



**Oregon School Boards Association  
Property and Casualty Coverage for Education Trust  
Liability Coverage Document**

**Effective July 1, 2016**

**PACE LIABILITY COVERAGE DOCUMENT  
COVERAGE DOCUMENT INDEX**

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## LIABILITY COVERAGE PROVISIONS

This is a Liability Coverage Document under which the **Named Participants'** Liability Coverage **Declarations** (hereafter referred to as "Declarations") are issued. The Coverage Provisions within this Liability Coverage Document set forth the coverages afforded **Participants** by the OSBA Property and Casualty Coverage for Education Trust (hereafter referred to as "the Trust") pursuant to its Trust Agreement, Bylaws and Rules and in accordance with ORS 731.036.4 and ORS 190. A **Named Participant** must be a member, or associate member, of the Oregon School Boards Association with all dues paid before coverage will be provided hereunder. Coverages A, B and C as described below, apply to general liability, automobile liability, **Employment Practices** liability, employee benefits liability and professional liability exposures. Defined terms appear in boldface type.

### I. COVERAGE AGREEMENTS

In consideration of the contribution made and subject to the terms, exclusions and definitions hereinafter mentioned, the **Trust** will pay on behalf of the **Participant** those sums which the **Participant** shall be legally obligated to pay as **Damages** because of **Bodily Injury, Personal Injury, Property Damage** and **Wrongful Acts** to which the following applies:

Coverage A: Liability for **Damages** caused by a **Tort** arising under and governed by the Oregon Tort Actions Against Public Bodies Act, including the limits of liabilities set forth therein, Oregon Revised Statutes 30.260 to 30.300. This coverage applies to liability caused by an **Occurrence** or **Wrongful Act** as defined in this Coverage Document.

Coverage B: Liability for **Damages** arising out of **Federal Claims**, as defined herein, including **Wrongful Acts** arising from **Employment Practices** and from the **Administration of Employee Benefit Programs**. This coverage for **Employment Practices** liability and **Employee Benefits Programs** liability applies to any damage sustained by an **Employee**. This coverage applies to liability caused by an **Occurrence** or **Wrongful Act** as defined in this Coverage Document.

Coverage C: Liability for **Damages** arising out of **Bodily Injury, Property Damage, or Personal Injury**, arising out of an **Occurrence** and which is subject to the laws and jurisdiction of any State of the United States of America or other jurisdiction within the **Coverage Territory** to which this Coverage Document applies other than the State of Oregon.

Coverages A, B, C and Additional Coverages apply to **Bodily Injury, Property Damage, Personal Injury or Wrongful Act(s)** only if:

1. The **Bodily Injury, Property Damage, Personal Injury or Wrongful Act(s)** takes place in the **Coverage Territory**.
2. The **Bodily Injury, Property Damage, Personal Injury or Wrongful Act(s)** takes place during the **Coverage Period**, provided that prior to the **Coverage Period**, no **Participant** authorized by the **Named Participant** to give or receive notice of an **Occurrence or Claim**, knew that the **Bodily Injury, Property Damage, Personal Injury, or Wrongful Act(s)** had taken place, in whole or in part. If such a **Participant** knew, prior to the **Coverage Period**, that the **Bodily Injury, Property Damage, Personal Injury or Wrongful Act(s)** took place, then any continuation, change or resumption of such **Bodily Injury, Property Damage, Personal Injury or Wrongful Act(s)** during or after the **Coverage Period** will be deemed to have been known prior to the **Coverage Period** and will not be covered hereunder.
3. **Bodily Injury, Property Damage, Personal Injury or Wrongful Act(s)** will be deemed to have been known to have taken place at the earliest time when any **Participant** authorized by the **Named Participant** to give or receive notice of an **Occurrence or Claim**:
  - a. Reports all, or any part, of the **Bodily Injury, Property Damage, Personal Injury or Wrongful Act(s)** to the **Trust** or any other insurer.
  - b. Receives a written or verbal demand or **Claim** for **Damages** because of the **Bodily Injury, Property Damage, Personal Injury or Wrongful Act(s)**; or
  - c. Becomes aware by any other means that **Bodily Injury, Property Damage, Personal Injury or Wrongful Act(s)** has taken place.

### DEFENSE

Solely with respect to any **Claim** which is covered under Coverages A, B and C above:

The **Trust** shall have the right and duty to defend any **Suit or Action** against a **Participant** seeking **Damages** on account of liability covered by Coverages A, B and C even if any of the allegations of the **Suit or Action** are groundless, false or fraudulent, and to make any such investigation and settlement of any **Suit or Action** it deems expedient. The duty to defend any **Suit or Action** shall terminate, except as provided hereafter, when such **Suit or Action** ceases to seek **Damages** against the **Participant**. The **Trust** shall not be obligated to pay any **Claim** or judgment or to defend any **Suit or Action** after the applicable **Limit of Liability** has been exhausted.

The **Trust** has no duty to defend until such time as the **Participant** has provided notice to the **Trust** as provided in Section VI. Conditions, Subsection M., and the **Trust** shall have no obligation to pay any sum for fees, expenses or costs incurred for the defense of a **Participant** prior to such notice.

## SUPPLEMENTARY PAYMENTS

Solely with respect to any **Claim** which is covered under Coverages A, B and C above, in which the **Trust** defends, the **Trust** will pay:

- A. All expenses the **Trust** incurs.
- B. Up to \$300 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Coverages A, B and C apply because of **Bodily Injury** and **Property Damage**. The **Trust** does not have to apply for or furnish these bonds.
- C. The cost of bonds to release attachments in any **Suit or Action** against a **Participant** the **Trust** defends, but only for bond amounts within the applicable **Limit of Liability**. The **Trust** does not have to apply for or furnish these bonds.
- D. All reasonable expenses incurred by the **Participant** at the **Trust's** request to assist the **Trust** in the investigation or defense of the **Claim** including the actual loss of earnings up to \$300 a day because of time off work.
- E. All costs taxed against the **Participant** in the **Suit or Action**.
- F. Prejudgment interest awarded against the **Participant** on any part of the judgment the **Trust** pays. If the **Trust** makes an offer to pay the applicable **Limit of Liability**, it 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 which is covered under Coverages A, B and C above, that accrues after entry of the judgment and before the **Trust** has paid, offered to pay, or deposited in court the part of the judgment that is within the applicable **Limit of Liability**.

These supplementary payments will not reduce the **Limit of Liability**.

## **II. DEDUCTIBLE(S)**

- A. Where there is a Deductible(s) shown on the **Declarations**, it is to be applied per **Occurrence** or **Wrongful Act**, regardless of the number of **Occurrences** or **Wrongful Acts** during the **Coverage Period**. The **Trust** will pay **Claims** without application of the Deductible(s), and with the **Named Participant's** approval. The **Named Participant** will then reimburse the **Trust** for any Deductible(s) within thirty (30) calendar days after notice is given to the **Named Participant** of such payment.
- B. The Deductible(s) will apply only to the actual **Damages** paid to a claimant. Actual **Damages** will include all settlement amounts paid to a claimant.
- C. Payment of **Defense Costs** incurred will not be included within the Deductible(s).

- D. The **Participant** is responsible for the first \$25,000 of any **Damages** paid by the **Trust** on behalf of the **Participant** with respect to any **Claims** arising out of adverse termination of employment or suspension without pay and benefits of any **Employee** of the **Named Participant**. However, this Deductible shall be waived if the **Participant** has contacted the **Trust** through the PACE Pre-Loss Program before such termination or suspension of employment. The \$25,000 Deductible, or the applicable portion thereof payable by the **Participant**, will be charged to the **Participant** by the **Trust** after settlement of the **Claim** or payment of **Damages** by the **Trust**

If a Deductible of \$25,000 or greater is shown on the **Declarations**, then the Deductible shown on the **Declarations** will apply and the Deductible will not be waived for any reason.

### III. ADDITIONAL COVERAGES

These Additional Coverages are provided by the **Trust** to a **Participant**. Unless otherwise indicated in this Section III, these Additional Coverages will not be in addition to the Total **Limit of Liability** identified on the **Declarations**. All other terms, conditions, exclusions, and definitions of this Coverage Document apply to the Additional Coverages unless otherwise expressly indicated. As a condition precedent to these Additional Coverages the **Participant** must provide notice to the **Trust** as provided in Section VI. Conditions, Subsection M of this Coverage Document and the **Trust** has no obligation for any **Defense Costs** incurred by the **Participant** prior to such notice. Any titles referenced within this section III. Additional Coverages are inserted solely for convenience of reference and shall not be deemed in any way to limit or affect the Additional Coverage to which they relate.

Additional Coverage A: OSHA DEFENSE COSTS

Upon written approval of the **Trust**, the **Trust** will defend a **Named Participant** from OSHA enforcement proceedings and pay associated **Defense Costs**, the **Trust's** obligation to pay for the defense of the **Named Participant** is limited solely to **Defense Costs**. The **Trust** shall not be liable for **Defense Costs** in excess of \$5,000 per OSHA proceeding (regardless of when the **Defense Cost** is incurred) or \$5,000 per **Named Participant**, in the aggregate for any and all OSHA defense proceedings in any one **Coverage Period**.

Additional Coverage B: ETHICS COMPLAINT DEFENSE COSTS

The **Trust** will pay **Defense Costs** in the defense of administrative complaints before the Oregon Government Ethics Commission (Ethics Complaints) as provided herein:

1. This Additional Coverage B applies only to the defense of ethical complaints against a **Participant** who is a public official alleging violations of ORS 244.040 or ORS 244.120 through ORS 244.135 in connection with the **Participant's** relationship to the **Named Participant**. This Additional Coverage B does not cover fines, penalties or **Damages**.

2. The amount the **Trust** will pay under this Additional Coverage B shall be limited to \$25,000 per **Occurrence** or **Wrongful Act** and in the aggregate for all **Defense Costs** incurred during the **Coverage Period**.
3. The **Trust** will have no obligation to pay for **Defense Costs** under this Additional Coverage B unless the public official notifies the **Trust** of a complaint within thirty (30) calendar days of first communication from or to the Oregon Governmental Ethics Commission. Such notice must be provided as set forth in Section VI. Conditions, Subsection M. of this Coverage Document, and the **Trust** has no obligation for any **Defense Costs** incurred prior to such notice.
4. The **Trust** will have no obligation to pay for **Defense Costs** under this Additional Coverage B unless defense counsel has been selected by the **Trust** or, if selected by the public official, approved by the **Trust**. Such approval shall not be unreasonably withheld.
5. The **Trust** will have the right, but not the duty, to independently investigate any complaint alleging violation of ORS 244.040 or ORS 244.120 through ORS 244.135. As a condition precedent to any right to payment under this Additional Coverage B, the public official shall fully and completely cooperate with such investigation. The costs, if any, of such investigation shall not reduce the payments otherwise payable under this Additional Coverage B.
6. Payments for **Defense Costs** will normally be made as such costs are incurred, upon receipt by the **Trust** of adequate documentation. However, the **Trust**, in its sole discretion, will have the right at any time to withhold payment until final resolution of a complaint. In such a case, no payment shall be made unless the public official shall have prevailed.
7. The **Trust** will be subrogated, to the extent of any payments made under this Additional Coverage B, to any amounts recoverable by the public official from the **Public Body**, other collectible insurance or pursuant to ORS 244.400.

Additional Coverage C: EEOC/BOLI DEFENSE COSTS

The **Trust** will pay **Defense Costs** of the **Participant** in administrative proceedings under ORS Chapter 659 before the State of Oregon Bureau Of Labor & Industries ("BOLI") or the U.S. Equal Employment Opportunity Commission ("EEOC") as provided herein:

1. The most the **Trust** will pay under this Additional Coverage C is \$50,000 per **Occurrence** or **Wrongful Act** and in the aggregate for each **Named Participant** for any and all administrative proceedings **Defense Costs** incurred during the **Coverage Period**. The **Trust** has no obligation to pay any penalties or fines which may be assessed by BOLI or EEOC against the **Participant** under this Additional Coverage C. This Additional Coverage C does not apply to unemployment compensation **Claims** or **Claims** that apply to Exclusion P of this Coverage Document.

