” also means any other person holding a title designated by the “first named insured”, approved by the Insurer, and identified by endorsement to this Policy.

CC. “Legal defense expense” means reasonable legal costs, charges, and expenses, including expert charges, incurred by the “insured”:

1. In the investigation, adjustment or defense of “claims”; or,
2. Solely with respect to those instances where the “insured” has secured the prior consent of the Insurer, except in the event of a “first-party claim” that results in “emergency response costs”, in order to clarify the extent of, minimize, and effect resolution of, any obligation to incur “first-party remediation costs”.

DD. “Loss” means:

Coverage A.

1. A monetary judgment, award or settlement of compensatory damages arising from “bodily injury”, “property damage” or “remediation costs”, including associated “extra damages”;
2. “Legal defense expense”;
3. “First-party remediation costs”;
4. “Emergency response costs”;
5. “Business interruption loss”; and
6. “Catastrophe management costs”.

Coverage B.

7. A monetary judgment, award or settlement of compensatory damages arising from “bodily injury”, “property damage” or “remediation costs”, including associated “extra damages”;
8. “Legal defense expense”;
9. “First-party remediation costs”;
10. “Emergency response costs”; and
11. “Catastrophe management costs”.

Coverage C.

12. A monetary judgment, award or settlement of compensatory damages arising from “bodily injury”, “property damage” or “remediation costs”, including associated “extra damages” and “legal defense expense”; and
13. “Catastrophe management costs”.

Supplemental Coverages

Any other liability or first-party exposure insured pursuant to any Supplemental Coverage added by endorsement to this Policy.

EE. “Low-level radioactive waste” means waste that is radioactive but not classified as the following: high-level waste (spent nuclear fuel or the highly radioactive waste produced if spent fuel is reprocessed),

uranium milling residues, and waste with greater than specified quantities of elements heavier than uranium.

FF. “Mediation” means a conciliatory, non-binding attempt to resolve a “claim” using a neutral, third-party facilitator.

GG. “Mixed waste” means waste containing both radioactive and hazardous components as defined pursuant to United States law within the Atomic Energy Act and the Resource Conservation and Recovery Act, as either may be amended.

HH. “Named insured” means the “first named insured” and any other person or entity specifically endorsed onto this Policy as a “named insured”, if any. “Named insureds” shall maintain the same rights pursuant to this Policy as the “first named insured”, except for those rights specifically: **1)** reserved to the “first named insured” as defined herein; or **2)** limited by endorsement to this Policy.

II. “Natural resource damage” means injury to, destruction of, or loss of, including the resulting loss of value of, fish, wildlife, biota, land, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States of America (including the resources of the fishery conservation zone established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et. seq.)), any state, commonwealth or local government, or any Native American Tribe, or, if such resources are subject to a trust restriction on alienation, any members of any Native American Tribe, including the reasonable costs of assessing such injury, destruction or loss resulting therefrom.

JJ. “Non-owned disposal site” means:

- 1.** Any treatment, storage, transfer, disposal or recycling site or facility located within the United States of America that has not at any time been owned or operated, in whole or in part, by any “insured”, which receives, or has historically received, a “named insured’s” waste for disposal; provided that such treatment, storage, transfer, disposal or recycling site or facility:
 - a.** Was properly permitted and licensed pursuant to “environmental law” to accept the “named insured’s” waste at the time of such disposal by the Federal, state, commonwealth, municipal or other local government agencies or bodies with applicable jurisdiction;
 - b.** Was not owned or operated by any person, corporation or unincorporated association that was in bankruptcy at the time the “named insured’s” waste was received for disposal; and
 - c.** Has not, prior to the time the “named insured’s” waste was received for disposal, been identified on the United States EPA (CERCLA) National Priorities List or pursuant to any functional equivalent of that list made by Federal, state, commonwealth, municipal or other local government agency or body with applicable jurisdiction pursuant to “environmental law”, or
- 2.** Any treatment, storage, transfer, disposal or recycling site or facility specifically identified on a Schedule of Non-Owned Disposal Sites Endorsement attached to this Policy, if any.

KK. “Policy period” means:

- 1.** The period of time specifically identified in Item **2.** of the Declarations to this Policy; or,
- 2.** Solely with respect to “covered locations” added to this Policy during the period of time specifically identified in Item **2.** of the Declarations to the Policy, if any, the period of time following the effective date of such addition through the expiration date of the Policy identified in Item **2.** of the Declarations to this Policy; or
- 3.** Any shorter period of time resulting from the cancellation of this Policy.

LL. “Pollution condition” means:

- 1.** “Illicit abandonment”; or
- 2.** The discharge, dispersal, release, escape, migration, or seepage of any solid, liquid, gaseous or thermal irritant, contaminant, or pollutant, including soil, silt, sedimentation, smoke, soot, vapors,

fumes, acids, alkalis, chemicals, electromagnetic fields (EMFs), hazardous substances, hazardous materials, waste materials, “low-level radioactive waste”, “mixed waste” and medical, red bag, infectious or pathological wastes, on, in, into, or upon land and structures thereupon, the atmosphere, surface water, or groundwater.

MM. “Property damage” means:

1. Physical injury to, or destruction of, tangible property of a third-party, including all resulting loss of use of that property;
2. Loss of use of tangible property of a third-party, that is not physically injured or destroyed;
3. Diminished value of tangible property owned by a third-party; or
4. “Natural resource damages”.

“Property damage” does not mean “remediation costs”.

NN. “Remediation costs” means expenses incurred to investigate, quantify, monitor, remove, dispose, treat, neutralize, or immobilize “pollution conditions” or “indoor environmental conditions” to the extent required by “environmental law” in the jurisdiction of such “pollution conditions” or “indoor environmental conditions”.

OO. “Rental income” means the actual rental fees lost as a result of a “suspension” of a rented “covered location”.

PP. “Responsible person” means any employee of an “insured” responsible for environmental affairs, control, or compliance at a “covered location”, or any “key executive” of, officer or director of, or partner in, an “insured”.

QQ. “Self-insured retention” means the largest applicable dollar amount among triggered coverage parts identified in Item 4. of the Declarations to this Policy, or as otherwise designated by endorsement to this Policy, if any.

RR. “Suspension” means that part of, or all of, a rented “covered location” is rendered untenable for the purposes identified to the Insurer prior to the inception date of this Policy due to a “pollution condition” or “indoor environmental condition”.

SS. “Terrorism” means activities against persons, organizations or property of any nature:

1. That involve the following or preparation for the following:
 - a. Use or threat of force or violence; or
 - b. Commission or threat of a dangerous act; or
 - c. Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
2. When one or both of the following applies:
 - a. The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
 - b. It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

TT. “Transportation” means the movement of an “insured’s” waste, materials, goods or products to or from a “covered location” by automobile, aircraft, watercraft, railcar or other conveyance, including any associated loading or unloading thereof, by an “insured”, or any third-party vendor engaged by an “insured” in the business of transporting property for hire, provided that any such movement, and associated loading and unloading activities, are performed beyond the boundaries of a “covered location”.

UU. “Underground storage tank” means any tank and associated piping and appurtenances connected thereto which tank has more than ten percent (10%) of its volume below ground.

“Underground storage tank” does not mean:

1. Any flow-through process tank, including, but not limited to, a septic tank, oil/water separator, sump, or any stormwater or wastewater collection/treatment vessel or system; or
2. Any tank that is located below ground, provided that such tank is located on or above the floor of a basement of a building or on or above the floor of any shaft or tunnel.

VV. “War” means war, whether or not declared, civil war, martial law, insurrection, revolution, invasion, bombardment or any use of military force, usurped power or confiscation, nationalization or damage of property by any government, military or other authority.

VI. EXCLUSIONS

This insurance shall not apply to:

A. Asbestos

“Loss” arising out of or related to asbestos or asbestos-containing materials.

This exclusion shall not apply to:

1. Monetary judgments, awards or settlements of compensatory damages resulting from “bodily injury” or “property damage”, or any associated “extra damages” or “legal defense expenses”;
2. Monetary judgments, awards or settlements of compensatory damages resulting from “remediation costs”, or any associated “extra damages” or “legal defense expense”, arising out of asbestos or asbestos-containing materials discovered in soil or groundwater; and
3. “First-party remediation costs”, “emergency response costs”, “catastrophe management costs” or “business interruption loss”, or any associated “legal defense expense”, resulting from “first-party claims” arising out of asbestos or asbestos-containing materials discovered in soil or groundwater.

B. Contractual Liability

“Loss” arising out of or related to liability of others assumed by any “insured” through contract or agreement, except if the liability would have attached to the “insured” in the absence of such contract or agreement.

This exclusion shall not apply to “environmental indemnity obligations”.

C. Criminal Fines and Criminal Penalties

“Loss” arising out of or related to criminal fines, criminal penalties or criminal assessments.

D. Divested Property

“Loss” arising out of or related to a “pollution condition” on, at, under or migrating from, or “indoor environmental condition” at, any “covered location”:

1. That had been sold, abandoned, or given away by any “insured”, or was condemned (collectively hereinafter Divested), prior to the “policy period”; or
2. When such “pollution condition” or “indoor environmental condition” first commenced after the “covered location” had been Divested.

