

PROPERTY

The TAC Risk Management Pool's Property coverage provides Members with *blanket replacement* coverage for physical damage to county-owned buildings and contents such as fire, lightning, flood, and hail damage.

Benefits:

- Blanket Limit Coverage
- Replacement Cost Value
- Property Appraisals – No cost to the County
- No Co-insurance Penalty
- No Separate Windstorm/Hail deductible
- No additional contributions for mid-year additions/deletions

Optional Increased Limits:

- Accounts Receivables
- Valuable Papers, Records
- Gross Earnings and Extra Expense
- Loss of Rents
- Property in the Course of Construction
- Equipment Breakdown
- Crime



Property Program Highlights:

- **All Risk coverage** is provided, subject to exclusions and conditions.
- **Unmanned Aircraft (Drones)** coverage can be endorsed per scheduled unmanned aircraft at actual cash value – Replacement Cost if less than two years old. *Coverage Available 7/1/2016*
- **Mobile Equipment** coverage – at actual cash value – Replacement Cost if less than two years old.



- **EDP (Electronic Data Processing)** Equipment and Mobile Voting EDP Equipment coverage.
- **Personal Property** (Contents) is covered anywhere within the Coverage Document Territory.
- **Values** reported for covered property must be at 100 percent replacement cost.
- **Flood and Earthquake** coverage is automatically included – at no additional cost. Please refer to the sample Coverage Document for applicable sub-limits, terms and conditions, including specific Deductible terms and limitations for property located in Special Hazard Zones for Flood.
- **Equipment Breakdown** coverage (formerly known as Boiler and Machinery) is automatically included – at no additional cost. State required Boiler Inspection Certificates are provided as a service. Limit of Liability for all loss or damage to covered property from any 'One Breakdown' is \$25,000,000 - please refer to the sample Coverage Document for applicable sub-limits within this limit, as well as applicable terms and conditions.
- **Crime** coverage includes a sub-limit of \$100,000 per occurrence and carries a \$1,000 deductible for Public Employee Dishonesty, Forgery, Theft, Disappearance and Destruction, Robbery and Safe Burglary, Counterfeit Currency, Computer Fraud and Funds Transfer Fraud. Increased Limits are available.
- **Watercraft** 27' or less in length are automatically included – at no additional cost. Limit \$250,000 for any one watercraft; \$1,500,000 aggregate any one occurrence.
- **Animal Mortality and Theft** and for Loss of Use is automatically included – at no additional cost. Limit is \$30,000 per animal. No scheduling is required. Coverage applies to dogs and horses owned by the Member and used in the service of a Law Enforcement Agency or Department of the Member. Coverage ceases at the age of eight years.
- Other **Additional Coverage** is included. Please refer to the sample Contract Declaration for applicable sub-limits and the sample Coverage Document for coverage provided.

PROPERTY APPRAISAL SERVICES

Through its property appraisal program, TAC RMP is helping Members to ensure they are adequately covered at 100 percent of replacement cost. TAC RMP has partnered with American Appraisal Associates, Inc. for its property and contents valuation services. American Appraisal is a leader in the valuation field and offers industry expertise, extensive experience serving large public entities and advanced online technology.



WILLIAMSON COUNTY

Accurate and current building values are an extremely important component of a property program and ensure that all Members are contributing based on the same valuation method. Inflated insurable values can result in excessive contributions, while having inadequate coverage can be disastrous if a loss occurs. Accurate building values facilitate appropriate allocation of contributions and can serve as a basis of proof-of-loss, if required.

Property coverage benefits include a comprehensive property appraisal for all first year property Members. Building values are then updated annually with physical inspections conducted every four years. This invaluable service is made available at no cost to Members in the Property Program. A full-scope appraisal provides the most accurate data and involves on-site inspection of each building including:

- Construction, Occupancy, Protection and Exposure (COPE) data
- Square footage, building shape and perimeter
- Components of construction (structure, walls, roof, etc.)
- Major mechanical systems (electrical, plumbing, HVAC, security, etc.)
- Additional building features and site-specific factors
- Quality of construction
- Photographic building documentation
- Major components of construction

HISTORICAL VALUATION

In many communities, the county courthouse is a treasured historical icon. The cost to reproduce a historic county buildings with similar, quality materials and original construction methods is substantially higher than replacement cost. TAC RMP offers Property Members the option of having historic buildings appraised for historical-reproduction costs.



GENERAL LIABILITY

General Liability coverage through TAC Risk Management Pool provides liability coverage for bodily injury or property damages arising out of a negligent act committed by a TAC RMP Member, on Member premises or during Member operations. This coverage would provide protection to the county for things such as slips and falls, improper road maintenance or a county maintainer hitting a fence.

Limits of Liability:

Bodily Injury	\$100,000 per person \$300,000 per occurrence
Property Damage	\$100,000 per occurrence

Optional increased Limits of Liability:

- \$250,000 / \$500,000 / \$250,000
- \$500,000
- \$1,000,000
- \$2,000,000

Included Coverage:

- Limited Contractual Liability
- Advertising Injury Liability
- Personal Injury coverage including false arrest (protection-excludes claims arising out of law enforcement activities)
- Medical Payments coverage
- Host Liquor Liability coverage
- Damage to Premises Rented to Named Member
- Products & Completed operations
- Medical Services Liability (coverage does not apply to claims arising out of any hospital or nursing home)
- Watercraft Liability coverage (under 26 feet long)
- Employee Benefit Liability (affords protection for claims arising out of errors in the administration of employee benefit programs)
- Garage Keeper's Legal Liability

Optional Endorsements: Law Enforcement Watercraft Liability coverage



AUTO LIABILITY

Members of the Auto Liability Program are covered for bodily injury and property damage caused by the negligent use of a covered auto. This coverage includes options for Hired/Non-owned, Personally Owned Vehicles for Law Enforcement, Personal Injury Protection and Uninsured/Under-insured Motorist Protection. State tort limits are standard and increased limits are available.

Limits of Liability:

Bodily Injury	\$100,000 per person \$300,000 per occurrence
Property Damage	\$100,000 per occurrence

Optional increased Limits of Liability:

- \$250,000 / \$500,000 / \$250,000
- \$500,000
- \$1,000,000

Included Coverage:

Personal Injury Protection	\$5,000 per passenger
Out of State	\$1,000,000 Combined Single Limit
Limited Mexico Coverage	Up to 25 miles from the boundary of the United States
Sudden and Accidental Death Benefit	\$10,000 limit
Hired and Non-owned	Within Auto Liability Limit

Optional Endorsements:

Personally Owned Vehicle – Law Enforcement
Uninsured Motorists / Underinsured Motorists





AUTO PHYSICAL DAMAGE

Auto Physical Damage coverage provides protection for covered TAC RMP Member vehicles for Comprehensive Coverage and Collision Coverage involved in an auto accident. This coverage helps repair and/or replace county vehicles when involved in an accident with another vehicle, a rollover, hail damage or simply backing into a pole. Auto Physical Damage coverage is provided to autos described in the schedule of vehicles.

Summary of Coverage:

- As scheduled
- No additional contribution for mid-year additions/deletions

Limits:

- Actual Cash Value



PUBLIC OFFICIALS LIABILITY

Public Officials Liability coverage is for elected officials, employees, volunteers and others in the case of a claims arising from a wrongful act while performing official Member duties. This includes defense costs and covers acts such as wrongful termination, harassment and discrimination.

Limits of Liability:

\$2,000,000 per claim

\$2,000,000 aggregate

Included Coverage:

Cyber Liability

Back Wages

County Attorney

County Clerk

Criminal & Malicious Acts and Omissions

District Clerk

Punitive Damages

Takings

Limit:

\$1,000,000 per claim/aggregate

\$50,000 per claim/\$100,000 aggregate

\$500,000 per claim

Statutory*

\$50,000 per claim

Statutory*

\$1,000,000 sub-limit

\$50,000 per claim

**County and District Clerk limits shall not exceed the statutory requirement or \$1,000,000*

Optional Endorsements:

- District Judge
- District Attorney
- Additional Punitive Damages





CYBER LIABILITY

Preventing data breaches is not totally preventable but counties can plan for how they would respond to one with the help of the TAC RMP. Cyber Liability is included coverage at no additional charge to TAC RMP Public Officials Liability program participants.

Summary of Coverage:

- Credit monitoring – Monitoring use of the data breached, such as individuals' Social Security Numbers, to prevent identify theft or other crimes.
- Forensic investigations – Investigation into the cause of the data breach.
- Public relations – Help communicating with those affected and to the public about the data breach and the county's response.
- Legal fees – Attorneys', court, and other legal fees incurred following the data breach.
- Regulatory proceedings and penalties – Coverage for regulatory proceedings and penalties incurred.

Total Aggregate Limit \$1,000,000

Sub-limits:

Privacy Response Expenses	\$500,000 aggregate
Regulatory Penalties	\$50,000 aggregate
Regulatory Proceedings	\$100,000

LAW ENFORCEMENT LIABILITY

The TAC Risk Management Pool's Law Enforcement Liability provides coverage for law enforcement officers, employees, volunteers and others in the case of a claim arising from a wrongful act while performing official Member duties. This includes defense costs and covers acts such as excessive force, civil rights violations and other allegations stemming from law enforcement operations.



Limits of Liability:

\$2,000,000 per claim

\$2,000,000 aggregate

Included Coverage:

Criminal & Malicious Acts and Omissions

Punitive Damages

Limit:

\$50,000 per claim

\$1,000,000 sub-limit

Optional Endorsements:

- District Judge
- Additional Punitive Damages



TEXAS ASSOCIATION *of* COUNTIES RISK MANAGEMENT POOL

AUTO LIABILITY COVERAGE DOCUMENT

AUTO LIABILITY COVERAGE DOCUMENT

The Texas Association of Counties Risk Management Pool (Pool) exists to enable its members to purchase coverage against liability claims. This is not a contract of insurance, but is a Coverage Document evidencing liability coverage pursuant to the provisions of Chapters 791 and 2259 of the Texas Government Code and Chapter 119 of the Texas Local Government Code. Under this Coverage Document, political subdivisions and other members create and contribute to the Pool as an alternative to purchasing insurance from commercial insurance markets. While this Coverage Document is not commercial insurance, the Pool's Board of Directors has determined that certain first-party coverages may be offered herein for the purpose of mitigating or reducing potential liability exposures to the Named Member.