Additional Coverage D: LIMITED POLLUTION COVERAGE



Notwithstanding Exclusion K., the **Trust** will pay a maximum of \$100,000, each **Occurrence** and in the aggregate, for any and all **Occurrences** resulting in **Claims** in any one **Coverage Period** for **Bodily Injury** and **Property Damage**, including any **Defense Costs** associated therewith, and any cleanup expenses, arising out of the actual or alleged discharge, dispersal, release or escape of **Pollutants** arising out of the **Named Participant's** premises or operations performed by or on behalf of the **Named Participant**. This Additional Coverage D is subject to the following provisions:

1. Additional Coverage D does not apply to provide coverage for any **Claim** for damage to the **Named Participant's** own property or property in the possession or control of the **Named Participant**.
2. Additional Coverage D does not apply to any liability of a **Participant** which is subject to subparagraph 4. Of Exclusion K or Additional Coverage N: APPLICATORS POLLUTION COVERAGE.

Additional Coverage E: INJUNCTIVE RELIEF DEFENSE COSTS

Notwithstanding Exclusion AC, the **Trust** will pay for **Defense Costs** in defending the **Named Participant** against a **Suit or Action** for **Injunctive Relief** or declaratory relief because of the liability of the **Named Participant** to which this Coverage Document applies, subject to the following:

1. The most the **Trust** will pay under this Additional Coverage E is \$25,000 per **Occurrence** or **Wrongful Act** and in the aggregate, for all **Defense Costs** incurred during the **Coverage Period** for the defense of the **Named Participant**. The **Trust** has no obligation to pay for the cost of complying with the **Injunctive Relief** or declaratory relief, penalties or fines which may be assessed as part of the **Injunctive Relief** or declaratory relief.
2. This Additional Coverage E is not applicable to a **Suit or Action** seeking recovery for the Individual with Disabilities Education Act (IDEA) or other Special Education Acts(s)

Additional Coverage F: CERTIFIED ACTS OF TERRORISM

Notwithstanding Exclusion V., the **Trust** will pay a maximum of \$500,000 each **Occurrence** and in the aggregate, for any and all **Occurrences** resulting in **Claims** in any one **Coverage Period** for **Bodily Injury**, **Property Damage** and **Personal Injury**, including any **Defense Costs** associated therewith, from any loss, cost or expense arising out of or related to, either directly or indirectly, any **Certified Act of Terrorism**. This Additional Coverage F does not apply to increase any **Limit(s) of Liability** of the **Trust** shown in the **Declarations**.

Additional Coverage G: PREMISES MEDICAL EXPENSE

With the **Named Participant's** approval, the **Trust** will pay reasonable medical expenses incurred up to \$5,000 per claimant, each **Occurrence** and in the aggregate as the result of injuries sustained to guests on the premises owned or occupied by the **Named Participant**. Payment of such **Claims** will require the following:

1. The accident (**Occurrence**) that caused the injury must have occurred within the **Coverage Period**.
2. The medical expenses must be incurred and reported to the **Trust** within one (1) year from the date of the accident (**Occurrence**).
3. The medical expenses must be directly related to the injury sustained.

This coverage will not apply to:

1. Any **Employee** of the **Named Participant**.
2. Any person hired to do work on behalf of the **Named Participant** or any tenant of the **Named Participant**.
3. Any person who normally occupies the premises upon which the accident (**Occurrence**) occurred.
4. Any person who qualifies for Workers' Compensation benefits under any state or federal law.
5. Any individual injured while taking part in athletics.
6. Any student.

Additional Coverage H: CORPORAL PUNISHMENT

This Coverage Document will provide **Bodily Injury** coverage for **Damages** arising out of **Corporal Punishment**:

1. By a **Participant**, when reasonable force is used against anyone; and/or
2. Where by court judgment, the **Named Participant**, or a **Participant** not applying the use of force, is found vicariously liable due to the actions of a **Participant** directly applying the use of force.

Additional Coverage I: FAIR DISMISSAL HEARINGS DEFENSE COSTS

The most the **Trust** will pay under this Additional Coverage I is \$50,000 per **Occurrence** or **Wrongful Act** and in the aggregate for **Defense Costs** incurred during the **Coverage Period** for administrative hearings under ORS 342.895(5) (Fair Dismissal Hearings). There is no coverage for **Damages** awarded in the form of back wages as the result of such hearings.

Additional Coverage J: SEXUAL MOLESTATION

This Coverage Document provides coverage for the **Named Participant** as a result of vicarious liability (liability of the **Named Participant** for acts of **Participants**) for **Bodily Injury** or **Personal Injury Damages** resulting from **Sexual Molestation** which occurs during the **Coverage Period**. All such **Bodily Injury** or **Personal Injury** will be

deemed to have occurred at the time of the initial **Sexual Molestation** while covered by the **Trust** and all such **Bodily Injury** or **Personal Injury** will be deemed to be one **Occurrence**, and only one per **Occurrence Limit of Liability** will apply, whether committed by the same **Participant** or two or more **Participants** acting in concert and without regard to:

1. the number of incidents of **Sexual Molestation** taking place thereafter;
2. the number of victims of **Sexual Molestation**;
3. the locations where the **Sexual Molestation** took place; or
4. the **Trust's Coverage Periods** over which the **Sexual Molestation** took place.

In addition, the **Named Participant** may have legal obligations to defend the accused **Participant(s)** under the provisions of the Oregon Tort Claims Act ORS 30.285 and 30.287. It must be noted that such statutory provisions will legally obligate or legally prohibit the **Named Participant** from defending the accused **Participant(s)** based upon the facts of the case. In the case where the **Named Participant** provides defense, the **Trust** will provide **Defense Cost** coverage for the accused **Participant(s)**. However, such **Defense Cost** coverage will end when the accused **Participant(s)** is found innocent of, convicted of, pleads guilty, or no contest to, the crime from which the **Claim** of **Sexual Molestation** arose.

In any event, the **Bodily Injury** or **Personal Injury** resulting in a **Sexual Molestation Claim** must be caused by an **Occurrence** or **Offenses** and the **Occurrence** or **Offenses** must take place in the **Coverage Territory**.

Additional Coverage K: BREACH OF EMPLOYMENT CONTRACT DEFENSE COSTS

The most the **Trust** will pay under this Additional Coverage K is \$50,000 per **Wrongful Act** and in the aggregate for **Defense Costs** incurred during the **Coverage Period** for breach of employment contract **Suits or Actions**, other than those arising out of a union contract. This **Defense Cost** coverage does not include any coverage for **Damages** arising out of such employment contract **Claims**.

Additional Coverage L: OREGON TEACHERS STANDARDS AND PRACTICES COMMISSION (OTSPC) DEFENSE COSTS

This Coverage Document will provide coverage up to \$25,000 per **Occurrence** or **Wrongful Act** and \$50,000 in the annual aggregate for **Defense Costs** incurred by a **Participant** during the **Coverage Period** for **Defense Costs** arising out of administrative hearings before the Oregon Teachers Standards and Practices Commission based upon complaints filed by other than a **Participant**. Such coverage is secondary or excess to any defense provided through union representation of a **Participant**. There is no coverage for **Damages** awarded as the result of such administrative hearings.

Additional Coverage M: FUNGAL PATHOGENS (MOLD) DEFENSE COSTS

Notwithstanding Exclusion W., this Coverage Document will provide coverage up to

\$100,000 per **Occurrence** and in the aggregate for **Defense Costs** incurred during the **Coverage Period** for **Bodily Injury, Personal Injury** or **Property Damage Claims** arising directly or indirectly out of, resulting from, caused by or contributed to by any **Fungal Pathogens**. This **Defense Cost** coverage does not include any coverage for **Damages** arising out of such **Claims**.

Additional Coverage N:        APPLICATORS POLLUTION COVERAGE

Notwithstanding Exclusion K., this Coverage Document will provide coverage for a **Participant's** liability otherwise covered by this Coverage Document for **Property Damage** arising out of a **Participant's** use of pesticides, herbicides or fungicides in the scope of the **Participant's** duties, provided each of the following conditions are met:

1.        The usage meets all standards of any statutes, ordinance, regulation or license requirement of any Federal, State or local government pertaining to such use; and
2.        The person or entity applying the pesticide, herbicide or fungicide is licensed to do so and is acting within the scope of such license.

The **Limit of Liability** of the **Trust** under this exception shall not exceed \$50,000 per **Occurrence** and in the aggregate, for any and all **Occurrences** during any one **Coverage Period**, for all **Damages**, cleanup expenses, **Defense Costs**, supplementary payments or any other payment or expense incurred with respect thereto whether or not incurred within the **Coverage Period**.

Additional Coverage O:        LEAD SUBLIMIT DEFENSE COSTS

Notwithstanding Exclusion Z., this Coverage Document will provide **Defense Costs** for a **Participant's** liability otherwise covered by this Coverage Document for **Bodily Injury** or **Personal Injury** arising out of a **Participant's** handling of lead containing materials in the scope of the **Participant's** duties subject to the following:

1.        The **Limit of Liability** of the **Trust** under this exception shall not exceed \$50,000 each **Occurrence** and in the aggregate, for any and all **Occurrences** during any one **Coverage Period**; and
2.        The most the **Trust** will pay for all PACE members covered by the **Trust** in any one **Coverage Period** is \$200,000 in the aggregate. Once the total cost of **Claims** submitted to the **Trust** reaches \$200,000 the **Trust** will no longer pay **Claims** under this Additional Coverage O.

#### **IV. EXCLUSIONS**

Coverage provided by Coverages A, B and C and Additional Coverages under this Coverage Document do not apply to:

- A.        Any liability for **Damages** which results from an act that is intended by a **Participant** or can be expected from the standpoint of a reasonable person to cause **Bodily Injury, Property Damage** or **Personal Injury**, even if the injury or damage is of a different degree or type than actually intended or expected. This

exclusion does not apply to **Bodily Injury** coverage for **Damages** arising out of **Corporal Punishment**:

1. By a **Participant**, when reasonable force is used, against anyone; or
2. Where by court judgment, the **Named Participant**, or a **Participant** not applying the use of force, is found vicariously liable due to the actions of a **Participant** directly applying the use of force.

B. Any liability for **Damages**:

1. which the **Participant** is obligated to pay resulting from breach of contract, express or implied; and
2. by reason of the assumption of liability by the **Participant** in a contract or agreement, except for an **Insured Contract**.

C. Any liability for **Damages** or **Defense Costs** arising out of the maintenance, operation, use, entrustment to others, **loading or unloading** of any aircraft or **unmanned aircraft system** owned, operated or loaned to a **Participant**.

This exclusion does not apply to aircraft that are not flown and which are used only for instructional purposes in a classroom setting.

This exclusion does not apply to the liability for the maintenance, operation, use or entrustment to others of an **unmanned aircraft system** by a **Participant** as long as the **Participant** has fully complied with:

1. Federal Aviation Administration (FAA) regulations, certifications, rules, procedures, policies and standards for unmanned aircraft systems.
2. US Department of Transportation laws and regulations for **unmanned aircraft systems** including any future amendments;
3. other applicable federal laws and regulations for **unmanned aircraft systems** including any future amendments; and
4. any state or local laws and regulations for **unmanned aircraft systems** including any future amendments.

This exclusion does apply to the maintenance, operation, use or entrustment to others of an **unmanned aircraft system** by a **Participant** for:

1. Property damage to the **Participant's** owned or leased property;
2. damage directly to any **unmanned aircraft system**;
3. non-business or unauthorized use of any **unmanned aircraft system**; or
4. any Government fines or penalties.