This exclusion shall not apply to any “pollution conditions” or “indoor environmental conditions” that first commenced, in whole or in part, prior to the effective date that any such “covered location” was Divested as identified on the Divested Properties Coverage Endorsement attached to this Policy, if any.

E. Employers Liability

“Claims” arising out of or related to “bodily injury” to:

1. Any “insured” or any employee of its parent corporation, subsidiary or affiliate:
 - a. Arising out of, or in the course of, employment by any “insured”, its parent corporation, subsidiary or affiliate; or

- b.** Performing duties related to the conduct of the business of any “insured”, its parent corporation, subsidiary or affiliate.
- 2.** The spouse, child, parent, brother or sister of any “insured” or employee of its parent corporation, subsidiary or affiliate as a consequence of Paragraph **1.**, above.

This exclusion applies:

- 1.** Whether any “insured” may be liable as an employer or in any other capacity; and
- 2.** To any obligation to share damages with or repay someone else who must pay damages because of such “bodily injury”.

F. First-Party Property Damage

“Loss” arising out of or related to damage to real or personal property owned by, leased to, loaned to, or rented by any “insured”, or otherwise in the care, custody, or control of any “insured”.

This exclusion shall not apply to “first-party remediation costs”, “emergency response costs”, “business interruption loss” and “catastrophe management costs”.

G. Fraud or Misrepresentation

“Loss” arising out of or related to:

- 1.** Fraudulent acts or material misrepresentations on the part of the “first named insured” made:
 - a.** Within an Application to this Policy; or
 - b.** During the Application or underwriting process prior to the inception date of this Policy, which would have affected the Insurer’s decision to either issue this Policy, or issue this Policy and its endorsements pursuant to the financial terms identified in the Declarations to this Policy; or
- 2.** Fraudulent acts or material misrepresentations on the part of any “responsible person” during the “policy period”.

H. Insured’s Internal Expenses

“Loss” arising out of or related to expenses incurred by any “insured” for services performed by its salaried staff and any employees.

This exclusion shall not apply to:

- 1.** “Emergency response costs”, along with any associated “catastrophe management costs” incurred during that same seven (7) day period; or
- 2.** Any other costs, charges or expenses incurred with the prior approval of the Insurer at its sole discretion.

I. Insured vs. Insured

“Claims” made by any “insured” against any other “insured”.

This exclusion shall not apply to:

- 1.** “Claims” initiated by third-parties, including cross claims, counterclaims or claims for contribution by such parties against any “insured”; or
- 2.** “Claims” that arise out of an indemnification provided by one “insured” to another “insured” in an “environmental indemnity obligation”.

J. Intentional Non-Compliance

“Loss” arising out of or related to the intentional disregard of, or knowing, willful, or deliberate non-compliance with, any law, statute, regulation, administrative complaint, notice of violation, notice letter, instruction of any governmental agency or body, or any executive, judicial or administrative order, by, or at the direction of, any “responsible person”.

K. Known Conditions

“Loss” arising out of or related to “pollution conditions” or “indoor environmental conditions” in existence and reported to a “responsible person”:

1. Prior to the “policy period”; or,
2. Solely with respect to “covered locations” added to this Policy during the period of time specifically identified in Item 2. of the Declarations to the Policy, if any, prior to the effective date of coverage for such “covered location”,

and not affirmatively disclosed to the Insurer in an Application or supplemental underwriting materials provided to the Insurer to secure coverage for such “covered location” pursuant to this Policy.

L. Lead-Based Paint

“Loss” arising out of or related to lead-based paint.

This exclusion shall not apply to:

1. Monetary judgments, awards or settlements of compensatory damages resulting from “bodily injury” or “property damage”, or any associated “extra damages” or “legal defense expenses”;
2. Monetary judgments, awards or settlements of compensatory damages resulting from “remediation costs”, or any associated “extra damages” or “legal defense expenses”, arising out of lead-based paint discovered in soil or groundwater; and
3. “First-party remediation costs”, “emergency response costs”, “catastrophe management costs” or “business interruption loss”, or any associated “legal defense expense”, resulting from “first-party claims” arising out of lead-based paint discovered in soil or groundwater.

M. Material Change in Risk

“Loss” arising out of or related to a change in the use or operations at a “covered location” that materially increases the likelihood or severity of a “pollution condition”, “indoor environmental condition”, “claim” or “first-party claim” from the intended uses or operations identified:

1. By the “first named insured” for the Insurer in an Application or supplemental underwriting materials provided prior to the effective date of coverage for such “covered location”, if any; or
2. Solely with respect to “covered locations” added to the Policy pursuant to an Automatic Acquisition and Due Diligence Endorsement attached to this Policy, if any, as part of the due diligence materials and supplemental underwriting materials provided to the Insurer as part of the notice required pursuant to that endorsement, if any.

This exclusion shall only apply to the “covered location” associated with the change in use or operations and shall not limit coverage for other “covered locations” to which this insurance applies.

N. Non-Owned Disposal Sites

“Loss” arising out of or related to “pollution conditions” on, at, under or migrating from any treatment, storage, disposal, transfer or recycling site or facility that is not a “non-owned disposal site”.

O. Underground Storage Tanks

“Loss” arising out of or related to “pollution conditions” emanating from an “underground storage tank” located at a “covered location”, when the existence of such “underground storage tank” was known to a “responsible person”:

1. Prior to the “policy period”; or,
2. Solely with respect to “underground storage tanks” situated at “covered locations” added to this Policy during the “policy period”, prior to the effective date of coverage for such “covered location”.

This exclusion shall not apply to any “underground storage tank” that:

1. Is identified on the Schedule of Underground Storage Tanks Endorsement or Schedule of Covered Storage Tanks (Financial Responsibility) Endorsement attached to this Policy, if any; or
2. Has been removed or closed-in-place prior to the inception date of this Policy and such removal or closure was conducted in accordance with “environmental law”.

P. Vehicle Damage

“Claims” or associated “legal defense expense” for “property damage” to any automobile, aircraft, watercraft, railcar or other conveyance utilized for “transportation”.

Q. War or Terrorism

“Loss” arising out of or related to “pollution conditions” or “indoor environmental conditions” attributable, whether directly or indirectly, to any acts that involve, or that involve preparation for, “war” or “terrorism” regardless of any other cause or event that contributes concurrently or in any sequence to the injury or damage.

R. Workers’ Compensation

“Loss” arising out of or related to any obligation of any “insured” pursuant to the Jones Act or any workers’ compensation, unemployment compensation, or disability benefits law or related laws.

VII.REPORTING AND COOPERATION

- A.** Without limiting the specific requirements contained in any Insuring Agreement or any other exposure-specific reporting requirements contained within this Policy, the “insured” shall also see to it that the Insurer receives notice of any “claim” or “first-party claim”, as soon as practicable, by one or more of the following:

1. Provide written notice to the address, fax number, or email address identified in Item **8.a.** of the Declarations to this Policy; or
2. Provide verbal or electronic notice utilizing the **Environmental Incident Alert 24-hour Emergency Response and Incident Reporting System** by calling the telephone number identified in Item **8.** of the Declarations to this Policy or by using the associated telephone web application, respectively.

Such notice should include reasonably detailed information as to:

1. The identity of the “insured”, including contact information for an appropriate person to contact regarding the handling of the “claim” or “first-party claim”;
2. The identity of the “covered location”;
3. The nature of the “claim” or “first-party claim”; and
4. Any steps undertaken by the “insured” to respond to the “claim” or “first-party claim”.

- B.** The “insured” must:

1. As soon as practicable, send the Insurer copies of any demands, notices, summonses or legal papers received in connection with any “claim”;
2. Authorize the Insurer to obtain records and other information;
3. Cooperate with the Insurer in the investigation, settlement or defense of the “claim”;
4. Assist the Insurer, upon the Insurer’s request, in the enforcement of any right against any person or organization which may be liable to the “insured” because of “loss” to which this Policy may apply; and
5. Provide the Insurer with such information and cooperation as it may reasonably require.

- C.** No “insured” shall make or authorize an admission of liability or attempt to settle or otherwise dispose of any “claim”, without the written consent of the Insurer. Nor shall any “insured” retain any consultants or

“catastrophe management firms”, or incur any “first-party remediation costs” or “catastrophe management costs” with respect to a “first-party claim”, without the prior consent of the Insurer, except for “emergency response costs”.

- D.** Upon the discovery of a “pollution condition” or “indoor environmental condition”, the “insured” shall make every attempt to mitigate any loss and comply with applicable “environmental law”. The Insurer shall have the right, but not the duty, to mitigate such “pollution conditions” or “indoor environmental condition” if, in the sole judgment of the Insurer, the “insured” fails to take reasonable steps to do so. In that event, any “remediation costs” or “catastrophe management costs” incurred by the Insurer shall be deemed incurred by the “insured”, and shall be subject to the “self-insured retention” and Limits of Liability identified in the Declarations to this Policy.

For the purposes of fulfilling the notice requirements contained in the Insuring Agreements to this Policy, notice supplied pursuant to one or more of the verbal or electronic notice mechanisms specifically contemplated in Subsection **A.**, above, or on the Declarations, shall constitute written notice to the Insurer.