VARIOUS PROVISIONS IN THIS COVERAGE DOCUMENT RESTRICT COVERAGE. READ THE ENTIRE COVERAGE DOCUMENT CAREFULLY TO DETERMINE RIGHTS, DUTIES AND WHAT IS AND IS NOT COVERED.

The Contribution and Coverage Declarations (CCD) issued to the Named Member by the Pool is part of this Coverage Document, subject to the terms, conditions, definitions, exclusions, and sublimits contained in this Coverage Document, any endorsements, and the Interlocal Participation Agreement (IPA).

Words and phrases that are capitalized have special meaning. Refer to SECTION V-DEFINITIONS

SECTION I — LIABILITY COVERAGE

A. WHO IS COVERED

The following are Covered Persons:

1. The Named Member.
2. Anyone while using an Auto the Named Member owns, hires borrows, or temporarily uses as a substitute for an Auto the Named Member has removed from use due to its breakdown, repair, service, Loss or destruction, but only if that person is using the vehicle with the Named Member's permission; the use of the vehicle is within the scope of the Named Member's permission; except that the following are not Covered Persons:
 - a. The owner of an Auto the Named Member hires or borrows from one of the Named Member's Officials, employees, or Volunteers, or a member of his or her household.

- b. Anyone using an Auto while he or she is working in a business of selling, servicing, repairing, storing or parking Autos unless that business is the Named Member's.
 - c. The owner or lessee of whom the Named Member is a sub lessee of a Hired Auto or the owner of a Non-Owned Auto or any agent or employee of any such owner or lessee.
 - d. Anyone other than the Named Member's Officials, employees, or Volunteers, while moving property to or from an Auto.
3. Anyone liable for the conduct of a Covered Person described above, but only to the extent of that liability. However, the owner or anyone else from whom the Named Member hires or borrows an Auto is a Covered Person only if that Auto is a trailer connected to an Auto the Named Member owns.

To the extent that the Named Member's Officials, employees or Volunteers qualify as Covered Persons for a covered Accident, the coverage afforded by this Coverage Document applies to the individual liability of those persons, without regard to their, or the Named Member's, immunity from liability or Suit for that Accident.

B. COVERAGE EXTENSIONS

1. Supplementary Payments.

In addition to the Limits of Liability, the Pool will pay for the Covered Person:

- a. All expenses the Pool incurs.
- b. Up to \$250 for cost of bail bonds (including bonds for related traffic law violations) required because of an Accident the Pool covers. The Pool does not have to furnish these bonds.
- c. The cost of bonds to release attachments in any Suit the Pool defends, but only for bond amounts within the Pool's Limits of Liability.
- d. Reasonable expenses incurred by the Covered Person at the Pool's request in assisting the investigation or defense of a claim or Suit, including actual Loss of earnings up to \$100 a day because of time off from work.

- e. All costs taxed against the Covered Person in any Suit the Pool defends.
- f. Pre-judgment interest awarded against the Covered Person on that part of the judgment the Pool pays. If the Pool makes an offer to pay the applicable limit of coverage, the Pool will not pay any pre-judgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment in any Suit the Pool defends; but the Pool's duty to pay interest ends when the Pool has paid, offered to pay or deposited in court the part of the judgment that is within the Pool's Limits of Liability.
- h. Expenses incurred by a Covered Person for first aid to others at the time of an Accident, for Bodily Injury to which this Coverage Document applies.

2. Hired and Non-owned

- a. Hired Auto Liability- The Pool will provide limited coverage as set forth in this Coverage Document and the CCD for Bodily Injury or Property Damage arising out of the maintenance or use of a Hired Auto by Named Member or a Covered Person in the course of Named Member's business.
- b. Non-owned Auto Liability- The Pool will provide limited coverage as set forth in this Coverage Document and the CCD for Bodily Injury or Property Damage arising out of the use of any Non-owned Auto by Named Member or a Covered Person in the course of Named Member's business.
- c. When the Auto Liability section of the CCD refers only to Hired and Non-owned Liability, the limits of liability are excess as provided by Section IV, Conditions, R.

3. Supplemental Death and Benefit

- a. The Pool will pay to a Covered Person's Beneficiary a Supplementary Death Benefit in the amount of \$10,000 unless otherwise stated on the CCD because of death to the Covered Person:
 - (1) Caused by an Auto Accident; and

- (2) Sustained by a Covered Person while wearing a Seat Belt or protected by an Airbag.
 - b. The Pool will pay the benefit, if such death occurs within three years of the date of such Accident.
 - c. This Supplementary Death Benefit shall not be reduced by any other amounts paid or payable under this Coverage Document or other coverage or insurance for the Accident.
 - d. The Beneficiary must furnish the Pool with proof of death of the Covered Person, accompanied by a police report or other verifiable proof that the Covered Person was wearing a Seat Belt or protected by an Airbag at the time the Accident occurred.
 - e. No deductible applies.
4. Out of State Coverage
- a. The Pool will provide limited coverage as set forth in this Coverage Document for Auto Accidents occurring out of State if:
 - (1) A Covered Person is using an Auto within the Coverage Territory described in Condition S., below, but outside of the State of Texas, and
 - (2) The laws of that state, territory, or province require the Covered Person to maintain insurance with respect to the operation or use of that Auto within its borders, and
 - (3) The coverage provided by this Coverage Document differs in form, kind or amount from that required by said laws;
 - b. The Pool will:
 - (1) Increase the Limits of Liability specified in the CCD for this Out of State Coverage to the greater of either:
 - (a) The minimum limits specified by the law of the state, territory or province where the Auto is being used, or
 - (b) A combined single limit of liability of one million dollars (\$1,000,000.00) for all Damages because of Bodily Injury and Property Damage resulting from any one Accident, regardless of the number of Covered Persons under this Coverage Document, the number

of persons or organizations who sustain Bodily Injury or Property Damage, or the number of Autos to which this Coverage Document applies.

- (2) Provide the minimum forms or kinds of coverages, such as no-fault, as may be required and set forth by the laws by that state, territory or province, but only to the extent required by such laws.
 - c. The increased amount of out of State coverage will be in excess of any other valid and collectible insurance or coverage that may be available to the Covered Person.
 - d. The Pool will not pay anyone more than once for the same elements of Loss because of these extensions.
5. Mexico Coverage
- a. The Pool will provide limited coverage as set forth in this Coverage Document for Auto Accidents occurring in Mexico if:
 - (1) A Covered Person is using an Auto owned by the Named Member;
 - (2) The Auto is included in the schedule of vehicles attached to this Coverage Document;
 - (3) The Accident occurs within 25 miles of the United States border;
 - (4) The Auto is garaged in the United States; and
 - (5) The Auto is used for infrequent trips that do not exceed ten days for any single trip.

SECTION II — EXCLUSIONS

The coverage afforded by this Coverage Document does not apply to any of the following:

A. EXPECTED OR INTENDED INJURY

Bodily Injury or Property Damage expected or intended from the standpoint of a Covered Person.

B. CONTRACTUAL LIABILITY

Liability assumed under any contract or agreement, but this exclusion does not apply to liability for Damages that the Covered Person would have in the absence of the contract or agreement.

C. WORKERS' COMPENSATION

Any obligation for which the Covered Person or the Covered Person's insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

D. EMPLOYEE INDEMNIFICATION AND EMPLOYER'S LIABILITY

Bodily Injury to:

1. An employee of a Covered Person arising out of and in the course of employment by the Covered Person; or
2. The spouse, child, parent, brother or sister of that employee as a consequence of paragraph A. above.

This exclusion applies:

1. Whether the Covered Person may be liable as an employer or in any other capacity; and
2. To any obligation to share Damages with or repay someone else who must pay Damages because of the injury.

E. EMPLOYEE CAUSES INJURY TO FELLOW EMPLOYEE

Bodily Injury to an employee of a Named Member caused by a fellow employee of the Named Member and arising out of and in the course of the fellow employee's employment.

F. CARE, CUSTODY OR CONTROL

Property Damage to property owned or transported by a Covered Person or in a Covered Person's care, custody or control.

G. CYBER LIABILITY AND EXPENSE COVERAGE

1. This Coverage Part does not provide coverage for any liability, Loss, penalty or expense arising directly or indirectly from any Cyber Security Event.

2. For purposes of this exclusion the following terms have the following meanings:

Computer System means computers and associated input and output devices, data storage devices, networking equipment and backup facilities:

- a. Operated by and either owned by or leased to any Named Member or Covered Person; or
- b. Operated by a third party service provider and used to provide hosted computer application services to the Named Member or Covered Person or for processing, maintaining, hosting or storing the Covered Person's electronic data pursuant to a written contract with the Named Member or Covered Person for such services.

Cyber Security Event means:

- a. The actual or reasonably suspected theft, loss or unauthorized disclosure of or access to electronic Personal Information in the care, custody or control of the Named Member or Covered Person or for which the Named Member or Covered Person is legally responsible; or
- b. A violation or failure of the security of a Computer System, including but not limited to unauthorized access, unauthorized use, a denial of service attack or receipt or transmission of malicious code.

Personal Information means an individual's name in combination with one or more of the following:

- a. Information concerning the individual that constitutes nonpublic personal information as defined in the Gramm-Leach Bliley Act of 1999, as amended, and implementing regulations;
- b. Medical or health care information concerning the individual, including without limitation "protected health information" as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, and implementing regulations;
- c. The individual's Social Security number, driver's license or state identification number, credit, debit, or other financial account numbers and associated security codes, access codes, passwords or personal identification numbers that allow access to the individual's financial account information; or

- d. Other nonpublic personally identifiable information, as protected under any local, state, federal or foreign law;

Provided, however, Personal Information does not include information that is lawfully available to the public, including without limitation information lawfully available from any Named Member or Covered Person or any local, state, federal or foreign governmental entity.