5. Physical contact by any **unmanned aircraft system** with any other aircraft, including airships/blimps or other gas or hot air filled balloons, whether manned or unmanned.
  6. The hijacking of any **unmanned aircraft system**.
- D. Any liability for **Damages** arising out of the **Nuclear Energy Liability Hazard**.
- E. Any liability for **Damages** arising out of the ownership, maintenance, operation, entrustment or use of watercraft in excess of thirty (30) feet in length. This exclusion applies even if the **Claims** against any **Participant** allege negligence or other wrongdoing for the supervision, hiring, employment, training or monitoring of others by the **Participant**, if the **Occurrence** which caused the **Bodily Injury** or **Property Damage** involved the ownership, maintenance, use or entrustment to others of any watercraft in excess of thirty (30) feet in length that is owned or operated by or rented or loaned to any **Participant**.
- F. Any liability for **Damages** arising out of injury or damage to or destruction of any property owned by the **Named Participant**.
- G. Any liability for **Damages** for which a **Participant** or its insurer or the **Trust** may be held liable under any Workers' Compensation, unemployment compensation or disability benefits law; social security; or other similar law, including, but not limited to, the Jones Act, U.S. Defense Base Act, the Federal Employers Liability Act (FELA), or the U.S. Longshoremen's and Harbor Workers' Compensation Act.
- H. Any obligation imposed by a workers' compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law, including any volunteer for whom the **Named Participant** elects to provide Workers' Compensation coverage under ORS 656.031 or 656.041 et al., arising out of and in the course of the **Employee** or volunteer's employment or use of their services by the **Named Participant**. However, the **Trust** agrees to provide Employer's Liability coverage as follows:

Employer's Liability coverage applies to **Bodily Injury** by accident or **Bodily Injury** by disease. **Bodily Injury** includes resulting death subject to the following:

1. The **Bodily Injury** must arise out of and in the course of the injured **Employee's** employment, including any volunteer, by the **Named Participant**;
2. The employment must be necessary or incidental to the **Named Participant's** work in the state of Oregon;
3. **Bodily Injury** by accident must occur during the **Coverage Period**;
4. **Bodily Injury** by disease must be caused or aggravated by the conditions of the **Named Participant's** employment. The **Employee's** last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the **Coverage Period**;
5. If the **Named Participant** is sued, the original suit and any related legal actions for **Damages** for **Bodily Injury** by accident or by disease must be

brought in the United States of America, its territories or possessions, or Canada.

The **Trust** agrees to pay all sums the **Named Participant** legally must pay as **Damages** because of **Bodily Injury** to the **Named Participant's Employees**, provided the **Bodily Injury** is covered by this Employers Liability coverage. This Employers Liability coverage is secondary to any coverage provided by the **Named Participant's** workers' compensation insurer.

The **Damages** the **Trust** will pay, where recovery is permitted by law, include **Damages**:

1. For which the **Named Participant** is liable to a third party by reason of a **Claim** or suit against the **Named Participant** by that third party to recover the **Damages** claimed against such third party as a result of injury to the **Named Participant's 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 these **Damages** are the direct consequence of **Bodily Injury** that arises out of and in the course of the injured **Employee's** employment by the **Named Participant**); and
4. Because of **Bodily Injury** to the **Named Participant's Employee** that arises out of and in the course of employment, claimed against the **Named Participant** in a capacity other than as employer.

Employer's Liability coverage does not cover:

1. Liability assumed under a contract. This exclusion does not apply to a warranty that work will be done in a workmanlike manner;
2. Punitive or exemplary damages because of **Bodily Injury** to an **Employee** employed in violation of law;
3. **Bodily Injury** to an **Employee** while employed in violation of law with a **Named Participant's** actual knowledge or the actual knowledge of any of its executive officers;
4. **Bodily Injury** intentionally caused or aggravated by the **Named Participant**;
5. **Bodily Injury** occurring outside the United States of America, its territories or possessions, and Canada;
6. **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;
7. **Bodily Injury** to any person in work subject to the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950), the Nonappropriated Fund Instrumentalities Act (5 USC Sections 8171-8173),

the Outer Continental Shelf Lands Act (43 USC Sections 1331-1356), the Defense Base Act (42 USC Sections 1651-1654), the Federal Coal Mine Health and Safety Act of 1969 (30 USC Sections 901-942), any other federal workers or workmen's compensation law or other federal occupational disease law, or any amendments to these laws;

8. **Bodily Injury** to any person in work subject to the Federal Employers' Liability Act (45 USC Sections 51-60), any other federal laws obligating an employer to pay damages to an employee due to **Bodily Injury** arising out of or in the course of employment, or any amendments to those laws;
9. **Bodily Injury** to a master or member of the crew of any vessel;
10. Fines or penalties imposed for violation of federal or state law; and
11. **Damages** payable under the Migrant and Seasonal Agricultural Worker Protection Act (29 USC Sections 1801-1872) and under any other federal law awarding damages for violation of those laws or regulations issued thereunder, and any amendments to those laws.

The **Trust** has the right and duty to defend, at the **Trust's** expense, any **Claim**, proceeding or suit against a **Named Participant** for **Damages** payable by this employer's liability coverage. The **Trust** has the right to investigate and settle these **Claims**, proceedings and suits.

The **Trust** has no duty to defend a **Claim**, proceeding or suit that is not covered by this employer's liability coverage. The **Trust** has no duty to defend or continue defending after the **Trust** has paid the applicable **Limit of Liability** under this coverage document.

- I. Any liability for **Damages** arising out of, or in any way connected with the operation of the principles of eminent domain, condemnation proceedings (including any delay in pursuing or completing condemnation), or inverse condemnation, or by whatever name called, whether such liability accrues directly against the **Participant** or by virtue of any agreement entered into, by or on behalf of the **Participant**.
- J. Any liability for **Damages** arising out of, in connection with or relating to:
  1. Any hospital, clinic, nursing home or other health care facility owned or operated by the **Participant**, or to any such liability assumed by the **Participant** under contract, including an **Insured Contract**, which arises out of or is connected with the care, treatment, rendering of health related professional services or providing any associated products or devices to any person brought to, entering or admitted on an inpatient or outpatient basis to such hospital, clinic or nursing home with the intention that care, treatment, professional services or associated products and devices be provided.
  2. The activities of any physician or dentist.

However, this exclusion does not apply to **Incidental Medical Practice** by **Participants** acting within the course and scope of their duties for the **Named**



## Participant.

- K. 1. For other than the **Automobile Hazard**, any liability for **Damage**, including but not limited to **Bodily Injury**, **Property Damage** or **Personal Injury**, arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **Pollutants**:
- a. 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 **Participant**;
  - b. At or from any premises, site or location which is or was at any time used by or for any **Participant** or others for the handling, storage, disposal, processing or treatment of waste;
  - c. Which are or were at any time possessed, transported, handled, stored, treated, disposed of, or processed as waste by or for any **Participant** or any person or organization for whom a **Participant** may be legally responsible; or
  - d. At or from any premises, site or location on which any **Participant** or any contractors or subcontractors working directly or indirectly on any **Participant's** behalf are or were performing operations:
    - (1) If the **Pollutants** are brought on or to the premises, site or location in connection with such operation by such **Participant**, contractor or subcontractor; or
    - (2) 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**.
- Subparagraphs a. and d. do not apply to **Bodily Injury** or **Property Damage** arising, out of heat, smoke or fumes from a **Hostile Fire**.
2. For the **Automobile Hazard**, **Bodily Injury** or **Property Damage** arising directly or indirectly out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of **Pollutants** at any time:
- a. That are, or that are contained in any property that is:
    - (1) Being transported or towed by, handled, or handled for movement into, onto or from the covered **Auto**;
    - (2) Otherwise in the course of transit by or on behalf of the **Participant**; or
    - (3) 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 **Participant** 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 **Participant**.

Paragraph 2. a. above only applies to liability assumed under a contract or agreement.

Paragraphs 2. b. and 2. c. above do not apply to **Occurrences** that occur away from premises owned by or rented to a **Participant** with respect to **Pollutants** not in or upon a covered **Auto** if:

- a. 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
- b. The discharge, dispersal, seepage, migration, release or escape of the **Pollutants** is caused directly by such upset, overturn or damage.

3. Any loss, cost or expense arising out of any:

- a. Request, demand, order or voluntary act that any **Participant** 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
- b. **Claim** 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**.

4. This exclusion does not apply to a **Participant's** liability otherwise covered by this Coverage Document for **Bodily Injury** or **Property Damage** resulting from the leakage of fluids including fuel, hydraulic fluid, lubricants from a covered **Auto** or **Mobile Equipment** other than such fluids carried as cargo, from any vehicle designed for land transportation, whether or not licensed for highway use, and owned or operated by or on behalf of, the **Named Participant**, and where such leakage is caused by a collision or upset of a covered **Auto** or **Mobile Equipment**, including impacts by rocks or projectiles.

The total liability of the **Trust** under this exception shall not exceed \$100,000, in the aggregate, for all **Occurrences** during any one **Coverage Period**, for all **Damages**, cleanup expenses, **Defense Costs**, supplementary payments or any other payment or expense incurred with respect thereto whether or not incurred within the **Coverage Period**.

L. Any liability for **Damages**, including **Bodily Injury**, **Personal Injury** or **Property Damage** caused by, resulting from, or arising out of:

1. Asbestos, asbestos fibers or asbestos products or to any obligation of the **Participant** to indemnify another and/or contribute with another because of **Damages** arising out of, or as a result of such **Bodily Injury, Personal Injury** or **Property Damage**; or
2. Any supervision, instruction, recommendations, notices, warning or advice given or which should have been given in connection with asbestos, asbestos fibers or asbestos products.

In addition, the **Trust** shall not be obligated to investigate, to pay any **Claim** or judgment or to defend any **Claim** for **Bodily Injury, Personal Injury** or **Property Damage** caused by, resulting from, or arising out of asbestos, asbestos fibers or asbestos products.

M. Any liability for **Damages** arising out of a **Participant's** failure to secure and maintain proper kinds of insurance or bonds, and/or adequate amounts of insurance or bonds, and/or failure to secure insurance or bonds in a timely fashion. Insurance or bonds includes, but is not limited to, insurance provided by self-insurance arrangements, retention groups, self-insurance trusts, pools, captive insurance companies, reciprocal exchanges or any other plan or agreement of risk transfer or assumption.

N. Any **Personal Injury** liability for **Damages** :

1. Arising out of oral or written publication of material, if done by or at the direction of the **Participant** with knowledge of its falsity;
2. Arising out of oral or written publication of material whose first publication took place before the beginning of the **Coverage Period**;
3. Arising out of the willful violation of a penal statute or ordinance committed by or with the consent of the **Participant**; or
4. Arising out of oral or written publication of material by the **Participant** or on the **Participant's** behalf, if done in the course or conduct of the practice of law.

Written publication includes but is not limited to materials placed or distributed via the internet, electronic chatrooms, bulletin boards, web-sites, email or other similar electronic means of communication.

O. Any liability for **Damages** due to:

1. War, including undeclared or civil war;
2. Warlike action by 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
3. Insurrection, rebellion, revolution, usurped power, or action taken by

governmental authority in hindering or defending against any of these.

- P. Any liability for back compensation, including wages or employee benefits of any kind, including interest associated therewith, with respect to any **Claim** by an **Employee** or their heirs, beneficiaries or legal representatives.
- Q. Any liability for **Damages** brought about or contributed to by any dishonest, fraudulent, criminal, bad faith or malicious act or omission of a **Participant** arising from the deliberate violation of any Federal, State or local statute, ordinance, rule or regulation committed by or with the knowledge and consent of the **Participant**. The actual or alleged conduct of any **Participant** shall not be imputed to any other **Participant** for the applicability of this exclusion.
- R. Any liability for **Damages** arising out of any **Claim** for failure of performance of contract by any insurer, including failure of any **Employee Benefit Program**.
- S. Any liability for **Damages** arising out of any **Breach of Fiduciary Duty**.
- T. Any liability for **Damages** arising out of any:
  - 1. Failure of investment programs or plans, including Employee Benefit Programs, to perform as represented by a **Participant**;
  - 2. Advice given by a **Participant** to an **Employee** to participate or not to participate in investment programs or plans, including **Employee Benefit Programs**; or
  - 3. Failure to comply with any law concerning Workers' Compensation, Unemployment Coverage, Social Security or Disability Benefits.
- U. Any liability for **Damages** or **Defense Costs**, including any duty to defend, or **Damages** directly or indirectly based on, arising out of or related to:
  - 1. Any actual or alleged failure, partial failure, malfunction, error, inadequacy of or production of any incorrect or unintended data, information or command, by any of the following, whether belonging to any **Participant** or to others:
    - a. Computer hardware, microprocessors, computer chips, and any other computerized or electronic equipment or components;
    - b. Computer software, including, but not limited to, applications, operating systems and computer networks; or
    - c. Any other products, equipment, services, data or functions that directly or indirectly incorporate, use or rely on, in any manner, any of the items listed in subparagraphs 1.a. through 1.b. above; due to the inability to, or manner in which, any of the above listed items accept, compare, distinguish, interpret, perform calculations using, process, or recognize the year 2000 or any other date or year.