VIII. EXTENDED REPORTING PERIOD

- A.** Provided the “first named insured” has not purchased any other insurance to replace this Policy, the “first named insured” shall be entitled to a basic “extended reporting period”, and may purchase an optional supplemental “extended reporting period”, following Cancellation, as described in Subsection **A.**, Paragraph **1.** of Section **IX.**, **GENERAL CONDITIONS**, or nonrenewal of this Policy, in accordance with the terms and conditions described in Subsections **B.** through **D.**, below.
- B.** “Extended reporting periods” shall not reinstate or increase any of the Limits of Liability. “Extended reporting periods” shall not extend the “policy period” or change the scope of coverage provided. A “claim” first made against an “insured” and reported to the Insurer within the basic “extended reporting period” or supplemental “extended reporting period”, whichever is applicable, shall be deemed to have been made and reported on the last day of the “policy period”. In addition, if an “insured” first discovers a “pollution condition” or “indoor environmental condition” during the “policy period” and reports such “first-party claim” to the Insurer within the basic “extended reporting period” or supplemental “extended reporting period”, whichever is applicable, then such “first-party claim” shall also be deemed to have been first discovered and reported on the last day of the “policy period”.
- C.** The “first named insured” shall have a ninety (90) day basic “extended reporting period” without additional charge.
- D.** The “first named insured” shall also be entitled to purchase a supplemental “extended reporting period” of up to thirty-three (33) months for not more than two hundred percent (200%) of the full premium identified in Item **6.** of the Declarations to this Policy, and any additional premiums resulting from coverage added during the “policy period”. Such supplemental “extended reporting period” starts when the basic “extended reporting period” ends. The Insurer shall issue an endorsement providing a supplemental “extended reporting period” provided that the “first named insured”:
- 1.** Makes a written request, to the address identified in Item **8.b.** of the Declarations to this Policy, for such endorsement which the Insurer receives prior to the expiration of the “policy period”; and
 - 2.** Pays the additional premium when due. If that additional premium is paid when due, the supplemental “extended reporting period” may not be cancelled, provided that all other terms and conditions of the Policy are met.

IX. GENERAL CONDITIONS

A. Cancellation

- 1.** This Policy may be cancelled only by the “first named insured”, or through the “first named insured’s” agent, by mailing to the Insurer at the address identified in Item **8.b.** of the Declarations to this Policy, written notice stating when such cancellation shall be effective.
- 2.** This Policy may be cancelled by the Insurer for the following reasons:
 - a.** Non-payment of premium; or

b. Fraud or material misrepresentation on the part of any “insured”,

by mailing to the “first named insured” at the “first named insured’s” last known address, written notice stating when, not less than sixty (60) days thereafter, fifteen (15) days if cancellation is for non-payment of any unpaid portion of the premium, such cancellation shall be effective. The mailing of notice shall be sufficient proof of notice. The effective date and hour of cancellation stated in the notice shall be the end of the “policy period”.

Subparagraph **2.b.**, herein, shall apply only to that “insured” that engages in the fraud or misrepresentation. This exception shall not apply to any “insured” that is a parent corporation, subsidiary, employer of, or otherwise affiliated by ownership with, such “insured”.

- 3.** In the event of cancellation, the premium percentage identified in Item **6.** of the Declarations to this Policy shall be the minimum-earned premium upon the inception date of this Policy. Thereafter, the remaining unearned premium, if any, shall be deemed earned by the Insurer on a *pro rata* basis over the remainder of the “policy period”. Any unearned premium amounts due the “first named insured” upon cancellation of this Policy shall be calculated on a *pro rata* basis and refunded within thirty (30) days of the effective date of cancellation.

B. Inspection and Audit

To the extent of the “insured’s” ability to provide such access, and with reasonable notice to the “insured”, the Insurer shall be permitted, but not obligated, to inspect and sample the “covered locations”. The “insured” shall have the concurrent right to collect split samples. Neither the Insurer’s right to make inspections, the making of said inspections, nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of the “insured” or others, to determine or warrant that such property or operations are safe or in compliance with “environmental law”, or any other law.

The Insurer may examine and audit the “insured’s” books and records during this “policy period” and extensions thereof and within three (3) years after the final termination of this Policy.

C. Legal Action Against the Insurer

No person or organization other than an “insured” has a right pursuant to this Policy:

- 1.** To join the Insurer as a party or otherwise bring the Insurer into a suit against any “insured”; or
- 2.** To sue the Insurer in connection with this insurance unless all of the Policy terms have been fully complied with.

A person or organization may sue the Insurer to recover after an agreed settlement or on a final judgment against an “insured”. However, the Insurer shall not be liable for amounts that are not payable pursuant to the terms of this Policy or that are in excess of the applicable Limit of Liability. An agreed settlement means a settlement and release of liability signed by the Insurer, the “insured”, and the claimant or the claimant’s legal representative.

D. Bankruptcy

The insolvency or bankruptcy of any “insured”, or any “insured’s” estate, shall not relieve the Insurer of its obligations pursuant to this Policy. However, any such insolvency or bankruptcy of the “insured”, or the “insured’s” estate, shall not relieve the “insured” of its “self-insured retention” or deductible period obligations pursuant to this Policy. This insurance shall not replace any other insurance to which this Policy is excess, nor shall this Policy drop down to be primary, in the event of the insolvency or bankruptcy of any underlying insurer.

E. Subrogation

In the event of any payment pursuant to this Policy by the Insurer, the Insurer shall be subrogated to all of the rights of recovery against any person or organization, and the “insured” shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. All “insureds” shall do nothing to prejudice such rights. Any recovery as a result of subrogation proceedings arising pursuant to this Policy shall accrue first to the “insureds” to the extent of any payments in excess of the limit of coverage; then to the Insurer to the extent of its payment pursuant to the Policy; and then to the “insured”

to the extent of the “self-insured retention”. Expenses incurred in such subrogation proceedings shall be apportioned among the interested parties in the recovery in the proportion that each interested party's share in the recovery bears to the total recovery.

F. Representations

By accepting this Policy, the “first named insured” agrees that:

1. The statements in the Declarations, schedules and endorsements to, and Application for, this Policy are accurate and complete;
2. Those statements and representations constitute warranties that the “first named insured” made to the Insurer; and
3. This Policy has been issued in reliance upon the “first named insured’s” warranties.

G. Separation of Insureds

Except with respect to the Limits of Liability, Cancellation condition **2.a.**, and any applicable exclusions, this Policy applies:

1. As if each “named insured” were the only “insured”; and
2. Separately to each “named insured” against whom a “claim” is made,

and any fraud, misrepresentation, breach of a condition or violation of any duty (hereinafter Breach) by an “insured” shall not prejudice coverage for any “named insured” pursuant to this Policy, provided that: **1)** such “named insured” did not participate in, know of or assist in such Breach; and **2)** such “named insured” is not a parent, subsidiary, partner, member, director, officer of, employer of or otherwise affiliated with, the “insured” that committed such Breach.

H. Other Insurance

If other valid and collectible insurance is available to any “insured” covering “loss” also covered by this Policy, other than a policy that is specifically written to apply in excess of this Policy, the insurance afforded by this Policy shall apply in excess of and shall not contribute with such other insurance.

I. Changes and Assignment

Notice to or knowledge possessed by any person shall not effect waiver or change in any part of this Policy or estop the Insurer from asserting any right pursuant to the terms of this Policy. The terms, definitions, conditions, exclusions and limitations of this Policy shall not be waived or changed, and no assignment of any interest in this Policy shall bind the Insurer, except as provided by endorsement and attached to this Policy.

J. Headings

The descriptions in the headings and sub-headings of this Policy are inserted solely for convenience and do not constitute any part of the terms or conditions hereof.

K. Consent

Where the consent of the Insurer, or an “insured”, is required pursuant to this Policy, such consent shall not be unreasonably withheld, delayed, conditioned, or denied.

AUTOMATIC ACQUISITION AND DUE DILIGENCE (FUNGI - NO LEASE DUE DILIGENCE) ENDORSEMENT

Named Insured Diploma Joint Insurance Fund			Endorsement Number 001
Policy Symbol PPL	Policy Number G7181399A 003	Policy Period 07/01/2022 to 07/01/2023	Effective Date of Endorsement 07/01/2022
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

The “insured” and the Insurer hereby agree to the following changes to this Policy:

Section **IX., GENERAL CONDITIONS**, of this Policy is hereby amended by addition of the following:

Automatic Acquisition and Due Diligence

- 1.** It is understood and agreed that, for an additional premium amount, any property acquired or leased by a “named insured” during the “policy period” shall be added to the Policy as a “covered location” upon the closing date of such acquisition or the effective date of such lease, respectively; provided that the Insurer receives written notice of the property acquisition or lease within ninety (90) days of closing date of such acquisition or the effective date of such lease, respectively, and, with respect to property acquisitions, only, the “named insured” completes an environmental due diligence assessment of the property prior to such acquisition consistent with either Subparagraph **a.** or **b.**, below:

- a.** The “named insured” commissions and receives a Phase I Environmental Site Assessment report on the property that is performed by a qualified environmental consultant in accordance with the ASTM Standard for Environmental Site Assessments: Phase I Environmental Site Assessment Process in effect as of the inception of this Policy (hereinafter Phase I Report), along with:

- 1)** A Visual Moisture Assessment Process Report on the property that has been conducted by a qualified environmental consultant in accordance with ASTM Standard E3026, *Guide for Readily Observable Moisture Affected Materials and Conditions Conducive to Elevated Moisture in Commercial Buildings: Visual Moisture Assessment Process* in effect as of the inception of this Policy (hereinafter VMAP Report); or
- 2)** A Property Condition Assessment Process Report on the property that has been conducted by a qualified professional in accordance with ASTM Standard E2018-15, *Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process* in effect as of the inception of this Policy (hereinafter PCAP Report).