H. EMERGENCY MEDICAL SERVICE

With respect to Damages resulting from the ownership, maintenance or use of emergency medical service vehicles because of:

1. Bodily Injury resulting from the providing of or failure to provide medical services or other professional services;
2. Bodily Injury resulting from the furnishing of or failure to furnish food or drink in connection with such services; or
3. Bodily Injury or Property Damage resulting from the handling of corpses.

I. HANDLING OF PROPERTY

Bodily Injury or Property Damage resulting from the handling of the property:

1. Before it is moved from the place where it is accepted by a Covered Person for movement into or onto an Auto; or
2. After it is moved from an Auto to the place where it is finally delivered by a Covered Person.

J. MOVEMENT OF PROPERTY BY MECHANICAL DEVICE

Bodily Injury or Property Damage resulting from the movement of property by a mechanical device (other than a hand truck) unless the device is attached to an Auto.

K. OPERATIONS

Bodily Injury or Property Damage arising out of the operation of any equipment listed in paragraphs 6.b. and 6.c. of the definition of Mobile Equipment.

L. POLLUTION

Bodily Injury or Property Damage arising out of the discharge, dispersal, release or escape of pollutants into or upon land, the atmosphere, any watercourse or

body of water; but this exclusion does not apply if such discharge, dispersal, release, or escape is sudden and Accidental. Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, fuels, lubricants, chemicals, pesticides and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

M. NUCLEAR ENERGY

1. Nuclear reaction or radiation, or radioactive contamination, regardless of cause; or
2. The explosion of any weapon employing atomic fission or fusion.

N. WAR

Bodily Injury or Property Damage due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

O. STATE RESPONSIBILITY

To any claim, liability, Loss or Accident, for which the State of Texas:

1. Has the responsibility to pay or indemnify; or
2. Asserts a right to defend; or
3. Asserts a right to adjust, handle or settle.

SECTION III— LIMITS OF LIABILITY

A. WHAT THE POOL WILL PAY

Regardless of the number of Autos, Covered Persons, or vehicles involved in the Accident the Limits of Liability payable under this Coverage Document are as follows:

1. The Pool will pay all sums, up to the Pool's Limits of Liability as set forth in the CCD, a Covered Person legally must pay as Damages because of Bodily Injury or Property Damage to which this coverage applies, caused by an Accident and resulting from the ownership; maintenance or use of an Auto.

2. The maximum limits per person and per Accident as stated in the CCD is the maximum amount the Pool will pay for all claims arising out of an Accident.
3. The Pool has the right and duty to defend any Suit asking for such Damages. However, the Pool has no duty to defend Suits for Bodily Injury or Property Damage not covered by this Coverage Document. The Pool may investigate and settle any claim or Suit as the Pool considers appropriate. The Pool's duty to defend or settle ends when the applicable Limits of Liability has been exhausted by payment of judgments or settlements. The Pool's right to defend includes the right to select counsel to defend covered claims or Suits.

B. DEDUCTIBLE

The Named Member is wholly responsible for paying the entire Deductible shown in the CCD. A Covered Person, other than the Named Member, has no individual responsibility for paying any portion of the Deductible, and is fully covered for the amount of any liability not in excess of the Texas Tort Claims Limits, as referenced in Texas Civil Practices and Remedies Code Section 108.002.

At the option and discretion of the Pool, the Pool may pay all or part of the Deductible amount to effect settlement, and, upon notification to the Named Member, Named Member shall promptly reimburse the Pool for all expenditures. If the Pool pays any Claims Expenses which fall within the Deductible amount stated in the CCD or within this Coverage Document, the Named Member, upon notification, shall promptly reimburse the Pool for all expenditures.

All Bodily Injury and Property Damage resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one Accident.

SECTION IV — CONDITIONS

Unless otherwise indicated, this Auto Liability Coverage Document and all other forms and endorsements forming a part of this Coverage Document, are subject to the following Conditions:

A. APPLICATION AND AGREEMENTS

By acceptance of this Coverage Document, the Named Member agrees that the statements in the Application and Agreements are the Named Member's agreements and representations, that this Coverage Document is issued in reliance upon the truth of such representations and that this Coverage Document, the Pool's Bylaws, the Interlocal Participation Agreement between the Named Member and the Pool, and the Pool's duly adopted underwriting standards and criteria embody all agreements existing between the Named Member and the Pool or any of the Pool's agents relating to this Coverage Document.

B. UNINTENTIONAL FAILURE TO DISCLOSE

It is agreed that the Named Member's failure to disclose all hazards existing as of the inception date of this Coverage Document shall not prejudice a Covered Person with respect to the coverage afforded by this Coverage Document, if such failure or omission was not intentional.

C. COMPLIANCE WITH CONDITIONS

If any Covered Person breaches any condition or warranty of this Coverage Document, there shall be no coverage, including any obligation to defend, for any Covered Person as to the particular Accident or action in connection with the breach.

D. DELIVERY OF THIS COVERAGE DOCUMENT

Delivery of this Coverage Document to the Named Member shall be considered delivery to each Covered Person, and the Named Member is authorized by each Covered Person to accept delivery on the Covered Person's behalf.

E. CANCELLATION OR NON-RENEWAL

1. Either party to this Coverage Document may cancel or non-renew this Coverage Document by giving notice of such intent to the other party. The notice must be in writing and must be delivered by certified mail, return receipt requested via U.S. Mail to the other party. Except for notice of cancellation or non-renewal by the Pool for nonpayment of contributions,

such notice must be given not less than sixty (60) days prior to the effective date of cancellation.

2. The Pool may, in the Pool's sole discretion, permit the Named Member, upon the Named Member's written request, to terminate this Coverage Document by giving the Pool not less than thirty (30) days' notice.

3. Notice of cancellation by the Named Member must be addressed to:

Texas Association of Counties Risk Management Pool
Attn: Member Services
P.O. Box 2131
Austin, Texas 78768

4. The Pool may cancel or non-renew this Coverage Document:
 - a. For nonpayment of contributions, unless other provision for payment has been made by express written agreement between the Named Member and the Pool;
 - b. If there is an increase in risk or hazard within the Named Member's control which would result in an increase in the rate or amount of contribution;
 - c. For fraud in the obtaining of coverage;
 - d. If the Pool is placed in supervision, conservatorship, receivership and the cancellation is approved or directed by the supervisor, conservator or receiver;
 - e. If the Named Member does not implement risk management techniques required by the Pool during the initial coverage period, or if risk management techniques do not result in the Named Member's attaining a risk level sufficient to meet the Pool's underwriting criteria during the initial coverage period;
 - f. If the Interlocal Participation Agreement between the parties is terminated or the Named Member withdraws or is expelled from the Pool; or
 - g. For the Named Member's violation of any of the Named Member's other obligations under the Pool's Bylaws or the Interlocal Participation Agreement between the Named Member and the Pool.

5. If the Pool cancels this Coverage Document for nonpayment of contributions, such cancellation shall be effective at 12:01 a.m. on the 10th day following the Pool's placement of the notice of cancellation in the U.S. Mail. These Conditions do not waive or alter any other applicable provisions of the Pool's Bylaws or the Interlocal Participation Agreement between the Named Member and the Pool.
6. Notice of cancellation by the Pool may be given to the county judge or presiding officer of the Named Member

F. RETAINED CONTRIBUTION PROPORTIONS

1. If this Coverage Document is terminated by the Named Member, the Pool shall retain the customary short rate proportion of the contribution.
2. If this Coverage Document is terminated by or on behalf of the Pool, the Pool shall retain the customary pro-rata proportion of the contribution.

G. CHANGES

This Coverage Document, the Pool's Bylaws, the Interlocal Participation Agreement between the Named Member and the Pool, and the Pool's duly-adopted underwriting standards and criteria constitute the agreements between the Named Member and the Pool concerning the coverage afforded. The Named Member is authorized to make changes in the terms of this Coverage Document only with consent of the Pool's duly-authorized representative. The Pool may make changes to this Coverage Document, as permitted by the Pool's Bylaws, the Interlocal Participation Agreement between the Named Member and the Pool, and/or the laws governing the creation and operation of the Pool. This Coverage Document's terms cannot be amended or waived orally. Any changes to the Pool's Bylaws, the Interlocal Participation Agreement between the Pool and the Named Member, or the Pool's underwriting standards or criteria are incorporated herein.

H. EXAMINATION OF THE NAMED MEMBER'S BOOKS AND RECORDS

The Pool may examine and audit the Named Member's books and records as they relate to this Coverage Document or as may be required for the administration of the Pool.

I. INSPECTIONS AND LOSS CONTROL

The Pool has the right but is not obligated to:

1. Make inspections and surveys at any time;

2. Make risk management appraisals of the Named Member's operations, policies, procedures, vehicles, personnel and/or facilities;
3. Require the Named Member to implement and follow risk management procedures or techniques established by the Pool to reduce risk sufficient to meet the Pool's underwriting criteria. Any inspections, surveys, reports or requirements relate only to the Named Member's eligibility for liability coverage and the contribution to be charged. The Pool does not make safety inspections. The Pool does not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public, nor does the Pool warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.

This condition applies not only to the Pool, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

J. CONTRIBUTIONS

1. All contributions charged for this Coverage Document shall be computed in accordance with the Pool's rates and rating plans, as approved by the Pool's Board of Directors. The Named Member agrees to maintain records of all information that the Pool requires for computation of contributions, and to send copies of such records to the Pool at such times as the Pool reasonably requires.
2. The Named Member shall pay promptly all contributions or other payments to the Pool at such times and in such manner as shall be established by the Pool's Bylaws. Any delinquent payments shall be paid with interest as prescribed by the Pool's Bylaws.
3. The Named Member will be the payee for any return contributions or other payments the Pool pays.
4. If during the coverage period, there is a material change in the number or value of Autos owned or leased by the Named Member, the Named Member shall notify the Pool as soon as possible during the coverage period, and the Pool may, at its discretion, adjust the contribution for this Coverage Document, in accordance with the Pool's rates and rating plans, as approved by the Pool's Board of Directors. If the earned contribution thus computed exceeds the advance contribution paid, the Named Member shall pay the excess to the Pool; if less, the Pool shall refund or credit to the Named Member the unearned portion paid.