2. Any advice, consultation, design, delay, evaluation, inspection, installation, maintenance, omission, repair, replacement or supervision provided or done by any **Participant** or for any **Participant**, whether successful or not, to identify, rectify or test any potential or actual problem, failure or malfunction as described in paragraph 1. of this exclusion.
- V. Any liability for **Damages** or **Defense Costs**, including any duty to defend, or **Damages** directly or indirectly based on, arising out of or related to any **Certified Act of Terrorism**.
- W. **Bodily Injury, Personal Injury** or **Property Damage** arising directly or indirectly out of, resulting from, caused by or contributed to by:
1. Any **Fungal Pathogens**;
  2. Any solid, liquid, vapor, or gas produced by or arising out of any **Fungal Pathogens**;
  3. Any material, product, building component, or building structure that contains, harbors, nurtures or acts as a medium for any **Fungal Pathogens**;
  4. Any intrusion, leakage, or accumulation of water or any other liquid that contains, harbors, nurtures or acts as a medium for **Fungal Pathogens**;
  5. The actual or threatened abatement, mitigation, removal or disposal of **Fungal Pathogens** or any material, product, building component, or building structure that contains, harbors, nurtures or acts as a medium for any **Fungal Pathogens**;
  6. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with subparagraphs 1., 2., 3., 4., or 5. above; or
  7. Any obligation of the **Participant** to indemnify any party in connection with subparagraphs 1., 2., 3., 4., 5., or 6. above.
- X. Any liability for **Damages** arising out of the ownership, maintenance or use of a trampoline that has:
1. A round or oval shaped surface with a diameter of over six (6) feet at its' greatest distance;
  2. A square or rectangular shaped surface area greater than twenty-five (25) square feet; or
  3. A surface that is not round, oval, square or rectangular in shape.

Determinations regarding diameter and area will be based on measurements taken from the outermost edges of the trampoline's structure.

- Y. Any **Damages** or **Defense Costs** arising out of administrative hearings before the "Oregon Teachers Standards and Practices Commission" based upon complaints filed by a **Participant** in compliance with ORS 342.
- Z. Any liability for **Damages** arising directly or indirectly out of, resulting from, caused by or contributed to by:
1. The toxic or pathological properties of lead, lead compounds or lead contained in any materials;
  2. The actual or threatened abatement, mitigation, removal or disposal or lead, lead compounds or materials containing lead;
  3. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with parts 1. or 2. above; or
  4. Any obligation of the **Participant** to indemnify any party in connection with subparagraphs 1. 2. or 3. above.
- AA. Any liability for **Damages** arising from subsidence, settling, sinking, slipping, falling away, caving in, shifting, eroding, mud flow, rising, tilting, or any other land or earth movement, including earthquake.
- AB. Any liability for **Damages** arising out of **Auto** Personal Injury Protection benefits and Uninsured/Underinsured Motorist Property Damage Coverage.
- AC. Any liability for **Damages** or **Defense Costs** arising out of any investigation, **Claim** or other proceeding seeking relief or redress in any form other than money **Damages**, including but not limited to, costs, fees, plaintiff attorney fees or expenses which the **Participant** may become obligated to pay as a result of a consent decree, settlement or adverse judgment for declaratory relief or **Injunctive Relief**. This includes but is not limited to:
1. Any violation of Oregon Elections and Public Meetings and Records Laws;
  2. Failure to provide an appropriate individualized education program or related facilities or services under the Individuals with Disabilities Education Act (IDEA) or other Special Education Act(s); and/or
  3. Unlawful expenditure of public funds.
- AD. Any liability for **Damages** or **Defense Costs** based upon, arising from or in consequence of any **Occurrence**, **Wrongful Act** or **Claim** if written notice of such **Occurrence**, **Wrongful Act** or **Claim** has been given under any policy of which this Coverage Document is a direct or indirect renewal or replacement and if such prior policy affords coverage (or would afford such coverage except for the exhaustion of its limits of liability) for such **Occurrence** or **Claim** in whole or in part, as a result of such notice.

AE. Any liability for **Damages** or **Defense Costs**, including **Bodily Injury, Personal Injury** or **Property Damage** caused by, resulting from, or arising out of the use of a **Firearm**, by any **Participant**.

This exclusion does not apply:

1. To a **Participant** who held a valid **DPSST Certification** at the time that same **Participants** use of a **Firearm** resulted in **Damages**, including **Bodily Injury, Personal Injury** or **Property Damages**, or
2. Where the **Named Participant**, or a **Participant** not applying the use of a **Firearm**, is found vicariously liable due to the actions of a **Participant** directly applying the use of a **Firearm**.

AF. Any liability for **Damages** or **Defense Costs** of any **Occurrence, Wrongful Act, Claim** based upon, arising from or in consequence of:

1. Any actual or alleged violation of The Securities Act of 1933, The Securities Exchange Act of 1934, The Public Utilities Holding Act of 1935, The Trust Indenture Act of 1939, The Investment Company Act of 1940, any State Blue Sky Laws and any federal, state, local or foreign laws similar to the aforementioned laws and/or regulating the same or similar conduct or services, whether such law is statutory, regulatory or common law;
2. Involving directly or indirectly debt security financing, including but not limited to bonds, notes and debentures; or the investment of, or the failure to invest, public funds, including but not limited to the use derivative investment instruments; and/or
3. Any regulation, investigation and enforcement actions based upon, arising from or in consequence of subparagraphs 1. and 2. above.

AG. Any Liability for **Damages** or **Defense Costs** arising out of:

1. Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information;
2. The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data; or

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in paragraph 1 or 2 above.

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 application software, hard or floppy

disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

- AH. Except as described in Additional Coverage J, **Sexual Molestation**, any liability or defense for **Bodily Injury, Personal Injury, Property Damage** or **Wrongful Acts** resulting in any way from **Sexual Molestation** by any person including, but not limited to, the negligent hiring, investigation, supervision, reporting to the proper authorities, or failure to report to the proper authorities, or retention of an alleged sexual molester for whom any **Participant** is or ever was legally responsible and whose conduct would be excluded here in is not covered.

## V. LIMITS OF LIABILITY

- A. The Total **Limits of Liability** shown in the **Declarations** and the rules below fix the most the **Trust** will pay regardless of the number of:
1. **Participants** covered under this Coverage Document;
  2. **Claims** brought;
  3. Persons or organizations making **Claims**; or
  4. Additional Coverages and other special coverage grants offered.
- B. The Per **Occurrence** Limit (Total **Limits of Liability**) shown in the **Declarations** is the most the **Trust** will pay for the sum of all **Damages** under Coverage A, Coverage B and Coverage C, whether one or more of these Coverages are involved in a single covered **Occurrence** and/or **Wrongful Act**.
- C. Subject to paragraph B. above, the Annual Aggregate Limit (Total **Limits of Liability**) is the most the **Trust** will pay for all **Damages** from all covered **Occurrences, Wrongful Acts** or **Claims** taking place during the **Coverage Period**.
- D. With respect to the Additional Coverages and other specific coverage grants provided within this Coverage Document, any Per **Occurrence** and Annual Aggregate **Limits of Liability** stated are subject always to the Per **Occurrence** and Annual Aggregate Total **Limits of Liability**, as presented in paragraphs B. and C. above, arising from a single covered **Occurrence, Wrongful Act** or **Claim**, or from all covered **Occurrences, Wrongful Acts** and **Claims** during the **Coverage Period**.
- E. Unless stated otherwise within any Additional Coverage or other special coverage grant, **Defense Costs** are in addition to the Per **Occurrence** and Annual Aggregate Total **Limits of Liability** shown in the **Declarations**.
- F. The **Limits of Liability** apply separately to each consecutive annual period, and to any remaining period of less than twelve (12) months, starting with the beginning of the **Coverage Period** shown on the **Declarations**, unless the **Coverage Period** is extended after issuance for an additional period of less than



twelve (12) months. In that case, the additional period will be deemed part of the last preceding annual period for purposes of determining the **Limits of Liability**.

## VI. CONDITIONS

### A. ACTION AGAINST THE TRUST

As a condition precedent to action against the **Trust**, the **Participant** shall have fully complied with all the terms of this Coverage Document and the amount of the obligation shall have been finally determined either by judgment after actual trial or by written agreement between the **Participant**, the claimant and the **Trust**. Judgment shall not be deemed final until the **Claim** shall have been finally determined in any appeal prosecuted therefrom. Any person or organization or legal representative thereof having secured such judgment or written agreement, shall be entitled to recover under this Coverage Document to the extent of the coverage afforded hereby. No person or organization shall have the right under this Coverage Document to join the **Trust** as a party to any action against the **Participant** to determine the **Participant's** legal liability, nor shall the **Trust** be impleaded by the **Participant** or by the **Participant's** representative.

If in the event of any dispute or difference arising out of the resolution of any **Claim** under this **Coverage Document** the **Participant** will as a requirement under this Coverage Document engage in an appeal to the **Trust**. The appeal will be made within thirty (30) days of the resolution of the disputed **Claim**. The **Participant** that believes the **Trust**, staff or agents which have by act or omission, breached that **Participant's** contractual rights, must write a letter to the chairman of the **Trust** which is accomplished by mailing notice to:

PACE  
P.O. Box 23879  
Tigard, OR 97281  
Telephone (503) 670-7066 or 1-800-305-1736  
Fax (503) 620-9817

The notice shall specifically detail the facts and circumstances of such breach and requested remedies. At the next scheduled **Trust** meeting or at another time as determined by the **Trust**, the **Trust** will review the matter and may decide whether or not to allow the member to present oral or written comments at a future **Trust** meeting as well as any additional actions which may be taken to remedy the situation.

### B. SUBROGATION

In the event of any payment under this Coverage Document, the **Trust** shall be subrogated to all the **Participant's** rights to recovery thereof against any person or organization and the **Participant** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Participant** shall do nothing after loss to prejudice such rights.

In the event the **Trust** makes any payment under this Coverage Document, the **Trust** will waive its rights of recovery against any person or organization with

whom the **Participant** has:

1. A written contract that is effective and executed prior to the date of an **Occurrence** or **Wrongful Act**, if such contract requires the **Participant** to waive its subrogation, contribution, or indemnity rights; or
2. Performed or received work under a letter of intent, work order, or other letter of understanding provided that the **Participant** can demonstrate that such letter of intent, work order, or other letter of understanding would customarily be reduced to a written contract that requires the **Participant** to waive its subrogation, contribution, or indemnity rights.

#### C. CHANGES

The terms of this Coverage Document shall not be waived or changed, except by an endorsement issued to form a part of this Coverage Document signed by the **Trust's** authorized representative and delivered to the **Named Participant**.

#### D. CANCELLATION

This Coverage Document may be cancelled as follows:

1. By the **Named Participant** by surrender of the **Named Participant's Declarations** to the **Trust** or any of its agents, for any of the following reasons:
  - a. Dissolution of the **Named Participant**.
  - b. Merger of the **Named Participant** with another organization.

Cancellation by the **Named Participant** will not be allowed until the end of the **Coverage Period** except for the above stated reasons, or as approved by the **Trust**.

2. By the **Trust**, in the case of Cancellation for nonpayment of Contribution, in which case Cancellation shall be effective ten (10) calendar days following the date of postmark of such notice unless full payment of all Contribution then due and owing is received by the **Trust** prior to the effective date of Cancellation.
3. By the **Trust** for any of the reasons set forth in ORS 742.702, in which case Cancellation shall be effective on the thirtieth (30th) calendar day following the date of postmark of such notice of Cancellation.
4. Non-renewal of a **Named Participant's** Coverage Document by the **Trust** shall be made by mailing written notice to the **Named Participant** at least ninety (90) calendar days prior to the renewal date.

E. NON-ASSIGNABLE

The interest of the **Participant** under this Coverage Document shall not be assignable.

F. CONTRIBUTION

The Contribution stated in the Coverage Document is subject to audit adjustment. The **Named Participant** agrees to provide anniversary renewal information at least thirty (30) calendar days prior to anniversary or renewal date.

G. CROSS LIABILITY

Except with respect to the **Limits of Liability**, and any rights or duties specifically assigned to the First **Named Participant**, this Coverage Document applies:

1. As if each **Named Participant** were the only **Named Participant**; and
2. Separately to each **Participant** against whom **Claim** is made or **Suit or Action** is brought.