- b.** The “named insured” receives a Phase I Report on the property that has been conducted by a qualified environmental consultant for a third-party, along with:

- 1)** A VMAP Report on the property that has been conducted by a qualified environmental consultant for a third-party; or
- 2)** A PCAP Report on the property that has been conducted by a qualified professional for a third-party,

and that the consultant and/or professional, as applicable, responsible for the reports has provided the “named insured” with written confirmation that the “named insured” is

entitled to rely on the conclusions of the reports as if the assessment had been performed on its behalf.

2. If the Phase I Report does not identify any Recognized Environmental Conditions, as defined by the ASTM Standard for Environmental Site Assessments: Phase I Environmental Site Assessment Process in effect as of the inception of this Policy (hereinafter RECs), and the MVAP Report or PCAP Report, as applicable, does not identify “fungi”, *legionella pneumophila* or conditions conducive to the growth of “fungi” or *legionella pneumophila* (hereinafter Conducive Conditions) the property shall automatically be added to the Policy as an additional “covered location” effective on the date the “named insured” acquired the property.
3. If the Phase I Report identifies any RECs, then, before the property may be added to the Policy as a “covered location”, the “named insured” must complete a Phase II Environmental Site Assessment. Thereafter, the Insurer shall have thirty (30) days to review and approve the Phase II Environmental Assessment report. Said approval shall not be unreasonably withheld, but the Insurer reserves the right to limit coverage with respect to any RECs identified at the property, and any “pollution conditions” or “indoor environmental conditions” identified during further investigation of such RECs. Upon such approval, the Insurer shall provide a written endorsement to the “first named insured” confirming the effective date that the property has been added to the Policy as an additional “covered location”, and describing the extent of the coverage being afforded with respect to the RECs and associated “pollution conditions” or “indoor environmental conditions” identified at the property.
4. If the VMAP Report or PCAP Report, as applicable, identifies “fungi”, *legionella pneumophila* or Conducive Conditions, then, before coverage may be afforded for “indoor environmental conditions” at the property, the “named insured” must complete additional assessment or remediation activities to address such “fungi”, *legionella pneumophila* or Conducive Conditions. Thereafter, the Insurer shall have thirty (30) days to review and approve the results of the additional assessment and/or remediation activities. Said approval shall not be unreasonably withheld, but the Insurer reserves the right to limit coverage with respect to “indoor environmental conditions” or any identified Conducive Conditions at the property. Upon such approval, the Insurer shall provide a written endorsement to the “first named insured” confirming the effective date and extent of the coverage being afforded with respect to “indoor environmental conditions” or any identified Conducive Conditions at the property.
5. Any property first leased during the “policy period” by the “first named insured”, or any “named insured” that is affiliated by ownership with the “first named insured”, shall also automatically be added to the Policy as a “covered location” upon the effective date of any such lease. However, no coverage shall be afforded pursuant to this Policy for “pollution conditions” on, at, under, or migrating from, or “indoor environmental conditions” at, such “covered location”, which first commenced, in whole or in part, prior to the effective date of such lease agreement.
6. Additional premium for “covered locations” added to this Policy pursuant to Paragraphs 1. through 5., above, shall be calculated using the following rates:

Additional Premium Schedule

Acquired Property Type	Additional Premium
School	\$750 (subject to a minimum premium of \$500)

In the event a property of a type not described in the Additional Premium Schedule, above, is acquired or leased by a “named insured”, the terms and conditions of this Subsection shall not apply.

All other terms and conditions of this Policy remain unchanged.

Authorized Representative

BUSINESS INTERRUPTION COVERAGE LIMITATIONS ENDORSEMENT

Named Insured Diploma Joint Insurance Fund			Endorsement Number 002
Policy Symbol PPL	Policy Number G7181399A 003	Policy Period 07/01/2022 to 07/01/2023	Effective Date of Endorsement 07/01/2022
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Solely to the extent that there is an **X** indicated in Sections **I.**, **II.**, and/or **III.** of this Endorsement, below, the “insured” and the Insurer hereby agree to the following changes to this Policy:

I. ☐ **Sublimits of Liability**

Per Pollution Condition or Indoor Environmental Condition Sublimit of Liability: \$

Aggregate Pollution Conditions or Indoor Environmental Conditions Sublimit of Liability: \$

The amount that the Insurer shall pay pursuant to this Policy for “business interruption loss” arising out of or related to “pollution conditions” or “indoor environmental conditions” is subject to the Per Pollution Condition or Indoor Environmental Condition Sublimit of Liability and Aggregate Pollution Conditions or Indoor Environmental Conditions Sublimit of Liability identified above. Therefore, the Per Pollution Condition or Indoor Environmental Condition Sublimit of Liability, above, shall be the maximum amount the Insurer shall pay for all “business interruption loss” arising out of or related to the same, continuous, repeated, or related “pollution condition” or “indoor environmental condition” to which this insurance applies. Moreover, the Aggregate Pollution Conditions or Indoor Environmental Conditions Sublimit of Liability, above, shall be the maximum amount the Insurer shall pay for all “business interruption loss” arising out of or related to all “pollution conditions” or “indoor environmental conditions” to which this insurance applies. These Sublimits of Liability are subject to, and payments made within these Sublimits of Liability shall erode, the Limits of Liability identified in Item **3.** of the Declarations to this Policy, along with any other applicable exposure-specific Limits or Sublimits of Liability added by endorsement hereto. Under no circumstance shall the Insurer be liable to pay any amount in excess of any applicable Limit or Sublimit of Liability.

II. ☒ **Exclusion**

a. Section **V.**, **DEFINITIONS**, Subsection **DD.**, of this Policy is hereby modified by deletion of the phrase “business interruption loss”; and

b. Section **VI.**, **EXCLUSIONS**, of this Policy is hereby amended to include the addition of the following:

This insurance also shall not apply to “business interruption loss”.

III. ☐ **Location-Specific Endorsement Application**

Solely to the extent that there is an **X** indicated in this Section **III.**, above, the “insured” and the Insurer hereby agree that the modifications identified in Sections **I.** and/or **II.** of this Endorsement only apply to “pollution conditions” or “indoor environmental conditions” associated with the “covered locations” specifically identified in the Schedule of Covered Locations, below:

Schedule of Covered Locations

All other terms and conditions of the Policy remain unchanged.

Authorized Representative



COMMUNICABLE, INFECTIOUS OR CONTAGIOUS DISEASES EXCLUSIONARY ENDORSEMENT

Named Insured Diploma Joint Insurance Fund			Endorsement Number 003
Policy Symbol PPL	Policy Number G7181399A 003	Policy Period 07/01/2022 to 07/01/2023	Effective Date of Endorsement 07/01/2022
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

The “insured” and the Insurer hereby agree to the following changes to this Policy:

Section **VI., EXCLUSIONS**, of this Policy is hereby amended by addition of the following:

Communicable, Infectious or Contagious Diseases

“Loss” arising out of or related to any communicable, infectious or contagious disease, including, but not limited to, any disease caused by, in whole or in part, bacteria, viruses, microorganisms, pathogens or prions (hereinafter Microbial Matter), whether deemed living or not.

This exclusion applies regardless of the means of transmission of such Microbial Matter, whether direct or indirect, including, but not limited to, airborne transmission, bodily fluid or discharge transmission, or transmission from or to any surface, object, solid, liquid or gas, or between or among humans and other organisms.

This exclusion shall not apply to any such disease exclusively caused by “fungi” or *legionella pneumophila*.

The title and any headings in this endorsement/rider are solely for convenience and form no part of the terms and conditions of coverage.

All other terms, conditions and limitations of this Policy shall remain unchanged.

Authorized Representative



SPECIFIC POLLUTION CONDITIONS OR INDOOR ENVIRONMENTAL CONDITIONS EXCLUSIONARY ENDORSEMENT

Named Insured Diploma Joint Insurance Fund			Endorsement Number 004
Policy Symbol PPL	Policy Number G7181399A 003	Policy Period 07/01/2022 to 07/01/2023	Effective Date of Endorsement 07/01/2022
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Solely to the extent that there is an X indicated in Sections I. and/or II. of this Endorsement, below, the "insured" and the Insurer hereby agree to the following changes to this Policy:

- I. ☒ Section VI., **EXCLUSIONS**, of this Policy is hereby amended by addition of the following:

Specific Pollution Conditions (Broad)

"Loss" arising out of or related to the "pollution conditions" or "indoor environmental conditions" specifically identified in the Schedule of Conditions on the Specific Pollution Conditions Or Indoor Environmental Conditions Exclusionary Endorsement attached to this Policy, regardless of whether those "pollution conditions" or "indoor environmental conditions" are otherwise affirmatively disclosed to the Insurer in an Application for coverage pursuant to this Policy.