K. TRANSFER OF THE NAMED MEMBER'S RIGHTS AND DUTIES UNDER THIS COVERAGE DOCUMENT

1. The Named Member's rights and duties under this Coverage Document may not be transferred without the Pool's written consent, except in the case of death of an individual Covered Person.
2. If a Covered Person dies, his rights and duties will be transferred to his legal representative but only while acting within the scope of duties as his legal representative. Until that legal representative is appointed, anyone having proper temporary custody of the Covered Person's property will have his rights and duties but only with respect to that property.

L. DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

1. In the event of Accident, claim, Suit, or Loss, the Named Member and any Covered Person involved must give the Pool or the Pool's authorized representative prompt notice of the Accident or Loss. Include:
 - a. How, when and where the Accident or loss occurred;
 - b. The name and address of all Covered Persons involved; and
 - c. To the extent possible, the names and addresses of any injured persons and witnesses.

If the Pool shows that failure to provide notice prejudices the Pool's defense, there is no liability coverage for any Covered Person under this Coverage Document.

2. Additionally, the Named Member and any other Covered Person involved must:
 - a. Assume no obligation, make no payment or incur no expense without the Pool's consent, except at the Covered Person's own cost.
 - b. Immediately send the Pool copies of any demand, notice, summons or legal paper received concerning the claim or Suit.
 - c. Cooperate with the Pool in the investigation, settlement or defense of the claim or Suit.
3. No Covered Person will, without the Pool's written consent:
 - a. Assume or admit any liability; or

- b. Waive, abridge, prejudice or fail to assert any right of sovereign or official immunity, limitation of liability, or other defense to liability for amounts otherwise payable under this Coverage Document.
4. In connection with any investigation the Pool may make regarding the applicability of this coverage for any claim or Suit under this Coverage Document, or the nature or extent of a claim or Suit payable under this Coverage Document, the Covered Person agrees to provide any relevant documents or records, submit to examination under oath at the Pool's request and give the Pool a signed statement of his or her answers, as often as the Pool may reasonably require.

M. LEGAL ACTION AGAINST THE POOL

No one may bring a legal action against the Pool under this Coverage Document until:

1. There has been full compliance with all the terms of this Coverage Document; and
2. The amount of the Covered Person's liability has been determined by a fully adversarial trial, or by a written agreement between the Covered Person, the claimant, and the Pool.
3. No one has the right under this Coverage Document to bring the Pool into an action to determine a Covered Person's liability.

N. TRANSFER OF RIGHTS OF RECOVERY AGAINST ANOTHER TO THE POOL

If any person or organization to or for whom the Pool makes payments under this Coverage Document has rights to recover Damages from another, those rights are transferred to the Pool. That person or organization must do everything necessary to secure the Pool's rights and must do nothing after an Accident or loss to impair them.

O. BANKRUPTCY

Bankruptcy or insolvency of a Covered Person or the Covered Person's estate will not relieve the Pool of any obligations under this Coverage Document.

P. CONCEALMENT, MISREPRESENTATION OR FRAUD

This Coverage Document is void in any case of fraud by a Covered Person relating to it. It is also void if the Named Member intentionally conceals or misrepresents a material fact concerning:

1. This coverage;
2. Any Auto;
3. The Named Member's interest in an Auto; or
4. A claim under this Coverage Document.

Q. LIBERALIZATION

If the Pool changes this Coverage Document to provide more coverage without additional contribution charge, the additional coverage will be effective as of the day indicated in the Pool's written notice of change to the Named Member.

R. OTHER COVERAGE OR INSURANCE

1. For any Auto the Named Member owns, this Coverage Document provides primary liability coverage. For any Hired Auto or Non-owned Auto used by the Named Member, the coverage provided by this Coverage Document is excess over any other collectible insurance. However, while an Auto which is a trailer is connected to another vehicle, the liability coverage this Coverage Document provides for the trailer is:
 - a. Excess while it is connected to a motor vehicle the Named Member does not own.
 - b. Primary while it is connected to a covered Auto the Named Member owns.
2. When this Coverage Document and any other coverage document or policy provide coverage on the same basis, either excess or primary the Pool will pay only the Pool's share which is the proportion that the Limits of Liability of this Coverage Document bears to the total of the limits of all the coverage forms and policies.

S. JURISDICTION AND VENUE

The validity and interpretation of this Coverage Document will be governed by the laws of the State of Texas. This Coverage Document is performable and enforceable in Travis County, Texas. The state courts in Travis County will be the sole and exclusive venue for any litigation, special proceeding, or other proceeding arising from the performance of this Coverage Document.

T. COVERAGE PERIOD, COVERAGE TERRITORY

Under this Coverage Document, the Pool covers Accidents and losses occurring:

1. During the Coverage Period shown in the CCD; and
2. Within the coverage territory.

The coverage territory is:

1. The United States of America;
2. The territories and possessions of the United States of America;
3. Puerto Rico;
4. Canada; and
5. Mexico, within 25 miles of the United States border subject to the Limits of Liability set forth in the CCD and Section III of this Coverage Document.

U. TWO OR MORE COVERAGE DOCUMENTS ISSUED BY THE POOL

If this Coverage Document and any other coverage document issued to the Named Member by the Pool apply to the same Accident, the aggregate maximum limits of liability under all such coverage documents shall not exceed the highest applicable limits of liability under any one coverage document. This condition does not apply to any coverage document issued by the Pool specifically to apply as excess insurance over this Coverage Document.

V. NO BENEFIT TO BAILEE-PHYSICAL DAMAGE COVERAGE

The Pool will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provisions of this Coverage Document.

W. DEFENSE, SETTLEMENT AND ALLOCATION OF DAMAGES

1. Subject to all of the provisions contained in this Coverage Document, the Pool has the right and duty to defend any Claim against the Member seeking Damages, even if a Claim is groundless, false or fraudulent. The Pool shall have the right to incur Claims Expenses and to make an investigation and settlement of any Claim or suit as may be deemed expedient by the Pool and the Pool may settle any Claim at its sole discretion and without the consent of the Member. The determination by the Pool as to any settlement and as to the reasonableness of settlements

and Claims Expenses shall be conclusive on the Member. The Pool shall have the right, but not the obligation, to appeal any judgment adverse to the Member. Claims Expenses shall not be deducted from the Limits of Liability.

2. The Pool shall have no obligation to pay sums the Member shall become legally liable to pay as Claims or Damages that are not covered by this Coverage Document (including amounts in excess of any applicable sublimits) or to contribute to a settlement of any such Claims or Damages. In negotiating any settlement or Claim payment, the Pool shall have the right to request the Member make an appropriate contribution for uncovered Claims or Damages. If both Damages covered by this Coverage Document and Damages not covered by this Coverage Document are incurred or are to be incurred because a Claim made against the Member or Damages sought from the Member includes both covered and uncovered matters, the Pool and the Member will use their best efforts to determine a fair and appropriate allocation of Damages between that portion of Damages that is covered under this Coverage Document and that portion of Damages that is not covered under this Coverage Document. The Pool and the Member will take into account the relative legal and financial exposures of, and relative benefits obtained in connection with the defense or settlement of, the Claim. In the event the Pool and the Member cannot reach an agreement as to an allocation of Damages, then the parties will each contribute the amount proposed by the Pool until a final amount is agreed upon or determined pursuant to the provisions of this Coverage Document and applicable law.
3. Upon written request to the Pool by Named Member for pre-Claim involvement of Pool prior to the formal existence of a Claim, the Pool has the right, but not the duty, to designate attorneys, investigators, or other persons to perform work and incur expenses on behalf of the Named Member where the Pool anticipates a Claim.
4. If, in the sole discretion of the Pool, employing the services of attorneys, investigators, or other persons to perform work and incur expenses on behalf of any Member, or the Pool, is deemed appropriate to protect Pool interests prior to the formal existence of a Claim, the Pool has the right, but not the duty, to employ persons as a Pool operational expense.
5. The Pool shall have the right, but not the duty, to monitor and participate in the defense of any investigatory, administrative or disciplinary proceeding relating to any Wrongful Act of the Member. Should the Pool elect to defend, monitor or participate under this provision, the election shall not constitute a waiver of any rights the Pool may have pursuant to any of the provisions of this Coverage Document.
6. If the Pool determines that the Limits of Liability under this Coverage Document may be insufficient to pay or settle any covered Claim or Claims,

or if there are multiple or competing Claims against one or more Members , the Pool may, in its sole discretion, tender the remaining Limits of Liability available under this Coverage Document, either to the treasury of the Named Member, a person authorized to receive funds for the Named Member, or the registry of a court of competent jurisdiction and exhaust the Limits of Liability under this Coverage Document. Tender by the Pool of an amount that would exhaust the Limits of Liability shall terminate: (1) the Pool's liability to pay any amounts for unincurred Claims Expenses with regard to any Claim or Claims; (2) the Pool's duties to defend any Member from any Claim or Claims; and (3) the Pool's liability to pay any amount for Damages with regard to any Claim or Claims.

SECTION V — DEFINITIONS

The following definitions shall apply wherever used in this Coverage Document.