H. COVERAGE PERIOD/TERRITORY

This Coverage Document applies to **Occurrences** and **Wrongful Act(s)** taking place during the **Coverage Period** which take place in the **Coverage Territory**, provided the **Claim** is filed in the United States of America, and the **Damages** awarded are paid in United States of America dollars.

I. GOVERNMENT INSTRUMENTALITY

The issuance of this Coverage Document, and the Coverages (including Additional Coverages) provided thereunder, shall not be deemed a waiver of any statutory defenses and immunities, of any **Participant**, nor of any statutory limits on the monetary amount of liability applicable to any **Participant** were this Coverage Document is not in effect. The **Trust** expressly reserves any and all rights to deny liability by reason of such defenses or immunities, to assert any limitation as to amount of liability provided by law and to assert all defenses as may be applicable as to any **Claim**.

J. LIBERALIZATION CLAUSE

If the **Trust** adopts or files for approval extended or broadened coverage during the Coverage Period, or within forty-five (45) calendar days prior to the inception date of coverage, the **Participants** shall have the benefit of such extended or broadened coverage as though such endorsement or substitution had been made.

K. OTHER COVERAGE OR INSURANCE

If the **Participant** has other applicable, collectible coverage of any kind, including insurance, that applies to the **Claim**, the coverage for **Damages** provided by this Coverage Document shall be excess, and in no event,

contributing coverage, and then only for the amount for **Damages** which would be payable on behalf of the **Participant** under such forms of coverage. In no event, however, shall the liability hereunder exceed the **Limits of Liability** set forth herein.

Notwithstanding the above paragraph in the event that the **Named Participant** has entered into an **Insured Contract** effective and executed prior to the date of an **Occurrence** or **Wrongful Act**, if such contract requires the **Participant** to provide primary coverage in respects to the **Insured Contract** activities this coverage shall be considered primary. However, in no event shall the liability hereunder exceed the **Limit of Liability** set forth herein.

L. **BANKRUPTCY**

Bankruptcy or insolvency of the **Participant** or of the **Participant's** estate will not relieve the **Trust** of its obligation under this Coverage Document.

M. **DUTIES IN THE EVENT OF OCCURRENCE, OFFENSE, WRONGFUL ACT, CLAIM, SUIT OR ACTION**

Notice to the **Trust** is accomplished by sending notice to:

PACE  
P.O. Box 23879  
Tigard, OR 97281  
Telephone (503) 670-7066 or 1-800-305-1736  
Fax (503) 620-9817

1. The **Participant** must see to it that the **Trust** is notified as soon as possible of an **Occurrence** or **Offense** or **Wrongful Act** which may result in a **Claim**. To the extent possible, notice should include:

- a. How, when and where the **Occurrence** or **Offense** or **Wrongful Act** took place;
- b. The names and addresses of any witnesses and injured persons; and
- c. The nature and location of any injury or **Damages** arising out of the **Occurrence** or **Offense** or **Wrongful Act**.

2. If a **Claim** is made against any **Participant**, the **Named Participant** must:

- a. Immediately record the specifics of the **Claim** and the date received;
- b. Notify the **Trust** as soon as possible; and
- c. Notify the **Trust** in writing if the **Named Participant** or any **Participant**:

- (1) Receives written or oral notice from any person or

organization that it is their intent to hold a **Participant** responsible for **Damages**; or

- (2) Becomes aware of any act or omission which may subsequently give rise to a **Claim** being made against a **Participant** for **Damages**.
3. If a **Claim** is brought, the **Participant** and any other involved **Participant** must immediately send the **Trust** copies of any demands, notices, summonses, complaints or legal papers received in connection with the **Claim**.
4. In all cases of **Claim** the **Participant** must:
  - a. Authorize the **Trust** to obtain records and other information;
  - b. Cooperate with the **Trust** in the investigation, settlement or defense of any **Claim**; and
  - c. Assist the **Trust**, upon the **Trust's** request, in the enforcement of any right against any person or organization which may be liable to the **Participant** because of injury or **Damages** to which this Coverage Document may also apply.
5. No **Participant** will, except at their own cost, obtain legal defense counsel, incur legal defense costs, voluntarily make payment, assume any obligation, or incur any expense, other than for first aid, without the **Trust's** written agreement.

#### N. REPRESENTATIONS

By accepting this Coverage Document, for which a Contribution has been made to the **Trust**, the **Named Participant** agrees:

1. The statements in the **Declarations** are accurate and complete;
2. The statements are based upon representations made to the **Trust** in the application for coverage by or on behalf of the **Named Participant**; and
3. The **Trust** issued this Coverage Document in reliance upon such representations.

#### O. DEFENSE COUNCIL PANEL SELECTION

Unless otherwise specifically indicated within this Coverage Document the **Trust** shall select the attorney representing the **Participant** in the event of a **Claim** under this Coverage Document.

P. MEMBERSHIP IN THE OREGON SCHOOL BOARDS ASSOCIATION

It is the express condition for any coverage for any **Named Participant** under this Coverage Document, regardless of whether this Coverage Document has been cancelled by the **Trust** that the **Named Participant** be and remain a member or associate member in good standing of the Oregon School Boards Association with all of its dues fully paid throughout the **Coverage Period**.

Q. SEVERABILITY

If any provision of this Coverage Document shall be rendered illegal or unenforceable by the laws, regulations or public policy of any jurisdiction, such provision shall be considered void in such jurisdiction, but this shall not affect the validity or enforceability of any other provision of this Coverage Document or the enforceability of such provision in any other jurisdiction.

## VII. DEFINITIONS

A. **Administration of Employee Benefits Programs** means:

1. Providing information to **Employees** by the **Named Participant** with respect to the **Employee Benefits Programs**;
2. Handling of records in connection with the **Employee Benefits Programs** by the **Named Participant**;
3. Effecting enrollment, changes, termination or cancellation of **Employees** by the **Named Participant** under the **Employee Benefits Programs**, provided all such acts are authorized by the **Named Participant**.

However, **Administration of Employee Benefits Programs** does not include handling payroll deductions.

- B. **Auto** means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. However, an **Auto** does not include **Mobile Equipment**.
- C. **Automobile Hazard** means **Bodily Injury** or **Property Damage** arising out of the ownership, use (including maintenance or repair), **Loading or Unloading** of any **Auto**.
- D. **Bodily Injury** means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
- E. **Breach of Fiduciary Duty** means the violation of any of the responsibilities, obligations or duties imposed upon fiduciaries by the Employee Retirement Income Security Act of 1974, Public Law 93-406 commonly referred to as the Pension Reform Act of 1974 and amendments thereto, or similar provisions of any Federal, State or Local Statutory Law or Common Law.

- F. **Certified Act of Terrorism** means an 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 of 2002. The federal Terrorism Risk Insurance Act of 2002 sets forth the following criteria for a "certified act of terrorism":
1. The act resulted in aggregate losses in excess of \$5 million; 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 acting on behalf of any foreign person or foreign interest, 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.
- G. **Claim**, whenever used in this Coverage Document, shall mean any information that may give rise to **Damages** covered under this Coverage Document. **Claim** includes but is not limited to service of a notice of **Claim**, service of **Suit or Action** or institution of arbitration proceedings against a **Participant**.
- H. **Corporal Punishment** means the use of force to protect persons or property or, with respect to the **Named Participant's** law enforcement activities or the **Named Participant's** departmentally-approved law enforcement activities of others, to an act of a **Participant** (unless deemed to be a criminal act) within the arrest or incarceration process.
- I. **Coverage Period** means the period of time indicated on the **Declarations** as issued to the **Named Participant**.
- J. **Coverage Territory** means anywhere in the world if the **Participant's** responsibility to pay **Damages** is determined in a civil, arbitration or alternative dispute resolution proceeding brought in the United States of America (including its territories and possessions), Puerto Rico or Canada.
- K. **Damages** means a monetary amount for which a **Participant** is liable under this Coverage Document, but **Damages** do not include:
1. Fines;
  2. Statutory penalties;
  3. Civil penalties under any statute;
  4. That portion of any monetary amount representing double, treble, or other form of multiplied damages;
  5. Civil penalties under Federal or State law;
  6. Punitive damages;
  7. Money or costs which are normal business expenses of the **Named Participant**, such as, but not limited to, repair or maintenance of the

**Named Participant's** property; or

8. Funds improperly collected or retained from any taxpayer or governmental agency by a **Participant** or by any other party that improperly receives funds from any taxpayer or governmental agency due to the negligence of a **Participant**.
- L. **Declarations** means the Liability Declarations page as issued to the **Named Participant** for the current **Coverage Period**.
- M. **Defense Costs** means and is limited to attorney's fees, expert's fees, and normal administrative litigation costs such as court reporter fees, transcript fees, filing fees and reasonable, miscellaneous costs such as postage, communication and photocopies.
- N. **DPSST Certification** means recognition by the Oregon Department of Public Safety Standards that a private security professional meets all qualifications listed in ORS 181.875 and the Oregon Administrative Rules Division 60 for an Armed Security Professional; or a Public Safety Officer who meets all the qualifications listed in OAR 259-008-0060.
- O. **Employee** means a current, former, prospective employee, or one who claims to be, or is deemed by law to be, an employee of the **Named Participant**.
- P. **Employee Benefits Programs** means the following, if established or maintained by or for the **Named Participant**:
  1. Group life insurance, employee assistance programs, group accident or health insurance, investment plans or savings plans, profit sharing plans, pension plans and stock subscription plans, provided that no one other than an **Employee** of the **Named Participant** may subscribe to such insurance or plans; and
  2. Unemployment insurance, social security benefits, workers compensation and disability benefits.
- Q. **Employment Practices** means **Claims for Damages** made by an **Employee**, or their heirs, beneficiaries or legal representatives, as a result of the **Wrongful Acts** of the **Participant** occurring during the **Coverage Period**.
- R. **Federal Claims** means **Claims for Damages** caused by an **Occurrence** and/or **Wrongful Act** pursuant to the following Federal statutes or acts:
  1. 42 U.S.C. § 1983
  2. 42 U.S.C. § 2000(e) et. seq. (Title VII of the Civil Rights Act of 1964)
  3. 29 U.S.C. § 621 et. seq. (Age Discrimination in Employment Act of 1967)
  4. 42 U.S.C. § 12101, et. seq. (The Americans With Disabilities Act)
  5. The Civil Rights Act of 1991
  6. 42 U.S.C. § 1981
  7. 42 U.S.C. § 3601 et. seq. (The Fair Housing Act)



8. 29 U.S.C. § 2601 et. seq. (The Family and Medical Leave Act)
  9. Title VI and IX of the 1972 Educational Amendments (20 U.S.C. § 1681)
  10. 20 U.S.C. § 1400 (The Individuals with Disabilities Education Act)
  11. Section 504 of the 1973 Rehabilitation Act (29 U.S.C. § 704) or any law amendatory thereof.
  12. Copyright Act of 1976 (17 USCA 101)
- S. **Firearms** shall mean a weapon from which a shot is discharged by gun powder or a weapon from which a shot is discharged by pressure of compressed air.
- T. **Fungal Pathogens** means any fungus or mycota or any byproduct or type of infestation produced by such fungus or mycota, including but not limited to, mold, mildew, mycotoxins, spores or any biogenic aerosols.
- U. **Hostile Fire** means one which becomes uncontrollable or breaks out from where it was intended to be contained.
- V. **Incidental Medical Practice** means rendering treatment by a **Participant** as a(n):
1. Emergency medical technician;
  2. Student while participating in activities required to complete nurse training and similar allied health courses, but only while completing course work required by the **Named Participant**;
  3. Volunteer providing first aid;
  4. Physician licensed by the Board of Medical Examiners for the State of Oregon in the physician's volunteer professional capacity as a team physician at a public or private school or college athletic event or as a volunteer physician at other athletic events. Medical care provided by the physician must be done voluntarily, in good faith and without expectation of compensation; or
  5. School nurse.
- W. **Injunctive Relief** means equitable relief sought through the demand for the issuance of a permanent, preliminary or temporary injunction, restraining order, or similar prohibitive writ against, or order for specific performance by, a **Participant** provided such action is filed during the **Coverage Period**.
- X. **Insured Contract** means:
1. A legally enforceable contract that includes one or all of the following:
    - a. A lease of premises as it relates to tort liabilities assumed by the **Named Participant** arising out of the lease, such assumption occurring in writing prior to the date of **Occurrence**;
    - b. A sidetrack agreement;