- II. ☐ Section VI., **EXCLUSIONS**, of this Policy is hereby amended by addition of the following:

Specific Pollution Conditions (Give-Back)

"Loss" arising out of or related to the "pollution conditions" or "indoor environmental conditions" specifically identified in the Schedule of Conditions on the Specific Pollution Conditions Or Indoor Environmental Conditions Exclusionary Endorsement attached to this Policy, regardless of whether those "pollution conditions" or "indoor environmental conditions" are otherwise affirmatively disclosed to the Insurer in an Application for coverage pursuant to this Policy.

This exclusion shall not apply to monetary judgments, awards or settlements of compensatory damages for "bodily injury" or "property damage", including any associated "extra damages" or "legal defense expense".

Schedule of Conditions

Building materials or fixtures containing polychlorinated biphenyls, including, but not limited to caulk, adhesives, paint and fluorescent light ballasts

All other terms and conditions of this Policy remain unchanged.

Authorized Representative

FUNGI EXCLUSIONARY (BI/PD & WATER INTRUSION EVENT GIVE-BACK) ENDORSEMENT

Named Insured Diploma Joint Insurance Fund			Endorsement Number 005
Policy Symbol PPL	Policy Number G7181399A 003	Policy Period 07/01/2022 to 07/01/2023	Effective Date of Endorsement 07/01/2022
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

The “insured” and the Insurer hereby agree to the following changes to this Policy:

I. Section VI., EXCLUSIONS, of this Policy is hereby amended by addition of the following:

Fungi

“Loss” arising out of or related to “fungi”.

This exclusion shall not apply:

1. To monetary judgments, awards or settlements of compensatory damages for “bodily injury” or “property damage”, including any associated “extra damages” or “legal defense expense”; or
2. To “indoor environmental conditions” involving the presence of “fungi”, provided that the presence of such “fungi” is the direct result of a “water intrusion event”.

II. ☒ Section V., DEFINITIONS of this Policy is hereby amended with the addition of the following:

“Water intrusion event” means water intrusion into a building or structure at a “covered location” that:

1. First commences, in its entirety, during the “policy period” or within six (6) calendar days preceding the “policy period”;
2. Is unintended and unexpected from the standpoint of the “insured”;
3. Is first discovered by the “insured” within seven (7) calendar days of commencement and during the “policy period”; **and**
4. Is reported to the Insurer within twenty-one (21) calendar days following the discovery of such water intrusion by the “insured”,

provided that any such water intrusion:

5. Is the result of a piping leak, including, but not limited to potable, sewer or sprinkler pipes (or sprinkler heads);
6. Is the result of a named storm event as determined by the U.S. National Weather Service, the U.S. National Hurricane Center or the U.S. National Oceanic and Atmosphere Administration; **or**
7. Is the result of a “flood”.

It is a condition precedent to coverage pursuant to this Endorsement that the “insured” provide conclusive documentation of strict compliance with requirements 1. through 7., above, regardless of whether the Insurer was prejudiced by the failure to meet these requirements.

“Flood” means a general and temporary condition involving the partial or complete inundation of:

1. Two (2) or more acres of normally dry land area; or
2. Two (2) or more properties (at least one (1) of which is a “covered location”),

provided that any such inundation results from: **a)** overflow of inland or tidal waters; **b)** unusual and rapid accumulation or runoff of surface waters from any source; or **c)** mudflow.

III. ☐ Location-Specific Endorsement Application

Solely to the extent that there is an X indicated in the box next to Item III., above, the modifications identified in Sections **I.** and **II.** of this Endorsement only apply to “indoor environmental conditions” involving “fungi” at the “covered locations” specifically identified in the Schedule of Covered Locations, below:

Schedule of Covered Locations

IV. ☐ Building/Structure-Specific Endorsement Application

Solely to the extent that there is an X indicated in the box next to Item IV., above, the modifications identified in Sections **I.** and **II.** of this Endorsement, above, only apply to “indoor environmental conditions” involving “fungi” at the buildings or structures specifically identified in the Schedule of Buildings/Structures, below:

Schedule of Buildings/Structures

All other terms and conditions of this Policy remain unchanged.

Authorized Representative

INDOOR ENVIRONMENTAL CONDITIONS LIMITATIONS ENDORSEMENT

Named Insured Diploma Joint Insurance Fund			Endorsement Number 006
Policy Symbol PPL	Policy Number G7181399A 003	Policy Period 07/01/2022 to 07/01/2023	Effective Date of Endorsement 07/01/2022
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Solely to the extent that there is an **X** indicated in Sections I., II. and/or III. of this Endorsement, below, the "insured" and the Insurer hereby agree to the following changes to this Policy:

I. ☒ **Sublimits of Liability**

Per Indoor Environmental Condition Sublimit of Liability: \$ 250,000

Aggregate Indoor Environmental Conditions Sublimit of Liability: \$ 250,000

The amount that the Insurer shall pay pursuant to this Policy for "loss" arising out of or related to "indoor environmental conditions" is subject to the Per Indoor Environmental Condition Sublimit of Liability and Aggregate Indoor Environmental Conditions Sublimit of Liability identified above. Therefore, the Per Indoor Environmental Condition Sublimit of Liability, above, shall be the maximum amount the Insurer shall pay for all "loss" arising out of or related to the same, continuous, repeated, or related "indoor environmental condition" to which this insurance applies. Moreover, the Aggregate Indoor Environmental Conditions Sublimit of Liability, above, shall be the maximum amount the Insurer shall pay for all "loss" arising out of or related to all "indoor environmental conditions" to which this insurance applies. These Sublimits of Liability are subject to, and payments made within these Sublimits of Liability shall erode, the Limits of Liability identified in Item 3. of the Declarations to this Policy, along with any other applicable exposure-specific Limits or Sublimits of Liability added by endorsement hereto. Under no circumstance shall the Insurer be liable to pay any amount in excess of any applicable Limit or Sublimit of Liability.

II. ☐ **Exclusion**

Section VI., **EXCLUSIONS**, of this Policy is hereby amended by addition of the following:

Indoor Environmental Conditions

"Loss" arising out of or related to "indoor environmental conditions".

III. ☐ **Location-Specific Endorsement Application**

The modifications identified in Sections I. and II. of this Endorsement only apply to "indoor environmental conditions" at the "covered locations" specifically identified in the Schedule of Covered Locations, below:

Schedule of Covered Locations

All other terms and conditions of this Policy remain unchanged.

Authorized Representative

PRIOR CLAIMS EXCLUSIONARY (BROAD) ENDORSEMENT

Named Insured Diploma Joint Insurance Fund			Endorsement Number 007
Policy Symbol PPL	Policy Number G7181399A 003	Policy Period 07/01/2022 to 07/01/2023	Effective Date of Endorsement 07/01/2022
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

The “insured” and the Insurer hereby agree to the following changes to this Policy:

Section **VI., EXCLUSIONS**, of this Policy is hereby amended by addition of the following:

Prior Claims

“Loss” arising out of or related to “claims” made against an “insured” prior to the inception date identified in Item **2.** of the Declarations to this Policy, as applicable (collectively Prior Claims), along with any current or subsequent “claims” made in conjunction with such Prior Claims (e.g., counterclaims, cross-claims or third-party claims made as part of the Prior Claims, any associated appeals of the Prior Claims, any “claims” ultimately consolidated with the Prior Claims, or any “claims” involving different plaintiffs but the same collection of operative facts and/or allegations contained in the Prior Claims).

All other terms and conditions of this policy remain unchanged.

Authorized Representative

PUBLIC ENTITY COVERAGE AMENDATORY ENDORSEMENT

Named Insured Diploma Joint Insurance Fund			Endorsement Number 008
Policy Symbol PPL	Policy Number G7181399A 003	Policy Period 07/01/2022 to 07/01/2023	Effective Date of Endorsement 07/01/2022
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

The “insured” and the Insurer hereby agree to the following changes to this Policy:

I. Section I., **INSURING AGREEMENTS**, of this Policy is hereby amended by addition of the following:

SUPPLEMENTAL COVERAGE - COVERED OPERATIONS

“Claims” and “first-party claims” arising out of a “pollution condition” or “indoor environmental condition” resulting from “covered operations”, provided the “claim” is first made, or the “insured” first discovers the “pollution condition” or “indoor environmental condition” that is the subject of such “first-party claim”, during the “policy period”. Any such “claim” or “first-party claim” must be reported to the Insurer, in writing, during the “policy period” or within thirty (30) days after the expiration of the “policy period”, or during any applicable “extended reporting period”.

The coverage afforded pursuant to this Supplemental Coverage shall only apply to “pollution conditions” or “indoor environmental conditions” that first commence, in their entirety, on or after the Retroactive Date identified below and prior to the expiration of the “policy period”.