- A. **Accident** means any event or series of events resulting in direct and accidental loss or damage including continuous or repeated exposure to the same conditions resulting in Bodily Injury or Property Damage.
- B. **Airbag** means a functioning Airbag designed to protect the occupant of a seat in an Automobile.
- C. **Auto** means a land motor vehicle, trailer or semitrailer designed for travel on public roads (including any machinery or apparatus attached thereto), but does not include Mobile Equipment.
- D. **Beneficiary** means (in order of priority of payment):
 - 1. The surviving spouse if a resident in the same household as the deceased Covered Person at the time of the Accident, or
 - 2. If the deceased Covered Person is an unmarried minor, either of the surviving parents who had legal custody at the time of the Accident, or
 - 3. The estate of the deceased Covered Person.
- E. **Bodily Injury** means Bodily Injury, sickness or disease sustained by a person including death resulting from any of these.
- F. **Claims Expenses** means:
 - 1. Fees incurred by the Pool for an attorney designated by the Pool;

2. All other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a Claim, if incurred by the Pool, except for those fees, costs, and expenses of the employees of the Texas Association of Counties, or expenses of a Claims adjustment contractor for the Pool;
 3. Fees charged by any attorney designated by the Member with the written consent of the Pool, but only as to those fees incurred after receipt by Member of written consent from the Pool.
- G. **Covered Person** means any person or organization qualifying as a Covered Person in Section I, A. Who Is Covered provision of this Coverage Document. Except with respect to the Limits of Liability, the coverage afforded applies separately to each Covered Person who is seeking coverage or against whom a claim or suit is brought.
- H. **Contributions and Coverage Declarations (CCD)** means the document that sets forth the specific indication of coverage, limits, and deductibles, Contributions and special provisions elected by each Named Member, including any modifications made by issuance of any amendatory CCD or endorsement.
- I. **Coverage Document** means this agreement between the Pool and Named Member, including any endorsements
- J. **Damages** means any amount, within the limits of liability, a Covered Person is legally obligated to pay. This includes settlements, judgements, related court costs, and interest on any judgement unless otherwise excluded in this Coverage Document.
- K. **Hired Auto** means any Auto not owned by Named Member or a Covered Person which is rented under contract to the Named Member or Covered Person for 14 days or less and used to conduct Named Member's business. This does not include any Auto Named Member or a Covered Person leases, hires or borrows from any of Named Member's employees or members of the employees' households.
- L. **Loss** means direct and Accidental loss or damage.
- M. **Mobile Equipment** means a vehicle that is not designated or used primarily to transport persons or property and that is only incidentally operated on a highway. The term includes the following:
1. Bulldozers, farm machinery, ditch digging apparatus, well boring apparatus, forklifts and other vehicles designed for use principally off public roads;

2. Vehicles maintained for use solely on or next to premises other than roads or streets, the Named Member owns or hires. However, any land motor vehicle, trailer or semi-trailer designed for travel on public roads (including any machinery or apparatus attached thereto) owned or hired by the Named Member is deemed an Auto and not Mobile Equipment if the only reason for considering it Mobile Equipment is that it is maintained for use exclusively on streets or highways owned by the Named Member.
3. Vehicles that travel on crawler treads;
4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - a. Power cranes, shovels, loaders, diggers or drills; or
 - b. Road construction or resurfacing equipment such as graders, scrapers or rollers.
5. Vehicles not described in paragraphs 1, 2, 3, or 4 above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - b. Cherry pickers and similar devices used to raise or lower workers.
6. Vehicles not described in paragraphs 1, 2, 3, or 4 above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not mobile equipment but will be considered Autos:
 - a. Equipment designed primarily for:
 - (1) Snow removal;
 - (2) Road maintenance, but not construction or resurfacing; or
 - (3) Street cleaning;
 - b. Cherry pickers and similar devices mounted on Automobile 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.
- N. **Named Member** means a county or other political subdivision so designated in the CCD.
- O. **Non-owned Auto** means any Auto Named Member borrows which is used in connection with Named Member's business. A borrowed Auto means an Auto owned by a Covered Person and used to conduct Named Member's business with Named Member's permission.
- P. **Official** means any duly-elected or appointed Official of the Named Member, but only while that person holds the office for which he or she was elected or appointed.
- Q. **Property Damage** means physical damage to or Loss of use of tangible property.
- R. **Seat Belt** means manual or automatic safety belts or seat and shoulder restraints.
- S. **Suit** means a civil judicial proceeding in which Damages are alleged due to personal injury or Property Damage. Suit includes arbitration proceedings and any other dispute resolution proceedings in which personal injury or Property Damage is alleged and in which the Covered Person participates with the Pool's consent.
- T. **Volunteer** means a person who is neither an Official nor an employee of the Named Member, who is performing some act or service on behalf of the Named Member, at the Named Member's request. Volunteer does not include independent contractors.

AUTO LIABILITY

PERSONAL INJURY PROTECTION COVERAGE ENDORSEMENT

This endorsement provides coverage in addition to that provided under the Auto Liability Coverage Document. This endorsement modifies the Auto Liability Coverage Document to which it is attached. Certain terms used herein have meanings different than similar terms used in other documents and endorsements forming a part of the Coverage Document.

SCHEDULE		
Coverage	Limits of Liability	Deductible
Personal Injury Protection	\$5,000 each Person	No deductible unless otherwise specified on CCD
Description of Covered Autos: See H.1 <u>Additional Definitions</u> Below		

A. COVERAGE AGREEMENT

The Pool will pay Personal Injury Protection benefits because of Bodily Injury:

1. Resulting from a motor vehicle Accident; and
2. Sustained by a Covered Person.

The Pool's payment will only be for Losses or expenses incurred within three years from the date of Accident.

Personal Injury Protection benefits consist of:

1. Necessary expenses for medical and funeral services.
2. Eighty percent of a Covered Person's Loss of Income from employment. These benefits apply only if, at the time of the Accident, the Covered Person:
 - a. Was an income producer; and
 - b. Was in an occupational status.

These benefits do not apply to any Loss after the Covered Person dies.

3. Reasonable expenses incurred for obtaining services. These services must replace those a Covered Person would normally have performed:

- a. Without pay;
- b. During a period of disability; and
- c. For the care and maintenance of the family or household.

These benefits would apply if, at the time of the Accident, the Covered Person:

- a. Was not an income producer; and
- b. Was not in an occupational status.

These benefits will not apply to any Loss after the Covered Person dies.

B. EXCLUSIONS

The Pool does not provide Personal Injury Protection Coverage for any Person for Bodily Injury sustained:

1. In an Accident caused intentionally by that Person.
2. By that Person while in the commission of a felony.
3. By that Person while attempting to elude arrest by a law enforcement official.
4. To any employee of the Named Member, who is injured in the course and scope of his or her employment.

C. WHO IS A COVERED PERSON

For purposes of this Personal Injury Protection Coverage, Covered Person shall mean:

1. The Named Member's Officials, employees, Volunteers and any of their family members, while Occupying or when struck by a Covered Auto.
2. Anyone else Occupying a Covered Auto with the Named Member's permission and within the scope of that permission.

D. LIMITS OF LIABILITY

Regardless of the number of owned Covered Autos, Covered Persons, contributions paid, claims made or vehicles involved in the Accident, the most the Pool will pay for Bodily Injury for each Covered Person in any one Accident is the Limit of Liability shown in the Auto Liability Coverage Document or CCD.

If a Person receiving payment under this Personal Injury Protection Coverage Endorsement is also making a claim against the Named Member or another Covered Person under the Bodily Injury provisions of the Auto Liability Coverage Document, or against the Pool under the Bodily Injury provisions of the Uninsured/Underinsured Motorists Coverage Endorsement of the Auto Liability Coverage Document, such Named Member, other Covered Person and the Pool shall be entitled to an offset, credit or deduction against any award made under the Auto Liability Coverage Document or the Uninsured/Motorists Coverage Endorsement to such recipient in an amount equal to the amount paid to such recipient under this Personal Injury Protection Coverage Endorsement. The Auto Liability Coverage Document and the Uninsured/Underinsured Motorists Coverage Endorsement of – the Auto Liability Coverage Document are hereby amended accordingly; provided, however, nothing herein shall be construed to authorize a direct action against the Pool.

E. CONDITIONS

The CONDITIONS found in the Auto Liability Coverage Document are changed for Personal Injury Protection as follows:

1. Condition L.2, DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT, OR LOSS is changed by adding the following:

- d. At the Pool's request, give to the Pool a written proof of claim, under oath if required, including full particulars of the nature and extent of the Accident, injuries, treatment and any other details relevant to the Pool's determination of benefits payable hereunder. Proof of claim shall be made on forms furnished by the Pool unless, within 15 days after receiving notice of the claim, the Pool has failed to furnish such forms. In such event, notice shall be given in letter form.
 - e. At the Pool's request, submit to examination under oath by any Person selected by the Pool, as often as may be reasonably required.
 - f. Provide or authorize the Pool to obtain medical records or pertinent information.
 - g. Submit to physical or mental examination, at the Pool's request, by physicians of the Pool's choice, when and as often as the Pool reasonably requests.
- 2. Condition N., TRANSFER OF RIGHTS OF RECOVERY AGAINST ANOTHER TO THE POOL does not apply.
 - 3. Condition R., OTHER COVERAGE OR INSURANCE, is changed by adding the following:

If there is other Personal Injury Protection insurance, the Pool will pay only its share. The Pool's share is the proportion that its Limit of Liability bears to the total of all applicable limits. However, any coverage the Pool provides with respect to a vehicle the Named Member does not own shall be excess over any other collectible Personal Injury Protection coverage.

F. PAYMENT PROVISION

Benefits payable under this coverage, including those for Loss of Income, are only payable within 30 days after satisfactory proof thereof is received by the Pool. Subject to such proof of claim:

- 1. Accrued Medical Expenses and benefits for Loss of Income are payable not more frequently than every two weeks;

2. Any benefits for a period of less than two weeks for which the company is liable are payable at termination of the disability period.

Payments will be made to the Person who is disabled or, if the disabled Person is an unemancipated minor, to the parent or guardian who has custody of such minor within 30 days after satisfactory proof of parentage or guardianship is received by the Pool.

G. ASSIGNMENT OF BENEFITS

Payments for medical benefits will be paid directly to a physician or other health care provider if the Pool receives a written assignment signed by the Covered Person to whom such benefits are payable.

H. ADDITIONAL DEFINITIONS

The following are added to the DEFINITIONS Section and have special meaning for Personal Injury Protection.