- c. Any easement or license agreement;
  - d. An obligation, as required by ordinance, to indemnify a **Public Body**;
  - e. An elevator maintenance agreement;
  - f. That part of any other contract or agreement pertaining to the **Named Participant's** operations (including an indemnification of a **Public Body** in connection with work performed by or for a **Public Body**) under which the **Named Participant** assume the tort liability of another person or entity to pay for **Bodily Injury, Property Damage** or **Personal Injury** to a third person or organization, provided the **Bodily Injury, Property Damage** or **Personal Injury** occurs subsequent to the execution of the contract or agreement; and
  - g. Contracts for services with **Public Bodies**.
2. An **Insured Contract** does not include that part of any contract or agreement:
- a. That indemnifies an architect, engineer or surveyor acting as an independent contractor for injury or **Damages** arising out of professional errors or omissions;
  - b. That indemnifies any person or organization for **Damages** by fire to premises rented or loaned to the **Participant**; and
  - c. That involve the purchase or sale of real property or personal property.
- Y. **Limit of Liability** means the Total **Limit of Liability** which is stated in the **Declarations**.
- Z. **Loading or 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, **Auto** or **Mobile Equipment**;
  - 2. While it is in or on an aircraft, watercraft, **Auto** or **Mobile Equipment**; or
  - 3. While it is being moved from an aircraft, watercraft, **Auto** or **Mobile Equipment** 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, **Auto** or **Mobile Equipment**.
- AA. **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 a **Named Participant** owns or rents;
3. Vehicles that travel on crawler treads;
4. Vehicles whether self-propelled or not, with 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. immediately preceding 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. of this section 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:
  - (1) Snow removal;
  - (2) Road maintenance, but not construction or resurfacing; or
  - (3) Street cleaning;
- b. Cherry pickers and similar devices mounted on automobiles or truck chassis and used to raise or lower workers; and
- c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting or well servicing equipment.

AB. **Named Participant** means the organization formed under the laws of the State of Oregon identified as the **Named Participant** in the **Named Participant's Declarations**.

AC. **Nuclear Energy Liability Hazard** means injury, sickness, disease, death or destruction (1) with respects to which a **Participant** under this Coverage

Document is also an insured or **Participant** under a nuclear energy liability insurance policy or coverage document issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured or **Participant** under any such coverage document or policy but for its termination upon exhaustion of its limits of liability; or (2) 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 **Participant** is, or had such policy or coverage document 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; (3) resulting from the hazardous properties of nuclear materials, if (i) the nuclear material is at any nuclear facility owned by, or operated or on behalf of, any **Participant**, or has dispersed therefrom; (ii) 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 a **Participant**, or (iii) the injury, sickness, disease, death or destruction arising out of the furnishing by a **Participant** of services, materials, parts or equipment in connection with 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 part (iii) applies only to injury or destruction of or loss of property of such nuclear facility.

As used in this definition:

1. Hazardous properties means radioactive, toxic or explosive properties;
2. Nuclear material means source material, special nuclear material, or byproduct material;
3. 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;
4. Spent fuel means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;
5. Waste means any waste material (a) containing byproduct material and (b) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof;
6. Nuclear facility means (a) any nuclear reaction, (b) any equipment or device designated or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel or (3) 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 **Participant** 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 or disposal of waste, and includes the site on which any of the foregoing is located, all operation conducted on such site and all premises for such operation;

7. 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. With respect to "injury" or to "destruction" of property, then "injury" or "destruction" includes all form of radioactive contamination of property.

AD. **Occurrence** means:

1. with respect to **Bodily Injury** and **Property Damage**, an accident, including continuous or repeated exposure to substantially the same general harmful conditions;
2. with respect to **Personal Injury**, an **Offense** or series of related **Offenses**;

All **Bodily Injury**, **Property Damage** or **Personal Injury** resulting from continuous or repeated exposure to substantially the same general harmful conditions shall be deemed to have taken place on the date of the initial **Bodily Injury**, **Property Damage** or **Personal Injury** while insured by the **Trust** and all such **Bodily Injury**, **Property Damage** or **Personal Injury** shall be deemed to be a single **Occurrence** regardless of the number or date of the subsequent exposures, including **Bodily Injury**, **Property Damage** or **Personal Injury** taking place over more than one **Coverage Period** while insured by the **Trust**, or persons or property exposed, or resulting **Claims**, and such single **Occurrence** shall be considered under one aggregate, **Limit of Liability** under the **Coverage Period** applicable to the date of the initial **Bodily Injury**, **Property Damage** or **Personal Injury**.

AE. **Offenses** means any of the offenses included in the definition of **Personal Injury**.

AF. **Participant** means:

1. The **Named Participant** and each of the following while acting within the course and scope of their duties as such:
  - a. Members of the Board;
  - b. Executive Officers;
  - c. **Employees**;
  - d. Volunteers and Agents;
  - e. Registered Students whose course study includes on-the-job training, but only while acting under directions and within the scope of their activities performed while in training;

- f. Student Organizations, Parent Teacher Organizations, Booster Clubs and Foundations under the jurisdiction and supervision of the governing board; and
- g. Any person, entity or any organization the **Named Participant** is required by an **Insured Contract** to include as a **Participant**. This coverage will be limited to the extent of coverage and **Limits of Liability** required by the **Insured Contract** and will not increase the limits stated in SECTION V. – LIMITS OF LIABILITY or alter any of the terms of coverage stated in this Coverage Document. The **Insured Contract** must be effective and executed prior to a covered **Occurrence** or **Wrongful Act**. In no event shall coverage under this Coverage Document extend to any party for any **Claim** however or whenever asserted, arising out of such party's sole negligence.
  - (1) The term "Additional Insured" if used in an **Insured Contract** shall be understood to mean the same as **Additional Participant**.

2. With respect to:

**Mobile Equipment** or any **Auto**, any person is a **Participant** while driving such **Auto** or **Mobile Equipment** with a **Named Participant's** permission. Any person, entity, or organization responsible for the conduct of such person is also a **Participant**, but only with respect to **Bodily Injury** or **Property Damage** arising out of the operation of the **Auto** or **Mobile Equipment**.

However, the owner or anyone else from whom a **Named Participant** hires or borrows an **Auto** is a **Participant** only if that **Auto** is a trailer connected to an **Auto** a **Named Participant** owns.

However, no person, entity, or organization is a **Participant** under this paragraph 2. with respect to:

- a. **Property Damage** to property owned by a **Named Participant** or the employer of any person who is a **Participant** under this provision;
- b. Any **Auto** a **Named Participant** hires or borrows from one of a **Named Participant's Employees**, volunteers or members of their households, if they are the owner of such **Auto**, unless acting within the scope of their duties on a **Named Participant's** behalf;
- c. Any **Auto** being used by a person employed in the business of selling, servicing, repairing, or parking **Autos** unless they are a **Named Participant's Employees**; or

- d. The movement of property to or from an **Auto** except a **Named Participant**, a **Named Participant's Employees**, lessees or borrowers of such **Auto**, and any employee of the lessees or borrowers.

AG. **Personal Injury** means injury, other than **Bodily Injury** arising out of one or more of the following **Offenses**:

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 by or on behalf of its owner, landlord or lessor;
4. Oral or written publication 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 of material that violates a person's right of privacy.

**Written publication** includes but is not limited to materials placed or distributed via the internet, electronic chatrooms, bulletin boards, web-sites, email or other similar electronic means of communication.

AH. **Pollutants** means 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.

AI. **Property Damage**:

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 of use shall be deemed to occur at the time of the **Occurrence** that caused it.

AJ. **Public Body** means the State or any political subdivision, school district, community college, municipality, education service district, charter school, public corporation or agency as defined in Oregon Revised Statutes 30.260(4).

AK. **Sexual Molestation** means the actual, attempted or alleged unlawful sexual contact of a person, by another person, or persons acting in concert

AL. **Suit or Action** means a civil proceeding in which **Damages** to which this

Coverage Document applies are alleged. **Suit or Action** also includes an arbitration proceeding in which such **Damages** are claimed and to which the **Participant** must submit or does submit with our consent, or any other alternative dispute resolution proceeding in which such **Damages** are claimed and to which the **Participant** submits with the **Trust's** consent.

- AM. **Tort** is defined by ORS 30.260(8) and means the breach of a legal duty that is imposed by law, other than a duty arising from contract or quasi-contract, the breach of which results in injury to a specific person or persons for which the law provides a civil right of action for **Damages** or for a protective remedy.
- AN. **Trust** means the OSBA Property and Casualty Coverage for Education Trust.
- AO. **Unmanned Aircraft System** means an unmanned aircraft and all the associated support equipment, control station, data links, telemetry, communications and navigation equipment necessary for the pilot-in-command together with his or her crewmembers and visual observers to operate the unmanned aircraft
- AO. **Wrongful Acts** means an actual or alleged error, misstatement or misleading statement; an act of omission or neglect, negligence or breach of duty, including misfeasance and nonfeasance by a **Participant** rendered in the discharge of their duties. **Wrongful act** shall also include such acts in the administration of **Employee benefits programs** and **wrongful acts** arising out of **Employment Practices**.



## PERSONAL INJURY PROTECTION SUPPLEMENTAL COVERAGE

Defined terms appear in boldface type.

For a **covered auto** licensed or principally garaged in Oregon, this Supplemental Coverage Document modifies coverage provided under the Coverage Document.

### SCHEDULE

<b>Benefits – No deductible except as indicated below</b>	<b>Limit Per Person</b>
Medical and hospital expenses – aggregate per person incurred within one year from date of accident.	\$15,000
Income continuation expenses – 70% of income loss not to exceed:	\$1,250 per month for 52 weeks, subject to a 14 day waiting period
Loss of services expenses – Maximum of:	\$30 per day for 52 weeks, subject to a 14 day waiting period
Funeral expenses	\$5,000 limit for expenses incurred within one year from date of accident
Child care expenses – applicable to an injured person requiring hospitalization for more than 24 hours who is a parent of a minor child.	\$25 per day subject to \$750 maximum.
Special coverage for students while passengers on a school bus, as defined and limited under Exclusions, Paragraph 6.	\$5,000 per student

#### A. COVERAGE

The **Trust** will pay Personal Injury Protection benefits to a **Covered Individual** who sustains **bodily injury** in an **accident** arising out of the ownership, maintenance or use of a **covered auto**. Subject to the Limit Per Person shown in the SCHEDULE, these Personal Injury Protection Benefits consist of the following:

1. Medical and hospital expenses are all reasonable and necessary expenses incurred within one year from the date of the **accident** for medical, hospital, dental, surgical, ambulance and prosthetic services.
2. Income continuation expenses are 70% of the **Covered Individual's** loss of income from work during a period of disability caused by **bodily injury** sustained by such person in the **accident**; provided that:
  - a. Such a person was usually engaged in a paying occupation at the time of the **accident**;

- b. The period of such disability continues for at least 14 consecutive days; and
  - c. Income continuation expenses shall include only expenses for loss of income incurred from the date such disability commenced to the date on which such person is able to return to his usual occupation and is subject to a maximum payment period in the aggregate of 52 weeks.
3. Loss of services expenses are expenses reasonably incurred during a period of disability caused by **bodily injury** sustained by a **Covered Individual** in the **accident** for essential services in lieu of those such person would have performed without income; provided that:
- a. Such person was not usually engaged in a paying occupation at the time of the **accident**;
  - b. The period of such disability continues at least 14 consecutive days; and
  - c. Loss of services expenses shall include only expense for such services actually rendered from the date such disability commenced to the date on which such person is reasonably able to perform such services and is subject to a maximum payment period in the aggregate of 52 weeks.

However, loss of services expenses shall not include child care expenses.

4. Funeral expenses are reasonable and necessary expenses for professional funeral services incurred within one year after the date of the **accident**.
5. Child care expenses are expenses reasonably incurred for the care of a minor child of a **Covered Individual** who has sustained **bodily injury** in the **accident**, provided:
- a. The **Covered Individual** is the parent of the minor child and is required to be hospitalized for a minimum of 24 hours;
  - b. Payments begin after the initial 24 hours of hospitalization and are made for as long as the **Covered Individual** is unable to return to work if he or she is usually engaged in a paying occupation. If such person was not usually engaged in a paying occupation at the time of the **accident**, then payment will continue for as long as he or she is unable to perform essential services that he or she would have performed without income; and
  - c. Child care expenses are subject to a maximum payment period in the aggregate of 30 days.