Retroactive Date: 07/01/1999

II. Solely with respect to the coverage afforded pursuant to the Supplemental Coverage in this Endorsement, the following additional provisions apply:

Limits of Liability and Self-Insured Retention

Per Operations Condition Sublimit of Liability: \$1,000,000

Aggregate Operations Conditions Sublimit of Liability: \$5,000,000

The amount that the Insurer shall pay pursuant to this Policy for “loss” for coverage afforded pursuant to this Endorsement shall be subject to the Per Operations Condition Sublimit of Liability and Aggregate Operations Conditions Sublimit of Liability identified above. Therefore, the Per Operations Condition Sublimit of Liability, above, shall be the maximum amount the Insurer shall pay for all “loss” arising out of or related to the same, continuous, repeated, or related “pollution condition” or “indoor environmental condition” resulting from “covered operations” to which this insurance applies. Moreover, the Aggregate Operations Conditions Sublimit of Liability, above, shall be the maximum amount the Insurer shall pay for all “loss” arising out of or related to all “pollution conditions” and “indoor environmental conditions” resulting from “covered operations” to which this insurance applies. These Sublimits of Liability are subject to, and payments made within these Sublimits of Liability shall erode, the Limits of Liability identified in Item 3. of the Declarations to this Policy, along with any other applicable exposure-specific Limits or Sublimits of Liability added by endorsement hereto. Under no circumstance shall the Insurer be liable to pay any amount in excess of any applicable Limit or Sublimit of Liability.

Per Operations Condition Self-insured Retention: \$100,000

Notwithstanding anything identified in Item 4. of the Declarations to this Policy that might be construed to the contrary, the Per Operations Condition Self-Insured Retention, above, shall be the “self-insured retention”

applicable to any coverage provided pursuant to this Policy for each “pollution condition” or “indoor environmental condition” resulting from “covered operations” to which this insurance applies.

III. Section V., DEFINITIONS, of this Policy is hereby amended by addition of the following:

“Covered operations” means any operations specifically identified in the Application and any supporting documentation provided to the Insurer by the “first named insured” prior to the inception date identified in Item 2. of the Declarations to this Policy, which are performed by or on behalf of a “named insured” outside of the physical boundaries of a “covered location”.

“Covered operations” does not mean “transportation”.

“Sewage Backup” means the reverse flow of sewage via subsurface sewer lines, to or from a “covered location”, into or onto locations that are not “covered locations”, including, but not limited to, third party residences, businesses, or any other structures on land or into any soil, groundwater, surface water or air associated with such third party residences, businesses, or any other structures.

IV. Section V., DEFINITIONS, Subsections **M.**, **AA.**, **PP.** and **TT.**, of this Policy are hereby deleted in their entirety and replaced with the following:

M. “Emergency response costs” means “first-party remediation costs” incurred within seven (7) days following the discovery of a “pollution condition” or “indoor environmental condition” by a “responsible person” in order to abate or respond to an imminent and substantial threat to human health or the environment arising out of:

1. A “pollution condition” or “indoor environmental condition” on, at, under or migrating from a “covered location”;
2. A “pollution condition” or “indoor environmental condition” resulting from “covered operations”; or
3. A “pollution condition” resulting from “transportation”,

provided such “emergency response costs” are reported to the Insurer within fourteen (14) days of when that “responsible person” first became aware of such “pollution condition” or “indoor environmental condition”.

AA. “Insured” means the “first named insured”, any “named insured”, any “additional insured” and any of the following:

1. If any “named insured” pursuant to this Policy is a Public Entity, the following entities are additional “insureds”:
 - a. A governmental agency or subdivision, department, municipal body, commission or board, or a not-for profit corporation which is owned or controlled by any “named insured”;
 - b. An individual while acting in the capacity as a director of, officer of, trustee of, employee of, temporary or leased worker of, or staff member of, any “named insured”;
 - c. A volunteer, but solely while acting within the scope of such duties and at the direction of any “named insured”;
 - d. A paramedic or emergency technician, but solely while acting within the course and scope of employment or while acting as a volunteer pursuant to the direction of any “named insured”;
 - e. An elective or appointive officer or a member of any such commission, board or agency of any “named insured” but solely while acting within the scope of duties as such; or
 - f. A joint venture or partnership, including a mutual assistance pact, joint powers agreement or similar association, but only with respect to the conduct of the business of any “named Insured” on behalf of that entity or association and only to the extent of such “named insured’s” participation or interest in that entity or association.
2. If the “named insured” is an Educational Entity, the following persons or entities are additional “insureds”, individually and collectively, when acting solely within the scope of their duties, office, or employment for, and pursuant to the supervision of, any “named insured”:

- a. Members of the School Board;
- b. Officers;
- c. Employees;
- d. Temporary or Leased Workers;
- e. Authorized individual volunteers; or
- f. Student Body Organizations pursuant to the jurisdiction of the governing board, but only while pursuant to the supervision required by the governing board.

PP. “Responsible person” means any employee of an “insured” responsible for environmental affairs, control, or compliance at a “covered location”, or any “key executive” of, officer or director of, partner in, or elected official of, an “insured”.

TT. “Transportation” means:

- 1. The movement of an “insured’s” waste, materials, goods or products to or from a “covered location” by automobile, aircraft, watercraft, railcar or other conveyance, including any associated loading or unloading thereof, by an “insured”, or any third-party vendor engaged by an “insured” in the business of transporting property for hire, provided that any such movement, and associated loading and unloading activities, are performed beyond the boundaries of a “covered location”; and
- 2. Automobile livery services conducted by or on behalf of an “insured”.

V. Section V., DEFINITIONS, Subsection DD., of this Policy is hereby amended by addition of the following:

Supplemental Coverage – Covered Operations

- 14. A monetary judgment, award or settlement of compensatory damages arising from “bodily injury”, “property damage” or “remediation costs”, including associated “extra damages” and “legal defense expense”;
- 15. “Emergency response costs” and associated “legal defense expense”; and
- 16. “Catastrophe management costs”.

“**Loss**” does not mean that portion of any: **1)** “first-party remediation costs”; or **2)** monetary judgment, award or settlement of compensatory damages arising from “property damage” or “remediation costs”, which consists of costs, charges, or expenses for purchasing, installing, maintaining, upgrading, improving or operating any pollution, environmental, discharge, emission or source control equipment or process, including, but not limited to: **a)** any air, effluent, groundwater or stormwater control equipment or process; or **b)** any source water purification control equipment or process, along with any associated “legal defense expense” or “business interruption loss”; provided that such control equipment or process is situated on, at, under or within the boundaries of, a “covered location”, or is attendant to providing “covered operations”.

VI. Section V., DEFINITIONS, Subsection LL., of this Policy is hereby amended by addition of the following:

“**Pollution condition**” does not mean any such discharge, dispersal, release, escape, migration, or seepage on, in, into or upon the atmosphere on, at or under any landfills or recycling facilities (hereinafter *On-Site Air*) that are specifically scheduled as “covered locations” pursuant to an endorsement attached to this Policy (hereinafter *Scheduled Landfills or Recycling Facilities*), but solely to the extent that such affected *On-Site Air* migrates beyond the boundary of any such *Scheduled Landfills or Recycling Facilities*.

VII. Solely with respect to the coverage afforded pursuant to the Supplemental Coverage in this Endorsement, Section VI., EXCLUSIONS, Subsection M., Material Change in Risk, of this Policy is hereby deleted in its entirety and replaced with the following:

M. Material Change in Risk

“Loss” arising out of or related to a change in “covered operations” that materially increases the likelihood or severity of a “pollution condition”, “indoor environmental condition”, “claim” or “first-party claim” from the operations identified by the “first named insured” for the Insurer an Application or supplemental

underwriting materials provided prior to the effective date of coverage for such “covered operations”, if any.

This exclusion shall only apply to the changed operations and shall not limit coverage for other “covered operations” to which this insurance applies.

VIII. Section VI., EXCLUSIONS, of this Policy is hereby amended by addition of the following:

Failure to Follow Asbestos and/or Lead-Based Paint Management Plans

“Loss” arising out of or related to the presence of lead-based paint, asbestos or asbestos containing material and an “insured’s” failure to properly maintain or manage any building or structure situated on the “covered locations”, or any system, fixture or personal property contained therein, in conformance with the asbestos management plans and lead-based paint management plans provided to the Insurer prior to the inception date

identified in Item **2.** of the Declarations to this Policy, or any asbestos management plans and lead-based paint management plans approved, in writing, by the Insurer during the “policy period”.

Failure to Follow Fungi and/or Legionella Management Plans

“Loss” arising out of or related to an “indoor environmental condition” and an “insured’s” failure to properly maintain or manage any building or structure situated on the “covered locations”, or any system, fixture or personal property contained therein, in conformance with the water intrusion plans, and “fungi” or *legionella pneumophila* management plans, provided to the Insurer prior to the inception date identified in Item **2.** of the Declarations to this Policy, or any water intrusion plans, and “fungi” or *legionella pneumophila* management plans, approved, in writing, by the Insurer during the “policy period”.

Fluorinated Compounds

“Loss” arising out of or related to perfluorinated or polyfluorinated alkyl substances (hereinafter **PFASs**), including, but not limited to, perfluorinated carboxylic acids and carboxylates (PFCAs), perfluorosulfonic acids and sulfonates (PFSAs), perfluoroalkane sulfonamides (PFASAs), fluorotelomer substances, perfluoroalkane sulfonamide substances, perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorobutane sulfonic acid (PFBS), hexafluoropropylene oxide dimer acid (HFPO-DA or GenX).

For the purposes of this exclusion, **PFASs** include the products or chemicals, themselves, as well as all of their associated salts, ionic states, and acid forms of molecules, along with their precursor products or chemicals, related replacement products or chemicals, and any daughter or degradation byproducts thereof or additives thereto.