1. **Covered Auto** means an Auto which is:
 - a. Owned or leased by the Named Member; or
 - b. Temporarily used by the Named Member as a substitute for an Auto owned or leased by the Named Member that has been withdrawn from normal use because of its breakdown, repair, servicing, Loss or destruction; and

Liability coverage under this Coverage Document must apply to the Covered Auto.

Covered Auto shall not include:

- a. Any Auto while used as a livery or public conveyance, unless, prior to the Accident, such use is specifically declared and described in the CCD or otherwise approved in writing by the Pool;
- b. Any Auto which is not being used with the Named Member's permission; or the use of which is outside the scope of the Named Member's permission.

2. **Loss of Income** is the difference between:
 - a. Income which would have been earned had the Covered Person not been injured; and
 - b. The amount of income actually received from employment during the disability.

If the income being earned as of the date of Accident is a salary or fixed remuneration, it shall be used in determining the amount of income which would have been earned. Otherwise, the average monthly income earned during the period (not more than 12 months) preceding the Accident shall be used.

3. **Medical Expenses** means expenses for necessary medical, surgical, x-ray, and dental services, including prosthetic devices, and necessary ambulance, hospital, professional nursing and funeral services.
4. **Occupying** means in, upon, getting in, on, out or off.
5. **Person** means a natural Person and not a corporation, partnership, association, organization or business name.

AUTO LIABILITY

UNINSURED/UNDERINSURED MOTORISTS COVERAGE ENDORSEMENT

This endorsement provides coverage in addition to that provided under the Auto Liability Coverage Document. This endorsement modifies the Auto Liability Coverage Document to which it is attached. Certain terms used herein have meanings different than similar terms used in other documents and endorsements forming a part of the Coverage Document.

SCHEDULE

Coverage	Limits of Liability
Bodily Injury	\$_____ each person \$_____ each accident
Property Damage	\$_____ each accident
Description of Covered Autos: See, F.1. Additional Definitions below	

A. COVERAGE AGREEMENT

1. The Pool will pay damages which a Covered Person is legally entitled to recover from the owner or operator of an Uninsured Motor Vehicle because of Bodily Injury or Property Damage sustained by the Covered Person caused by an Accident. The owner's or operator's liability for these damages must arise out of the ownership, maintenance or use of the Uninsured Motor Vehicle.
2. Any judgment for damages arising out of a Suit brought without the Pool's consent is not binding on the Pool.
3. If the Pool and the Named Member do not agree as to whether or not a vehicle is actually uninsured, the burden of proof as to that issue shall be on the Pool.

B. EXCLUSIONS

1. The Pool does not provide Uninsured/Underinsured Motorists Coverage for any person:
 - a. For Bodily Injury sustained while Occupying, or when struck by, any motor vehicle or a trailer of any type owned by the Named Member, any of its Officials, employees or Volunteers, or any of their Family Members, which is not a Covered Auto under this endorsement.

- b. If that person or the legal representative settles the claim without the Pool's consent.
 - c. For the first \$250 of the amount of damage to the property of that person as the result of any one accident.
 - d. Using a vehicle without a reasonable belief that the person is entitled to do so. This exclusion does not apply to the Named Member.
 - e. For Bodily Injury or Property Damage resulting from the intentional acts of that person.
2. This coverage shall not apply directly or indirectly to benefit:
- a. Any insurer or self-insurer under any workers' compensation, disability benefits or similar law; or
 - b. Any insurer of property.

C. WHO IS A COVERED PERSON

For purposes of this Uninsured/Underinsured Motorists Coverage, Covered Person shall mean:

- 1. The Named Member,
- 2. Officials, employees and Volunteers while Occupying a Covered Auto.
- 3. Any person or organization for damages that person or organization is entitled to recover because of Bodily Injury sustained by a person described in 1. or 2. above.

D. LIMITS OF LIABILITY

The Limits of Liability shown in the schedule for Bodily Injury each person is the most the Pool will pay for all damages for Bodily Injury sustained by any one person in any one Auto Accident. Subject to this limit for each person, the Limits of Liability indicated for Bodily Injury, each Accident is the most the Pool will pay for all damages for Bodily Injury resulting from any one Accident, regardless of the number of persons injured. The Limits of Liability shown in the schedule for Property Damage, each Accident is the most the Pool will pay for all damages for Property Damage resulting from any one Accident, regardless of the number of persons claiming such damages.

These limits are the most the Pool will pay regardless of the number of Covered Persons, Claims made, Policies or bonds applicable, Covered Autos, or Vehicles involved.

Subject to this maximum, the Pool's Limits of Liability will be the lesser of:

1. The difference between the amount of a Covered Person's damages for Bodily Injury or Property Damage and the amount paid or payable to that Covered Person for such damages, by or on behalf of persons or organizations who may be legally responsible; and
2. The applicable Limits of Liability for this coverage.

In order to avoid benefit payments in excess of actual damages sustained, subject only to the limits set out in the schedule or in the CCD and other applicable provisions of this coverage, the Pool will pay all covered damages not paid or payable under any workers' compensation law, disability benefits law, any similar law, auto medical expense coverage or Personal Injury Protection Coverage.

Any payment under this coverage to or for a Covered Person will reduce any amount that Covered Person is entitled to recover for the same damages under the liability coverage of this policy.

SPECIAL PROVISION FOR PROPERTY DAMAGE

If a Covered Person sustains Property Damage Loss, to which the physical or Property Damage coverage of another policy and this coverage both apply, the Named Member may choose the coverage from which damages will be paid. The Named Member may recover under both coverages, but only if:

1. Neither one by itself is sufficient to cover the Loss;
2. The Named Member pays the higher deductible amount (but the Named Member does not have to pay both deductibles); and
3. The Named Member will not recover more than the actual damages.

E. CONDITIONS

The Conditions found in the Auto Liability Coverage Document are changed for Uninsured/Underinsured Motorists Coverage as follows:

1. Condition L.2., DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT, or LOSS is changed by adding the following:
 - d. At the Pool's request, give to the Pool a written proof of claim, under oath if required, including full particulars of the nature and extent of the accident, injuries, treatment and any other details relevant to the Pool's determination of benefits payable hereunder. Proof of claim shall be made on forms furnished by the Pool unless, within 15 days after receiving notice of the claim, the Pool has failed to furnish such forms. In such event, notice shall be given in letter form.
 - e. At the Pool's request, submit to examination under oath by any person selected by the Pool, as often as may be reasonably required.
 - f. Provide or authorize the Pool to obtain medical records or pertinent information.
 - g. Submit to physical or mental examination, at the Pool's request, by physicians of the Pool's choice, when and as often as the Pool reasonably requests.
 - h. Promptly notify the police if a hit-and-run driver is involved.
 - i. Promptly send the Pool copies of the legal papers if a Suit is brought.
 - j. Take reasonable steps after Loss to protect the Covered Auto and its equipment from further Loss. The Pool will pay reasonable expenses incurred to do this.
 - k. Permit the Pool to inspect and appraise the damaged property before its repair or disposal.

2. Condition N., TRANSFER OF RIGHTS OF RECOVERY AGAINST ANOTHER TO THE POOL is changed by adding the following:

If the Pool makes a payment and the Covered Person recovers from another party, the Covered Person shall hold the proceeds in trust for the Pool and reimburse the Pool to the extent of the Pool's payment. However, the Pool may not claim the amount recovered from an insurer of any underinsured motor vehicle

3. Condition R., OTHER COVERAGE OR INSURANCE, is changed by adding the following:

If there is other applicable similar coverage or insurance the Pool will pay only its share of the Loss. The Pool's share is the proportion that its Limit of Liability bears to the total of all applicable limits. However, any coverage the Pool provides, with respect to a vehicle the Named Member does not own, shall be excess over any other collectible coverage or insurance.

4. The following Condition is added:

V. PAYMENT OF LOSS BY THE POOL

Any amount due under this Uninsured/Underinsured Motorists Coverage is payable:

1. To the Covered Person, or
2. If the Covered Person is a minor, to his parent or guardian, or
3. If the Covered Person is deceased, to his surviving spouse, otherwise to a person authorized by law to receive such payment or to a person legally entitled to recover the damages which the payment represents;
4. To a person authorized by law to receive such payment or to a person legally entitled to recover the damages which the payment represents;

provided, the Pool may at its option pay any amount due hereunder in accordance with subparagraph V. 4., above.

F. ADDITIONAL DEFINITIONS

The DEFINITIONS of the Coverage Document are changed or supplemented for UNINSURED/UNDERINSURED MOTORIST COVERAGE as follows:

1. **Covered Auto** means:
 - a. Any Auto which is:
 - (1) Owned or leased by the Named Member; or

- (2) Temporarily used by the Named Member as a substitute for an Auto owned or leased by the Named Member that has been withdrawn from normal use because of its breakdown, repair, servicing, Loss or destruction; and

Liability coverage under this Coverage Document must apply to the Covered Auto.

b. Covered Auto shall not include:

- (1) Any Auto while used as a livery or public conveyance, unless, prior to the accident, such use is specifically declared and described in the Declarations or otherwise approved in writing by the Pool;
- (2) Any auto which is not being used with the Named Member's permission; or the use of which is outside the scope of the Named Member's permission.

2. **Family Member** means a person related to a Named Member, its Officials, employees or Volunteers by blood, marriage or adoption, who is a resident of their respective households, including a ward or foster child.
3. **Occupying** means in, upon, getting in, on, out or off.
4. **Property Damage** means injury to or Loss of use of or destruction of;
 - a. A Covered Auto;
 - b. Property owned by the Named Member, its Officials, employees or Volunteers, while contained in a Covered Auto; and
 - c. Property owned by any other person Occupying the Covered Auto while contained in the Covered Auto.
5. **Uninsured Motor Vehicle** means a land motor vehicle or trailer of any type:
 - a. To which no liability bond or policy applies at the time of the Accident.
 - b. Which is a hit-and-run vehicle whose operator or owner cannot be identified. The vehicle must hit a Covered Person, a Covered Auto or a vehicle a Covered Person is Occupying.