## B. EXCLUSIONS

The **Trust** will not pay Personal Injury Protection benefits for **bodily injury**:

1. Sustained by any person:
  - a. Who intentionally causes injury to himself or herself; or
  - b. While participating in any prearranged or organized racing or speed content or in practice or preparation for any such contest.
2. That results in the application of income continuation expenses and loss of services expenses, sustained by any **pedestrian** other than the **Participant** in an **accident** which occurs outside the State of Oregon.
3. 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.
4. Resulting from the radioactive, toxic, explosive or other hazardous properties of nuclear material.
5. Sustained by the **Covered Individual** while **occupying a covered auto** owned or furnished for the **Participant's** regular use and not insured for Oregon Personal Injury Protection Benefits, including a motorcycle or moped as defined in Oregon Statutes.
6. Sustained by a student while a passenger in a school bus or van being operated by a **Participant**.

This coverage will, however, provide up to \$5,000 in aggregate per student for medical or hospital expenses incurred within one year of the accident date. This coverage is excess to any other valid Auto Personal Injury Protection (APIP) coverage or health insurance coverage otherwise available to the student, and will apply only after such coverage is exhausted. In no event will this coverage be primary unless there is no valid APIP coverage or health insurance coverage available to the student. All other elements of the Coverage Document remain unchanged.

## C. LIMIT OF COVERAGE

1. Regardless of the number of **Covered Individuals**, policies or bonds applicable, **claims** made, Contributions paid or **covered autos** to which this coverage applies, the most the **Trust** will pay for Personal Injury Protection benefits for **bodily injury** sustained by any one **Covered Individual** in any one **auto accident** is the Limit Per Person amount shown in the SCHEDULE.
2. Any amount paid under this coverage will be reduced by any amount paid or payable by any workers' compensation or any other similar medical or disability benefits law (excluding Medicare).
3. Any amount paid under this coverage to a **Covered Individual** will reduce any

amount the **Covered Individual** may be entitled to recover for the same **damages** under any applicable liability coverage, other than Uninsured/Underinsured Motorists Bodily Injury Coverage, provided by the Coverage Document.

4. Any amount payable under this coverage to the **Covered Individual** will reduce any amount payable for **damages** under the Uninsured/Underinsured Motorists Bodily Injury Coverage provided by the Coverage Document.

#### D. CHANGES IN CONDITIONS

CONDITIONS in the Coverage Document are changed for PERSONAL INJURY PROTECTION as follows:

1. The following is added to DUTIES IN THE EVENT OF **OCCURRENCE, OFFENSE, WRONGFUL ACT, CLAIM, SUIT OR ACTION**:
  - a. If a **Covered Individual** or his or her legal representative institutes legal action for **damages** for **bodily injury**, he or she must promptly give the **Trust** a copy of the summons and complaint or other process served in connection with the legal action.
  - b. The **Covered Individual** or someone on his or her behalf must give the **Trust** written proof of **claim**, under oath if required, including:
    - (1) Full particulars of the nature and extent of the **bodily injury**, treatment and rehabilitation received and contemplated; and
    - (2) Such other information that will help the **Trust** determine the amount due and payable.
  - c. The **Covered Individual** or his or her legal representative shall give the **Trust** authorization, each time requested, to obtain medical reports, copies of records and information with respect to loss of income.
  - d. The **Trust** may require that the **Covered Individual**, as a condition for receiving income continuation expenses, cooperate in furnishing the **Trust** reasonable medical proof of his or her inability to work.

The following CONDITIONS are added to the Coverage Document:

#### 2. Reimbursement and Trust

In the event of payment to any person or any benefits under this Endorsement:

- a. The **Trust** shall be entitled to reimbursement or subrogation in accordance with the provisions of ORS 743.825, ORS 743.830 or Section 8 of Chapter 784 Laws 1975.
- b. The **Trust** is entitled to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of the **Covered Individual** against any person or organization legally responsible for the

**accident**, to the extent benefits were paid, less the **Trust's** share of expenses, costs and attorney's fees incurred by the **Covered Individual** in connection with such recovery.

- c. The **Covered Individual** shall hold in trust for the benefit of the **Trust** all his or her rights of recovery to the extent of benefits furnished.
- d. The **Covered Individual** shall do whatever is proper to secure and shall do nothing after loss to prejudice such rights.
- e. If the **Trust** requests in writing, the **Covered Individual** shall take, through any representative not in conflict of interest with him or her, designated by the **Trust**, such action as may be necessary or appropriate to recover such benefits furnished as **damages** from the person or organization legally responsible, such action to be taken in the name of the **Covered Individual**, but only to the extent of benefits furnished by the **Trust**. In the event of recovery, the **Trust** shall also be reimbursed out of such recovery, for the **Covered Individual's** share of expenses, costs and attorney's fees incurred by the **Trust** in connection with the recovery.
- f. The **Covered Individual** shall execute and deliver to the **Trust** such instructions and papers as may be appropriate to secure the rights and obligations of the **Covered Individual** and the **Trust** as established by this provision.

### 3. Arbitration

- a. If the **Trust** and a **Covered Individual** disagree whether the **Covered Individual** is legally entitled to recover Personal Injury Protection benefits, or do not agree as to the amount payable under this coverage, then the matter shall be arbitrated. However, if the requirements for bringing an action in the small claims department of a justice or district court are met, in accordance with the Oregon Revised Statutes, the **Covered Individual** may elect to file such an action rather than submit the **claim** to arbitration.

In the event of arbitration, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree on the choice of the third arbitrator within 30 days, either may request that selection be made by a judge of a court of record in the county and state in which such arbitration is pending. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally. Costs to the **Covered Individual** of the arbitration proceedings shall not exceed \$100, and all other costs of arbitration shall be borne by the **Trust**. However, attorney's fees and fees paid to medical or other expert witnesses are not arbitration expenses, and are to be paid by the party incurring them.

- b. Unless both parties agree otherwise, arbitration will take place in the county in which the **Covered Individual** 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.

#### 4. Coordination and Non-duplication

Any automobile medical payments coverage afforded under this Coverage Document is excess over any medical expense benefits paid or payable under this Endorsement or any other insurance policy covering **bodily injury** to the **Covered Individual**.

#### 5. Evaluation Services

Upon request of and at the expense of the Trust, the Covered Individual shall submit to **Evaluation Services** by physicians or other medical professionals selected by the Trust and shall, upon each request from the Trust, execute authorization to enable the Trust to obtain medical reports and copies of records.

### E. ADDITIONAL DEFINITIONS

The following DEFINITIONS are specific to this Supplemental Coverage Document and will be in addition to and may modify or even supersede definitions in the Document.

1. **Accident** includes continuous or repeated exposure to the same conditions resulting in **bodily injury**.
2. **Auto** means a self-propelled land motor vehicle or trailer, other than:
  - a. A farm type tractor or other self-propelled equipment designed for use principally off public roads, while not upon public roads;
  - b. A vehicle operated on rails or crawler-treads; or
  - c. A vehicle located for use as a residence or premises
3. **Covered auto** means a **private passenger auto** to which the **bodily injury** liability coverage of the Coverage Document applies and for which a specific automobile liability premium is charged.
4. **Covered Individual** means:
  - a. **Named Participant** and/or any other **Participant**
  - b. Any other person who sustains a **bodily injury** while **occupying** or using a **covered auto** with the permission of the **Named Participant**, or while a **pedestrian** through being struck by a **covered auto**.
5. **Evaluation Services** means physical examinations and/or reviews of medical records of Covered Individuals conducted at the request of the Trust by a third-party physician, medical professional, record or bill review service to determine whether the provision or continuation of medical services is necessary or reasonable.
6. **Occupying** means in or upon or entering into or alighting from.

7. **Pedestrian** means any person while not **occupying** a self-propelled vehicle other than a wheelchair or a similar low-powered motorized or mechanically propelled vehicle that is designed specifically for use by a physically disabled person who has a medical necessity for a wheelchair or other low-powered vehicle.
  
8. **Private passenger auto** means a four-wheel passenger or station wagon type **auto** not used as a public or livery conveyance and includes any other four-wheel **auto** of the utility, pickup body, sedan, delivery or panel truck type not used for wholesale or retail delivery other than farming, a self-propelled mobile home and a farm truck.

# Uninsured/Underinsured Motorist Bodily Injury Supplemental Coverage

This Uninsured/Underinsured Motorist Bodily Injury Supplemental Coverage is added to the PACE Liability Coverage Document for **Named Participants** that purchase Automobile Liability Coverage. This Supplemental Coverage is subject to all of the limits of liability, terms and conditions and exclusions (not in conflict herewith) of the PACE Liability Coverage Document.

## COVERAGE:

This Supplemental Coverage provides coverage for **damages** arising out of an **automobile hazard** for **auto Uninsured/Underinsured Motorist Bodily Injury Coverage** as provided herein:

1. **Auto “Uninsured/Underinsured Motorist Bodily Injury Coverage”** means that coverage as required by ORS 278.215 (2), ORS 742.500 to ORS 742.504, and as modified by ORS 278.215 (3).
2. We will pay damages which a **Participant** is legally entitled to recover from the owner or operator of an **uninsured motor vehicle** or **underinsured motor vehicle** because of **bodily injury**:
  - A. Sustained by a **Participant**;
  - B. While a permissive user of a **covered auto**; or
  - C. While the **Participant** was operating any other **auto** with the permission of and within the course and scope of the **Participant’s** employment with the governmental entity that is covered under this supplemental coverage; and
  - D. Caused by an **automobile hazard**.

The owner’s or operator’s liability for these damages must arise out of the ownership, maintenance or use of the **uninsured motor vehicle** or **underinsured motor vehicle**.

3. Determination as to whether the **Participant** is legally entitled to recover damages and if so the amount of the damages shall be made by agreement between the **Participant** and the **Trust**, or in the event of disagreement, may be made by arbitration. Written demand for arbitration must be made within two (2) years from the date of the accident.
4. The parties to this coverage agree that no cause of action shall accrue to the **Participant** to recover damages under this coverage unless within two (2) years from the date of the accident:
  - A. Agreement as to the coverage status of the **uninsured motor vehicle** or the amount due under the **underinsured motor vehicle’s** policy has not been concluded;



- B. The **Participant** or the **Trust** has formally instituted arbitration proceedings;
  - C. The **Participant** has filed an action against the **Trust**; or
  - D. Suit for **bodily injury** has been filed against the underinsured motorist and, within two (2) years from the date of settlement or final judgment against the underinsured motorist the **Participant** has formally instituted arbitration proceedings or filed an action against the **Trust**.
5. Any judgment for **damages** arising out of any **suit** brought against any person or organization alleged to be legally responsible for the **Participant's bodily injury** is not binding on the **Trust**.
6. This coverage does not apply with respect to underinsured motorists benefits unless:
- A. The limits of liability under any bodily injury liability policies applicable at the time of the accident regarding the injured person have been exhausted by payment of judgments or settlements to the injured person or other injured persons;
  - B. The described limits of the **underinsured motor vehicle's** policy have been offered in settlement, the **Trust** has refused consent and the **Participant** protects the **Trust's** right of subrogation to the claim against tortfeasor;
  - C. The **Participant** gives credit to the **Trust** for the unrealized portion of the described liability limits as if the full limits had been received:
    - i. if less than the described limits have been offered in settlement, and
    - ii. the **Trust** has consented; or
  - D. The **Participant** gives credit to the **Trust** for the unrealized portion of the described liability limits as if the full limits had been received:
    - i. if less than the described limits have been offered in settlement, and
    - ii. the **Trust** has refused consent, and
    - ii. the **Participant** protects the **Trust's** right of subrogation to the claim against the tortfeasor.
7. In the event of payment to any **Participant** under this coverage document:
- A. The **Trust** shall be entitled to the extent of the payment to the proceeds of any settlement or judgment that may result for the exercise of any rights of recovery of the **Participant** against any uninsured motorist legally responsible for the bodily injury because of which payment is made;
  - B. The **Participant** shall hold in trust for the benefit of the **Trust** all rights of recovery that the **Participant** shall have against such other uninsured person or organization because of the damages that are the subject of any claim made under

this coverage document but only to the extent that any claim was made or paid herein and only to the extent of the actual payment made by the **Trust**.