Landfills or Recycling Facilities

“Loss” arising out of or related to “pollution conditions” on, at or under any landfills or recycling facilities that are now, or have been at any time been, leased, owned or operated by an “insured”.

This exclusion shall not apply to “claims” for “bodily injury” or “property damage” arising out of “pollution conditions” allegedly migrating from *Scheduled Landfills or Recycling Facilities*.

Lead Contaminated Water

“Loss” arising out of or related to “pollution conditions” involving, in whole or in part, lead within potable water, regardless of whether any such “pollution conditions” have otherwise been affirmatively disclosed to the Insurer in an Application for coverage pursuant to this Policy.

Lead at Shooting Ranges

“Loss” arising out of or related to “pollution conditions” involving, in whole or in part, lead on, at, under, or migrating from any shooting, firing, and gun ranges.

Odors and Atmospheric Migration

“Loss” arising out of or related to the migration of any portion of *On-Site Air* beyond the boundaries of any *Scheduled Landfills or Recycling Facilities*, including any attendant solid, liquid, gaseous or thermal irritant,

contaminant or pollutant that might have affected, or be present within, such migrating portion of the *On-Site Air*.

Prisons, Detention Facilities or Jails

“Loss” arising out of or related to “pollution conditions” on, at, under or migrating from, or “indoor environmental conditions” at, any prison, adult or youth detention facility or jail.

Products Liability

“Loss” arising out of or related to any goods or products manufactured, sold, or distributed by any “insured” once possession of such goods or products have been transferred from the “insured”.

This exclusion shall not apply to any coverage afforded pursuant to this Policy for a “pollution condition” that first commences during “transportation”.

Professional Liability

“Loss” arising out of or related to the rendering of or failure to render professional services, including, but not limited to, recommendations, opinions, and strategies rendered for architectural, consulting, design and engineering work, such as drawings, designs, maps, reports, surveys, change orders, plan specifications, assessment work, remedy selection, site maintenance, equipment selection, and related construction management, supervisory, inspection or engineering services.

Regulatory Compliance

“Loss” arising out of or related to an “insured’s” failure to comply with applicable Federal, state, or local regulations governing compliance with respect to any a covered “underground storage tank”.

This exclusion shall not apply to any such non-compliance that occurs subsequent to release from a covered “underground storage tank”.

Sewage Backup

“Loss” arising out of or related to “pollution conditions” or “indoor environmental conditions” resulting from, in whole or in part, a “sewage backup”.

Work Product

“Loss” arising out of or related to work or operations performed by you or on your behalf, unless such work or operations are “covered operations”.

IX. Section VII., REPORTING AND COOPERATION, Subsection A., Paragraph 2., of this Policy is hereby deleted in its entirety and replaced with the following:

2. The identity of the “covered location” or a detailed description of the “covered operations”;

X. Section IX., GENERAL CONDITIONS, Subsection A., Cancellation, Paragraph 2., of this Policy is hereby amended by addition of the following:

2. Material change in the “covered operations” from the description identified in the Application to this Policy and supporting materials, which results in an increased likelihood of “claims”, “first-party claims”, “pollution conditions” or “indoor environmental conditions”,

The title and any headings in this endorsement/rider are solely for convenience and form no part of the terms and conditions of coverage.

All other terms and conditions of this Policy remain unchanged.

Authorized Representative



**NAMED INSURED-SPECIFIC AMENDATORY (Retroactive Dates)
ENDORSEMENT**

Named Insured Diploma Joint Insurance Fund			Endorsement Number 009
Policy Symbol PPL	Policy Number G7181399A 003	Policy Period 07/01/2022 to 07/01/2023	Effective Date of Endorsement 07/01/2022
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

The “insured” and the Insurer hereby agree to the following changes to this Policy:

- I.** The persons or entities identified in the Schedule of Named Insureds, below, are “named insureds” pursuant to this policy.

Schedule of Named Insureds

#	Named Insureds	Retroactive Dates
1.	Achievers Early College Prep Charter School	07/01/2018
2.	Bridgeton Public Charter School	07/01/2016
3.	Cranford Board of Education	01/03/2001
4.	Manville Board of Education	07/01/2005
5.	Middlesex County STEM Charter School	11/01/2018
6.	Middletown Township Board of Education	07/01/2020
7.	North Plainfield Board of Education	02/08/2001
8.	Summit Board of Education	07/01/2005
9.	Union County Educational Services Commission	07/01/1999
10.	Wall Board of Education	07/01/1999
11.	Watchung Borough Board of Education	07/01/2005

II. Named Insured-Specific Retroactive Dates (All Coverages)

If a “named insured”, above, is identified with a corresponding Retroactive Date, then, solely to the extent that such Retroactive Date, above, is more recent than the general Retroactive Dates within Item **5.** of the Declarations to this Policy or any coverage added by endorsement hereto, the Retroactive Date, above, shall supersede any such general Retroactive Date(s) with respect to coverage for “pollution conditions”: **1)** on, at, under or migrating from; **2)** resulting from “transportation” to or from; or **3)** wastes generated at, “covered locations” attendant with such “named insured”, along with coverage for “pollution conditions” resulting from “covered operations” performed by or on behalf of such “named insured” to which this insurance applies, if any.

All other terms and conditions of this Policy remain unchanged.

Authorized Representative



PLAYGROUND EQUIPMENT CONFIRMATION ENDORSEMENT

Named Insured Diploma Joint Insurance Fund			Endorsement Number 010
Policy Symbol PPL	Policy Number G7181399A 003	Policy Period 07/01/2022 to 07/01/2023	Effective Date of Endorsement 07/01/2022
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

The “insured” and the Insurer hereby agree to the following changes to this Policy:

- I. Section V., DEFINITIONS, Subsection V.,** of this Policy is hereby amended with the addition of the following:

Notwithstanding the foregoing, **“first-party remediation costs”** does not mean any reasonable and necessary expenses required to restore, repair or replace playground equipment.

- II. Section V., DEFINITIONS, Subsection DD.,** of this Policy is hereby amended with the addition of the following:

“Loss” does not mean that portion of any monetary judgment, award or settlement of compensatory damages arising from “property damage” that consists of expenses required to restore, repair or replace playground equipment.

All other terms and conditions of this Policy remain unchanged.

Authorized Representative

TERRORISM RISK INSURANCE ACT ENDORSEMENT

Named Insured Diploma Joint Insurance Fund			Endorsement Number O11
Policy Symbol PPL	Policy Number G7181399A 003	Policy Period 07/01/2022 to 07/01/2023	Effective Date of Endorsement 07/01/2022
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Terrorism Premium (Certified Acts of Terrorism): \$ 2,867

In consideration of the additional premium indicated above, which is included in the Premium as listed on the Declarations, the “insured” and the Insurer hereby agree to the following changes to this Policy:

- A. With respect to any “hostile acts” or “terrorism” exclusions contained in this Policy, or attached to this Policy by endorsement, such exclusions do not apply to a “certified act of terrorism”, as defined in Paragraph C., below.
- B. With respect to any one or more “certified acts of terrorism”, the Insurer will not pay any amounts for which the Insurer is not responsible under the terms of the federal Terrorism Risk Insurance Act of 2002, as subsequently extended (“**TRIA**”), due to the application of any clause which results in a cap on the Insurer’s liability for payments for terrorism losses.
- C. “Certified act of terrorism” means an act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Attorney General of the United States, to be an act of terrorism pursuant to TRIA. The criteria contained TRIA for a “certified act of terrorism” include the following:
 1. The act resulted in insured losses in excess of \$5 million attributable to all types of insurance subject to TRIA; and
 2. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.
- D. Notwithstanding any coverage that may otherwise be afforded for punitive damages under this Policy, if any, coverage shall not be afforded for damages arising, directly or indirectly, out of a “certified act of terrorism” that are awarded as punitive damages.
- E. The coverage afforded under this Endorsement shall expire at the earlier of the following dates:
 1. The end of the “policy period”, as indicated on the Declarations; or
 2. **December 31, 2027.**
- F. The premium for “certified acts of terrorism” coverage is calculated based in part on the federal participation in payment of terrorism losses as set forth in TRIA. The federal program established by TRIA is scheduled to terminate at the end of December 31, 2027, unless extended by the federal government.
- G. If this “policy period” extends beyond December 31, 2027, please note that the TRIA premium, above, is premised on the parties’ assumption that TRIA will later be extended through the end of the “policy period”, thereby mandating that Insurer make available coverage for “certified acts of terrorism” for the entire “policy period”. In the event that TRIA is not extended beyond December 31, 2027, or otherwise expires at some point during the “policy “period”, the Insurer will refund the unearned portion of our TRIA premium to the insured on a pro-rata basis. In the event that new TRIA extension or replacement legislation is enacted requiring the Insurer to offer coverage for terrorism that is materially different than the coverage requirements included in the current version of TRIA that expires on December 31, 2027, the Insurer reserves the right to re-price and prospectively modify terrorism coverage to conform with the statutory requirements and risks presented by any such new legislation.

All other terms and conditions of this Policy remain unchanged.