- c. To which a liability bond or policy applies at the time of the Accident, but the bonding or insuring company denies coverage or is or becomes insolvent.
- d. Which is an underinsured motor vehicle. An underinsured motor vehicle is one to which a liability bond or policy applies at the time of the accident but its Limit of Liability either:
 - (1) Is not enough to pay the full amount the Covered Person is legally entitled to recover as damages; or
 - (2) Has been reduced by payment of claims to an amount which is not enough to pay the full amount the Covered Person is legally entitled to recover as damages.

However, Uninsured Motor Vehicle does not include any vehicle or equipment:

- a. Owned by or furnished or available for the regular use of the Named Member, its Officials, employees or Volunteers, or any Family Member of any of them;
- b. Owned or operated by a self-insurer under any applicable motor vehicle law;
- c. Owned by any governmental body unless the operator of the vehicle is uninsured and there is no statute imposing liability for damage because of Bodily Injury or Property Damage on the governmental body for an amount not less than the Limits of Liability for this coverage;
- d. Operated on rails or crawler treads;
- e. Designed mainly for use off public roads while not on public roads; or
- f. While located for use as a residence or premises.



TEXAS ASSOCIATION *of* COUNTIES RISK MANAGEMENT POOL

AUTO PHYSICAL DAMAGE COVERAGE DOCUMENT

AUTOMOBILE PHYSICAL DAMAGE COVERAGE

Words and phrases that appear in bold face have special meaning. Refer to SECTION IV-DEFINITIONS

SECTION I - COVERED AUTOS

A. DESCRIPTION OF COVERED AUTOS

Upon renewal, the autos described in the schedule of vehicles for which a contribution charge is shown are covered by this Coverage Document.

B. AUTOS ACQUIRED AFTER THE COVERAGE DOCUMENT BEGINS

An auto acquired after the Coverage Document begins will be a covered auto for the coverage(s) shown on the CCD, only if:

1. The Pool already covers all autos owned by the Named Member for that coverage or if it replaces an auto previously owned that had that coverage; and
2. The Named Member notifies the Pool in writing within 30 days after the Named Member acquires the auto of its desire to cover it for that coverage.

SECTION II - PHYSICAL DAMAGE COVERAGE

A. COVERAGE

1. The Pool will pay for loss to a covered auto or its equipment under:

a. Comprehensive Coverage. From any cause except:

- (1) The covered auto's collision with another object; or
- (2) The covered auto's overturn.

b. Collision Coverage. Caused by:

- (1) The covered auto's collision with another object; or
- (2) The covered auto's overturn.

2. Glass Breakage - Hitting a Bird or Animal - Falling Objects or Missiles
The Pool will pay for the following under Comprehensive Coverage:

- a. Glass breakage;
- b. Loss caused by hitting a bird or animal; and
- c. Loss caused by falling objects or missiles.

However, the Named Member has the option of having glass breakage caused by a collision to be reimbursed under the auto's Collision Coverage.

3. Coverage Extension. The Pool will also pay up to \$20 per day to a maximum of \$600 for transportation expense incurred by the Named Member because of the total theft of a covered auto of the private passenger type. The Pool will pay only for those covered autos for which the Named Member carries Comprehensive Coverage. The Pool will pay for transportation expenses incurred during the period beginning 48 hours after the theft and ending when the covered auto is returned to use or the Pool has paid for its loss.
4. Rental Reimbursement. The Pool will reimburse Named Member in the event of loss to a covered auto for expenses incurred for the rental, not including any mileage or gasoline

charges, of a substitute auto of like kind and quality to the covered auto where the covered auto is unusable due to a covered loss. We will pay only for those expenses incurred during the coverage period beginning 24 hours after the loss and ending, regardless of the coverage period's expirations, with the lesser of the following number of days:

- a. The number of days reasonably required to repair or replace the covered auto; or
- b. 30 days.

Our payment is limited to the lesser of the following amounts:

- a. Necessary and actual expenses incurred; or
- b. \$2,500.00

This coverage does not apply while there are spare or reserve autos of like kind and quality to the covered auto available to Named Member for its operations.

- 5. Unattached Equipment. For losses to unattached equipment, the Pool will pay the lesser of \$10,000 or the actual cash value of the unattached equipment as of the time of the loss if the unattached equipment was:

- a. used in the usual course and scope of the Named Member's business at the time of loss; and
- b. unusable due to a covered loss to a covered auto.

B. EXCLUSIONS

- 1. The Pool will not pay for loss caused by or resulting from any of the following. Such loss is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

- a. Nuclear Hazard

- (1) The explosion of any weapon employing atomic fission or fusion; or
 - (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

- b. War or Military Action

- (1) War or Military Action
 - (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
 - (3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

- 2. Other Exclusions

- a. The Pool will not pay for loss to equipment or custom furnishings permanently installed in or to a covered auto unless the equipment or custom furnishing was:

- (1) used in the usual course and scope of Named Member's business; and
 - (2) the value of the equipment or custom furnishing was reported to the Pool prior to the loss and included in the contribution of this coverage.

- b. The Pool will not pay for loss caused by or resulting from any of the following unless

caused by other loss that is covered:

- (1) Wear and tear, freezing, mechanical or electrical breakdown;
- (2) Blowouts, punctures or other road damage to tires.

C. LIMITS OF LIABILITY

The Pool's maximum Limits of Liability from any one accident will not exceed the lesser of the Actual Cash Value of the covered auto at the time of loss or the cost of repairing or replacing the covered auto with one of like kind and quality.

D. DEDUCTIBLE

For each covered auto, the Pool's obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the CCD, except, the applicable deductible will be waived if Named Member elects to repair rather than replace damaged glass.

SECTION III - BUSINESS AUTO CONDITIONS

A. LOSS CONDITIONS

1. APPRAISAL FOR PHYSICAL DAMAGE LOSS

If the Named Member and the Pool disagree on the amount of loss, either may demand an appraisal of the loss. In this event each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire. The appraisers will state separately the actual cash value and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If the Pool submits to an appraisal, the Pool will still retain its right to deny this claim.

2. DUTIES IN THE EVENT OF ACCIDENT OR LOSS

- a. In the event of accident or loss, the Named Member must give the Pool or the Pool's authorized representative prompt notice of the accident or loss. Include:

- (1) How, when and where the accident or loss occurred;
- (2) The Named Member's name and address; and
- (3) To the extent possible, the names and addresses of any witnesses.

- b. Additionally, the Named Member must:

- (1) Assume no obligation, make no payments or incur no expense without the Pool's consent, except at the Named Member's own cost.
- (2) Cooperate with the Pool in the investigation or settlement of the claim.

- c. If there is loss to a covered auto or its equipment, the Named Member must also do the following:

- (1) Promptly notify the police if the covered auto or any of its equipment is stolen.
- (2) Take all reasonable steps to protect the covered auto from further damage. Also keep a record of expenses for consideration in the settlement of the claim.
- (3) Permit the Pool to inspect the covered auto and records proving the loss before its repair or disposition.

- (4) Agree to examination under oath at the Pool's request and give the Pool a signed statement of the Named Member's answers.
3. **LEGAL ACTION AGAINST THE POOL**
No one may bring a legal action against the Pool under this Coverage Document until there has been full compliance with all the terms of this Coverage Document.
4. **LOSS PAYMENT — PHYSICAL DAMAGE COVERAGES**
At the Pool's option, the Pool may:
- a. Pay for, repair or replace damaged or stolen property.
 - b. Return the stolen property at the Pool's expense. The Pool will pay for any damage that results to the auto from the theft; or
 - c. Take all or any part of the damaged or stolen property at an agreed or appraised value.
5. **TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO THE POOL**
If any person or organization to or for whom the Pool makes payment under this Coverage Document has rights to recover damages from another, those rights are transferred to the Pool. That person or organization must do everything necessary to secure the Pool's rights and must do nothing after accident or loss to impair them.

B. GENERAL CONDITIONS

1. **CONCEALMENT, MISREPRESENTATION OR FRAUD**
This Coverage Document is void in any case of fraud by the Named Member relating to it. It is also void if the Named Member intentionally conceals or misrepresents a material fact concerning:
- a. This Coverage Document;
 - b. The covered Auto; or
 - c. The Named Member's interest in the covered Auto.
2. **LIBERALIZATION**
If the Pool revises this Coverage Document to provide more coverage without additional contribution charge, the Named Member's Coverage Document will automatically provide the additional coverage as of the day the revision is effective.
3. **NO BENEFIT TO BAILEE-PHYSICAL DAMAGE COVERAGES**
The Pool will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provisions of this Coverage Document.
4. **OTHER INSURANCE**
When this Coverage Document and any other Coverage Document or policy covers on the same basis, either excess or primary, the Pool will pay only the Pool's share. The Pool's share is the proportion that the Limit of Insurance of the Pool's Coverage Document bears to the total of the limits of all the Coverage Documents and policies covering on the same basis.
5. **COVERAGE PERIOD, COVERAGE TERRITORY**
Under this Coverage Document, the Pool covers accidents and losses occurring:
- a. During the coverage period shown in the CCD; and
 - b. Within the coverage territory.

The coverage territory is:

- a. The United States of America;
- b. The territories and possessions of the United States of America;
- c. Puerto Rico;
- d. Canada; and
- e. Mexico — not to exceed 25 miles from the U.S. border.

The Pool also covers loss to, or accidents involving, a covered auto while being transported between any of these places.

6. **REPORTING PROVISION**

The Named Member agrees to furnish the Pool with an updated vehicle schedule. The schedule shall include a current listing of autos which are to be covered under the Coverage Document. The vehicle schedule shall be the basis for coverage for the upcoming coverage period and shall become a part of the Coverage Document. Additionally, the contribution for the upcoming coverage period shall be calculated using the updated vehicle schedule and rates in effect at the beginning of the coverage period.