- C. The **Participant** shall do whatever is proper to secure and shall do nothing after loss to prejudice such rights of the **Trust**.
8. “**Underinsured motor vehicle**”: means an **auto** to which a bodily injury liability policy applies at the time of the accident and its limit for **bodily injury** liability is either:
- A. less than the limit of liability for this coverage; or
  - B. exhausted by payments to others injured in the accident to an amount which is less than the limit of liability for this coverage.

However, “**underinsured motor vehicle**” does not include any vehicle or equipment;

- C. Which is an **uninsured motor vehicle**.
  - D. Owned by you or furnished or available for the regular use of you or any **family member**, except a **stolen vehicle**.
  - E. Owned by any governmental unit or agency.
  - F. Operated on rails or crawler heads.
  - G. Designed mainly for use off public roads while not upon public roads.
  - H. While located for use as a residence or premises.
9. “**Uninsured motor vehicle**” means an **auto**:
- A. To which there is no collectible bodily injury liability insurance applicable at the time of the accident.
  - B. To which a bodily injury liability policy applies at the time of the accident if its limit for bodily injury liability is less than the **minimum limits** for bodily injury liability or death under ORS 806.070.
  - C. To which the **Participant** and the **Trust**, after reasonable efforts, fail to discover within 90 days from the date of the accident, the existence of a valid and collectible automobile liability policy applicable at the time of the accident.
  - D. To which a bodily injury liability policy applies at the time of the accident, but the insuring company:
    - i. denies coverage; or
    - ii. within two years of the date of the accident:
      - a. becomes voluntarily or involuntarily bankrupt; or

- b. is placed in receivership; or
  - c. becomes insolvent.
- E. That is a **stolen vehicle**.
  - F. That is a **phantom vehicle**.
  - G. That is a **hit-and-run vehicle**.

However, “**uninsured motor vehicle**” does not include any vehicle or equipment:

- H. That is insured unless the vehicle is a **stolen vehicle**.
- I. Owned by you or furnished or available for the regular use of you or any **family member**.
- J. Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer which is or becomes insolvent.
- K. Owned by any governmental unit or agency.
- L. Operated on rails or crawler treads.
- M. Designed mainly for use off public roads while not upon public roads.
- N. While located for use as a residence or premises and not as a vehicle.

## EXCLUSIONS

1. The **Trust** does not provided **Uninsured/Underinsured Motorists Bodily Injury Coverage** for **bodily injury** sustained by any **Participant**:
  - A. If that **Participant** or the legal representative settles the **bodily injury** claim or prosecutes to judgment any **action** or **suit** against any person or organization who may be legally liable therefore without the **Trust’s** written consent. However, this exclusion (1.A.) does not apply to claims against the owner or operator of an **underinsured motor vehicle**.
  - B. While using a vehicle without the express or implied permission of the owner or other person having lawful possession of the vehicle or for using the vehicle beyond the scope of the permission granted.
2. **Uninsured/Underinsured Motorists Bodily Injury Coverage** shall not apply directly or indirectly to benefit any insurer or self insurer under any of the following or similar law:
  - A. Workers’ compensation law; or
  - B. Disability benefits law.

3. The **Trust** does not provide **Uninsured/Underinsured Motorists Bodily Injury Coverage** for **Punitive or exemplary damages**.
4. **Uninsured/Underinsured Motorists Bodily Injury Coverage** shall apply only to accidents that occur on and after the effective date of the coverage document, during the coverage period and within the United States of America, its territories or possessions, or Canada.

## LIMIT OF LIABILITY

1. The limit of liability shown in the Declarations for Uninsured/Underinsured Motorists Coverage is our maximum limit of liability for all damages, including damages for care and loss of services (including loss of consortium and wrongful death), arising out of **bodily injury** sustained by any person(s) in any one auto accident.
2. The limit of liability shall be reduced by all sums paid because of the **bodily injury** by or on behalf of persons or organizations that may be legally responsible. This includes all sums paid to a **Uninsured/Underinsured Motorists Bodily Injury Coverage** claimant for **bodily injury** under any liability coverage provided by this supplemental coverage.
3. Payment by the **Trust** of personal injury protection benefits for a **Participant** shall be applied in reduction of the amount of **damages** that the **Participant** may be entitled to recover from the **Trust** under **Uninsured/Underinsured Motorist Bodily Injury Coverage** for the same accident but may not be applied in reduction of the **Uninsured/Underinsured Motorist Bodily Injury Coverage** policy limits.
4. No one will be entitled to receive duplicate payments for the same elements of loss under this coverage and:
  - A. The liability coverage provided by the PACE Liability Coverage Document; or
  - B. Personal injury protection coverage, if any, provided by the PACE Liability Coverage Document.
5. The **Trust** will not make a duplicate payment under this coverage for any element of loss for which payment has been made by or on behalf of persons or organizations who may be legally responsible.
6. The **Trust** will not pay for any element of loss if a person is entitled to receive payment for the same element of loss under any of the following or similar law:
  - A. Workers' Compensation law; or
  - B. Disability benefits or occupational disease laws.
7. The limit of liability for **Uninsured/Underinsured Motorist Bodily Injury Coverage** shown in the **Declarations** for the **auto** involved in the accident shall be reduced by the sum of the limits of liability under all **bodily injury** liability policies (other than this policy) applicable at the time of the accident.
8. If the **Participant** has entered into a settlement for less than the limit applicable to all

liability bonds or policies for **bodily injury** the damages shall be further reduced by the difference between that limit and the amount paid by the persons or organizations who may be legally responsible and by the amount paid by the insurers of the persons or organizations who may be legally responsible.

## **OTHER COVERAGE**

Pursuant to ORS 278.215 (3) this coverage shall be excess over any other collateral benefits to which an injured person is entitled, including, but not limited to, other uninsured motorist coverage, insurance benefits, governmental benefits or gratuitous benefits.

## **ARBITRATION**

1. If the **Trust** and the **Participant** do not agree:

- A. Whether the **Participant** is legally entitled to recover damages, or
- B. As to the amount of damages which are recoverable by that **Participant**:

From the owner or operator of an **uninsured motor vehicle** or **underinsured motor vehicle** then the matter may be arbitrated. However, disputes concerning coverage under Additional Coverage E may not be arbitrated.

Both parties must agree to arbitration. If so agreed, each party will select an arbitrator. The two arbitrators shall select a third. If the arbitrators selected by the parties cannot agree on the third arbitrator then either may request that selection be made by a judge of a court of record having jurisdiction.

2. Each party will:

- A. Pay the expenses it incurs; and
- B. Bear the expenses of appointing the arbitrator equally.

3. Unless both parties agree otherwise, arbitration will take place in either of the following, at the election of the **Participant**:

- A. The county and state where the **Participant** resides; or
- B. The county and state where the **Participant's** cause of action against the operator or owner of the **uninsured motor vehicle** or **underinsured vehicle** arose.

4. The **Trust** will reimburse to a **Participant** any costs of arbitration over \$100.00. Costs will not include attorney fees or expenses incurred in the production of evidence or witnesses, the cost of taking depositions or the making of transcripts.

5. Local rules of law as to procedure and evidence will apply. A decision agreed to by the arbitrator will be binding.

## ADDITIONAL DUTIES AFTER AN ACCIDENT OR LOSS

1. If the accident was caused by a **hit-and-run vehicle** the **Participant** or the legal representative of the **Participant** must:
  - A. Report the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation or to the equivalent department in the state where the accident occurred;
  - B. At the **Trust's** request, make available for inspection the vehicle the **Participant** was occupying at the time of the accident; and
  - C. File with the **Trust**, within 30 days after the accident, a statement under oath that the **Participant** or the legal representative of the **Participant** has a cause or causes of action arising out of the accident for damages against a person or persons whose identities are unascertainable, and setting forth the facts in support thereof.
2. If the accident was caused by a **phantom vehicle** the **Participant** or the legal representative of the **Participant** must:
  - A. Report the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation or to the equivalent department in the state where the accident occurred;
  - B. File with the **Trust**, within 30 days after the accident, a statement under oath that the **Participant** or the legal representative of the **Participant** has a cause or causes of action arising out of the accident for damages against a person or persons whose identities are unascertainable, and setting forth the facts in support thereof; and
  - C. Corroborate the facts of the accident by competent evidence other than the testimony of any person having an uninsured motorists claim resulting from an accident.
3. If the **uninsured motor vehicle** is a **stolen vehicle**, the **Participant** or someone on behalf of the **Participant** must:
  - A. Report the accident within 72 hours to a police, peace or judicial officer, to the Department of Transportation or to the equivalent department in the state where the accident occurred;
  - B. Cooperate with the appropriate law enforcement agency in the prosecution of the theft of the vehicle.
4. As soon practicable, the **Participant** shall give the **Trust** written proof of claim, under oath if required, including the full particulars of the nature and extent of the injuries, treatment and other details entering into the determination of the amount payable under

the coverage agreement.

5. The **Participant** shall submit to examinations under oath by any person named by the **Trust** and subscribe the same, as often as may reasonably be required.
6. Upon reasonable request of and at the expense of the **Trust**, the **Participant** shall submit to physical examinations by physicians selected by the **Trust** and shall, upon each request from the **Trust**, execute authorization to enable the **Trust** to obtain medical reports and copies of records.
7. A person seeking **Uninsured/Underinsured Motorist Bodily Injury Coverage**, or someone on that person's behalf, must also promptly provide the **Trust** copies of the legal papers if a suit is brought.
8. A person seeking **Underinsured Motorists Bodily Injury Coverage** must promptly notify the **Trust** in writing of tentative settlement between the **Participant** and the insurer of the **underinsured motor vehicle** and allow the **Trust** 30 days to advance payment to that **Participant** in an amount equal to the tentative settlement to preserve the **Trust's** rights against the insurer, owner or operator of such **uninsured motor vehicle**. An advance payment shall not be deemed a payment of a settlement for purposes of any time limitations under this coverage.
9. No action or suit shall lie against the **Trust** unless, as a condition precedent thereto, the **Participant** or the legal representative of the **Participant** has fully complied with all the terms of this coverage document.

## DEFINITIONS

The following DEFINITIONS are specific to this Supplemental Coverage and will be in addition to and may modify or even supersede definitions in the PACE Liability Coverage Document.

1. **"Auto"** means a land motor vehicle designed for travel on public roads, including any attached machinery or equipment. However, an **auto** does not include trailers or **mobile equipment**.

This definition of "auto" supersedes the definition of auto contained in the PACE Liability Coverage Document.

2. **"Covered auto"** means:
  - A. Any **auto** to which the **bodily injury** liability coverage of the PACE Liability Coverage Document applies and for which a specific automobile liability premium is charged.
  - B. Any **auto** owned by the **Named Participant**.
3. **"Declarations"** means the Liability Declarations page as issued to the **Named Participant** for the current coverage period.
4. **"Family member"** means a person related to you by blood, marriage, civil union, domestic partnership or adoption who is a resident of your household. This includes a

ward or foster child who is a resident of your household.

5. **“Hit-and-run vehicle”** means a vehicle whose operator or owner cannot be identified and which causes **bodily injury** to a **Participant** arising out of physical contact of the vehicle with the **Participant** or with a **covered auto** the **Participant** was occupying at the time of the accident.
6. **“Occupying”** means in; upon; or getting in, on, out or off.
7. **“Participant”** means, in addition to the definition of **Participant** contained in the PACE Liability Coverage Document, any other person while occupying a **covered auto** provided the actual use thereof is with the permission of the **Named Participant**.
8. **“Phantom vehicle”** means a vehicle that causes **bodily injury** to a **Participant** arising out of a motor vehicle accident that is caused by a vehicle that has no physical contact with the **Participant** or the **auto** the **Participant** is occupying at the time of the accident and the identity of either the operator or the owner of the **phantom vehicle** cannot be ascertained.
9. **“Punitive or exemplary damages”** include damages which are awarded to punish or deter wrongful conduct, to set an example, to fine, penalize or impose a statutory penalty, and damages which are awarded for any purpose other than as compensatory damages for **bodily injury** or **property damage**.
10. **“Stolen vehicle”** means an insured vehicle that causes **bodily injury** to the **Participant** arising out of a motor vehicle accident if the vehicle is operated without the consent of the insured and the operator of the vehicle does not have collectible motor vehicle bodily injury liability insurance.