Authorized Representative

TRADE OR ECONOMIC SANCTIONS ENDORSEMENT

Named Insured Diploma Joint Insurance Fund			Endorsement Number 012
Policy Symbol PPL	Policy Number G7181399A 003	Policy Period 07/01/2022 to 07/01/2023	Effective Date of Endorsement 07/01/2022
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This insurance does not apply to the extent that trade or economic sanctions or other laws or regulations prohibit us from providing insurance, including, but not limited to, the payment of claims. All other terms and conditions of the policy remain unchanged.

Authorized Representative

NEW JERSEY CHANGES - CANCELLATION AND NONRENEWAL

Named Insured Diploma Joint Insurance Fund			Endorsement Number 013
Policy Symbol PPL	Policy Number G7181399A 003	Policy Period 07/01/2022 to 07/01/2023	Effective Date of Endorsement 07/01/2022
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

If the policy or coverage part to which this endorsement applies contains cancellation or nonrenewal provisions more favorable to the Named Insured than this endorsement, then those provisions apply.

Any cancellation or non-renewal provisions contained in the policy to which this endorsement is attached are deleted and replaced by the following:

- I. Pursuant to New Jersey law, this policy cannot be cancelled or nonrenewed for any underwriting reason or guideline which is arbitrary, capricious or unfairly discriminatory or without adequate prior notice to the insured. The underwriting reasons or guidelines that an insurer can use to cancel or nonrenew this policy are maintained by the insurer in writing and will be furnished to the insured and/or the insured's lawful representative upon written request.

A. CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. If this policy has been in effect for less than 60 days, we may cancel this policy by mailing or delivering to the first Named Insured and any person entitled to notice under this policy written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for:
 - (1) Nonpayment of premium; or
 - (2) Existence of a moral hazard, as defined in N.J.A.C. 11:1-20.2(f) as follows:
 - (a) "The risk, danger or probability that the insured will destroy, or permit to be destroyed, the insured property for the purpose of collecting the insurance proceeds. Any change in the circumstances of an insured that will increase the probability of such a destruction may be considered a 'moral hazard'; and
 - (b) The substantial risk, danger or probability that the character, circumstances or personal habits of the insured may increase the possibility of loss or liability for which an insurer will be held responsible. Any change in the character or circumstances of an individual, corporate, partnership or other insured that will increase the probability of such a loss or liability may be considered a 'moral hazard'."
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

7. Cancellation of Policies in Effect For 60 Days or More.

- a.** If this policy has been in effect for 60 days or more, or is a renewal of a policy we issued, we may cancel this policy only for one or more of the following reasons:
- (1)** Nonpayment of premium;
 - (2)** Existence of a moral hazard, as defined in N.J.A.C. 11:1-20.2(f);
 - (3)** Material misrepresentation or nondisclosure to us of a material fact at the time of acceptance of the risk;
 - (4)** Increased hazard or material change in the risk assumed which we could not have reasonably contemplated at the time of assumption of the risk;
 - (5)** Substantial breaches of contractual duties, conditions or warranties that materially affect the nature and/or insurability of the risk;
 - (6)** Lack of cooperation from the insured on loss control matters materially affecting insurability of the risk;
 - (7)** Fraudulent acts against us by the insured or its representative that materially affect the nature of the risk insured;
 - (8)** Loss of or reduction in available insurance capacity;
 - (9)** Material increase in exposure arising out of changes in statutory or case law subsequent to the issuance of the insurance contract or any subsequent renewal;
 - (10)** Loss of or substantial changes in applicable reinsurance;
 - (11)** Failure by the insured to comply with any Federal, State or local fire, health, safety or building or construction regulation, law or ordinance with respect to an insured risk which substantially increases any hazard insured against within 60 days of written notification of a violation of any such law, regulation or ordinance;
 - (12)** Failure by the insured to provide reasonable and necessary underwriting information to us upon written request therefor and a reasonable opportunity to respond;
 - (13)** Agency termination, provided:
 - a.** We document that replacement coverage at comparable rates and terms has been provided to the first Named Insured, and we have informed the first Named Insured, in writing, of the right to continue coverage with us; or
 - b.** We have informed the first Named Insured, in writing, of the right to continue coverage with us and the first Named Insured has agreed, in writing, to the cancellation or nonrenewal based on the termination of the first Named Insured's appointed agent.
 - (14)** Any other reasons in accordance with our underwriting guidelines for cancellation of commercial lines coverage.
- b.** If we cancel this policy based on paragraph 7.a.(1) or (2) above, we will mail a written notice, stating the reason for cancellation, to the first Named Insured and any person entitled to notice under this policy, at least 10 days before the effective date of cancellation. For cancellation due to the nonpayment of premium, the notice will state the effect of nonpayment by the due date. Cancellation for nonpayment of premium will not be effective if payment of the amount due is made before the effective date set forth in the notice. If we cancel this policy for any other reason listed above, we will mail a written notice, stating the reason for cancellation, to the first Named Insured and any person entitled to notice under this policy, not more than 120 days nor less than 30 days before the effective date of such cancellation.
- c.** Notice will be sent to the last mailing addresses known to us, by:
- (1)** Certified mail; or
 - (2)** First class mail, if we have obtained from the post office a date stamped proof of mailing showing names and addresses.

d. We need not send notice of cancellation if you have:

- (1) Replaced coverage elsewhere; or
- (2) Specifically requested termination.

B. NONRENEWAL

1. We may elect not to renew this policy for any reason permitted to cancel it. If we elect not to renew this policy, we will mail a notice of nonrenewal, stating the reasons for nonrenewal, to the first Named Insured at least 30 days but not more than 120 days before the expiration date of this policy. If this policy does not have a fixed expiration date, it shall be deemed to expire annually on the anniversary of its inception.
2. This notice will be sent to the first Named insured at the last mailing address known to us by:
 - a. Certified mail; or
 - b. First class mail, if we have obtained from the post office a date stamped proof of mailing showing the first Named Insured's name and address.
3. We need not mail or deliver this notice if you have:
 - a. Replaced coverage elsewhere; or
 - b. Specifically requested termination.

Authorized Agent

SIGNATURES

Named Insured Diploma Joint Insurance Fund			Endorsement Number 014
Policy Symbol PPL	Policy Number G7181399A 003	Policy Period 07/01/2022 to 07/01/2023	Effective Date of Endorsement 07/01/2022
Issued By (Name of Insurance Company) ACE American Insurance Company			

Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy.

THE ONLY COMPANY APPLICABLE TO THIS POLICY IS THE COMPANY NAMED ON THE FIRST PAGE OF THE DECLARATIONS.

By signing and delivering the policy to you, we state that it is a valid contract.

INDEMNITY INSURANCE COMPANY OF NORTH AMERICA (A stock company)

BANKERS STANDARD INSURANCE COMPANY (A stock company)

ACE AMERICAN INSURANCE COMPANY (A stock company)

ACE PROPERTY AND CASUALTY INSURANCE COMPANY (A stock company)

INSURANCE COMPANY OF NORTH AMERICA (A stock company)

PACIFIC EMPLOYERS INSURANCE COMPANY (A stock company)

ACE FIRE UNDERWRITERS INSURANCE COMPANY (A stock company)

WESTCHESTER FIRE INSURANCE COMPANY (A stock company)

436 Walnut Street, P.O. Box 1000, Philadelphia, Pennsylvania 19106-3703



JULIET SCHWEIDEL, Secretary



JOHN J. LUPICA, President

Authorized Representative



DISCLOSURE PURSUANT TO TERRORISM RISK INSURANCE ACT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Disclosure Of Premium

In accordance with the federal Terrorism Risk Insurance Act, we are required to provide you with a notice disclosing the portion of your premium, if any, attributable to coverage for terrorist acts certified under the Terrorism Risk Insurance Act. The portion of your premium attributable to such coverage is shown in this endorsement or in the policy Declarations.

Disclosure Of Federal Participation In Payment Of Terrorism Losses

The United States Government, Department of the Treasury, will pay a share of terrorism losses insured under the federal program. The federal share equals 80% of that portion of the amount of such insured losses that exceeds the applicable insurer retention. However, if aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year, the Treasury shall not make any payment for any portion of the amount of such losses that exceeds \$100 billion.

Cap On Insurer Participation In Payment Of Terrorism Losses

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

COVERAGE OF "ACTS OF TERRORISM" AS DEFINED BY THE REAUTHORIZATION ACT WILL BE PROVIDED FOR THE PERIOD FROM THE EFFECTIVE DATE OF YOUR NEW OR RENEWAL POLICY THROUGH THE EARLIER OF THE POLICY EXPIRATION DATE OR DECEMBER 31, 2027. EFFECTIVE DECEMBER 31, 2027 THE TERRORISM RISK INSURANCE PROGRAM REAUTHORIZATION ACT EXPIRES.

Terrorism Risk Insurance Act premium: \$ 2,867 .



Chubb Producer Compensation Practices & Policies

Chubb believes that policyholders should have access to information about Chubb's practices and policies related to the payment of compensation to brokers and independent agents. You can obtain that information by accessing our website at <http://www.chubbproducercompensation.com> or by calling the following toll-free telephone number: 1-866-512-2862.

U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC") ADVISORY NOTICE TO POLICYHOLDERS

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous:

- Foreign agents;
- Front organizations;
- Terrorists;
- Terrorist organizations; and
- Narcotics traffickers;

as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's web site – <http://www.treas.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.