7. **CANCELLATION**

The Named Member may cancel this Agreement by notice to the Pool; upon surrender of the Coverage Document the Pool shall refund short rate unearned paid contributions. The Pool may cancel this Agreement by giving the Named Member sixty days written notice; such notice shall state the pro rata unearned paid contribution, and if not tendered, will be refunded on demand.

SECTION IV — DEFINITIONS

- A. **Accident** includes continuous or repeated exposure to the same conditions resulting in a loss or damage.
- B. **Actual Cash Value** means the amount it would cost to repair or replace the Named Member's property, on the date of loss, with material of like kind and quality, with proper deduction for obsolescence and physical depreciation. Actual Cash Value is computed by subtracting the depreciation of the lost or damaged covered Auto from the actual replacement cost, using material of like kind and quality, of the covered Auto at the time of Loss.
- C. **Agreement** means the Interlocal Participation Agreement executed between the Pool and the Named Member, designating those coverages and deductibles elected by the Named Member, and incorporating the various Coverage Documents, the Declarations of Coverage, and any amendments to said Interlocal Participation Agreement.
- D. **Auto** means a land motor vehicle, trailer or semi-trailer designed for travel on public roads but does not include mobile equipment.
- E. **Contribution** means the amount paid by the Named Member to the Pool for this coverage.
- F. **Contributions and Coverage Declarations (CCD)** means the document that specifies the Named Member's coverage, limits of liability, deductibles and contributions and certain other conditions.
- G. **Course and Scope** means activity related to the furtherance of the affairs or business of the Named Member.

- H. **Coverage Document** means this Texas Association of Counties Risk Management Pool Automobile Physical Damage Program Coverage Document that sets forth in detail the exact coverage provided under the Agreement and which may be incorporated therein by reference, as amended from time to time.
- I. **Loss** means direct and accidental loss or damage.
- J. **Named Member** means the political subdivision or other member shown in the CCD.
- K. **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 designated for use principally off public roads;
 2. Vehicles maintained for use solely on or next to premises you own or rent;
 3. Vehicles that travel on crawler treads;
 4. Vehicles whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - a. Power cranes, shovels, loaders, diggers or drills; or
 - b. Road construction or resurfacing equipment such as graders, scrapers or rollers.
 5. Vehicles not described in paragraph 1, 2, 3, or 4 above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - b. Cherry pickers and similar devices used to raise or lower workers.
 6. Vehicles not described in paragraph 1, 2, 3, or 4 above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not mobile equipment but will be considered autos:
 - a. Equipment designed primarily for:
 - 1) Snow removal;
 - 2) Road maintenance, but not construction or resurfacing; or
 - 3) Street cleaning.
- L. **Pool** means the Texas Association of Counties Risk Management Pool.
- M. **Unattached Equipment** means equipment that is not permanently attached to your scheduled auto. This includes items used in the usual course and scope of Named Member's business such as but not limited to laptops, firearms, and medical equipment.



TEXAS ASSOCIATION *of* COUNTIES RISK MANAGEMENT POOL

GENERAL LIABILITY COVERAGE DOCUMENT

GENERAL LIABILITY COVERAGE DOCUMENT

The Texas Association of Counties Risk Management Pool (Pool) exists to enable its members to purchase coverage against liability Claims. This is not a contract of insurance, but is a Coverage Document evidencing liability coverage pursuant to the provisions of Chapters 791 and 2259 of the Texas Government Code and Chapter 119 of the Texas Local Government Code. Under this Coverage Document, political subdivisions and other members create and contribute to the Pool as an alternative to purchasing insurance from commercial insurance markets. While this Coverage Document is not commercial insurance, the Pool's Board of Directors has determined that certain first-party coverage may be offered herein for the purpose of mitigating or reducing potential liability exposures to the Named Member.

VARIOUS PROVISIONS IN THIS COVERAGE DOCUMENT RESTRICT COVERAGE. READ THE ENTIRE DOCUMENT CAREFULLY TO DETERMINE RIGHTS, DUTIES AND WHAT IS AND IS NOT COVERED.

The Contribution and Coverage Declarations (CCD) issued to the Named Member by the Pool is part of this Coverage Document, subject to the terms, conditions, definitions, exclusions, and sublimits contained in this Coverage Document, any endorsements, and the Interlocal Participation Agreement (IPA).

Words and phrases that are capitalized have special meaning. Refer to SECTION V-DEFINITIONS

SECTION I – COVERAGE

COVERAGE A: BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. COVERAGE AGREEMENT

- a. The Pool will pay those sums that the Covered Person becomes legally obligated to pay as damages because of Bodily Injury or Property Damage to which this coverage applies. The Pool will have the right and duty to defend the Covered Person against any Suit seeking those damages. However, the Pool will have no duty to defend the Covered Person against any Suit seeking damages for Bodily Injury or Property Damage to which this coverage does not apply. The Pool may, at the Pool's discretion, investigate any Occurrence and settle any Claim or Suit that may result. But:
 - (1) The amount the Pool will pay for damages is limited as described in Section III - Limits of Liability; and
 - (2) The Pool's right and duty to defend ends when the Pool has used up the applicable limit of coverage in the payment of judgments or

settlements under Coverages A, B, D, E or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage F: Supplementary Payments for Coverages A, B, D and E.

- b. This coverage applies to Bodily Injury and Property Damage only if:
 - (1) The Bodily Injury or Property Damage is caused by an Occurrence that takes place in the coverage territory; and
 - (2) The Bodily Injury or Property Damage is caused by an Occurrence that takes place during the coverage period.
- c. This coverage applies to Bodily Injury arising out of the condition or use of real property only if that real property is owned, rented to or controlled by the Named Member.
- d. Damages because of Bodily Injury include damages claimed by any person or organization for care, loss of services or death resulting at any time from the Bodily Injury.
- e. Bodily Injury or Property Damage will be deemed to have been known to have occurred at the earliest time when any Named Member or any Employee authorized by Named Member to give or receive notice of an Occurrence or Claim:
 - (1) Reports all, or any part, of the Bodily Injury or Property Damage to us or any other insurer;
 - (2) Receives a written or verbal demand or Claim for damages because of the Bodily Injury or Property Damage; or
 - (3) Becomes aware by any other means that Bodily Injury or Property Damage has occurred or has begun to occur.

2. EXCLUSIONS

This coverage does not apply to:

- a. Expected or Intended Injury

Bodily Injury or Property Damage expected or intended from the standpoint of the Covered Person. This exclusion does not apply to Bodily

Injury resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

Bodily Injury or Property Damage for which the Covered Person is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

- (1) That the Covered Person would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an Insured Contract, provided the Bodily Injury or Property Damage occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an Insured Contract, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than a Covered Person are deemed to be damages because of Bodily Injury or Property Damage, provided:
 - (a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same Insured Contract; and
 - (b) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this coverage applies are alleged.

c. Liquor Liability

Bodily Injury or Property Damage for which any Covered Person may be held liable by reason of:

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

This exclusion applies only if the Covered Person is in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation and Similar Laws

Any obligation of the Covered Person under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

Bodily Injury to:

- (1) An Employee of the Covered Person arising out of and in the course of:
 - (a) Employment by the Covered Person; or
 - (b) Performing duties related to the conduct of the Covered Person's business; or
- (2) The spouse, child, parent, brother or sister of that Employee as a consequence of Paragraph (1) above.

This exclusion applies:

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

This exclusion does not apply to liability assumed by the Covered Person under an Insured Contract.

f. Pollution

- (1) Bodily Injury or Property Damage 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 Covered Person. However, this subparagraph does not apply to:
 - (i) Bodily Injury if sustained within a building and caused by smoke, fumes, vapor or soot produced or originating from equipment used to heat, cool, or dehumidify that building.

- (ii) Bodily Injury or Property Damage for which the Named Member may be held liable, if it is a contractor and the owner or lessee of such premises, site or location has been added to this Document as an additional Covered Person with respect to the Named Member's ongoing operations performed for that additional Covered Person at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any Covered Person, other than that additional Covered Person; or
 - (iii) Bodily Injury or Property Damage arising out of heat, smoke or fumes from a Hostile Fire;
- (b) At or from any premises, site or location which is or was at any time used by or for any Covered Person or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any Covered Person or any person or organization for whom the Named Member may be legally responsible; or
- (d) At or from any premises, site or location on which any Covered Person or any contractors or subcontractors working directly or indirectly on any Covered Person's behalf are performing operations if the Pollutants are brought on or to the premises, site or location in connection with such operations by such Covered Person, contractor or subcontractor. However, this subparagraph does not apply to:
 - (i) Bodily Injury or Property Damage arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of Mobile Equipment or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the Bodily Injury or Property Damage arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or

other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such Covered Person, contractor or subcontractor;

- (ii) Bodily Injury or Property Damage sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by the Named Member or on the Named Member's behalf by a contractor or subcontractor; or
 - (iii) Bodily Injury or Property Damage arising out of heat, smoke or fumes from a Hostile Fire.
- (e) At or from any premises, site or location on which any Covered Person or any contractors or subcontractors working directly or indirectly on any Covered Person's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, Pollutants.
- (2) Any Loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any Covered Person 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 or Suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, Pollutants.

However, this paragraph does not apply to liability for damages because of Property Damage that the Covered Person would have in the absence of such request, demand, order or statutory or regulatory requirement, or such Claim or Suit by or on behalf of a governmental authority.

g. Aircraft, Autos or Watercraft

Bodily Injury or Property Damage arising out of the ownership, maintenance, use or entrustment to others of any Aircraft, Auto or watercraft owned, operated by, rented, loaned to, or borrowed by a Covered Person. Use includes operation and Loading or Unloading.

This exclusion applies even if the Claims against a Covered Person allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by a Covered Person if the Occurrence which caused the Bodily Injury or Property Damage involved the ownership, maintenance, use or entrustment to others of any Aircraft, Auto or watercraft that is owned or operated or rented or loaned to a Covered Person.

This exclusion applies to Bodily Injury or Property Damage arising out of the operation and maintenance of a Named Member owned airport and/or Airport Facilities by a private third party.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises the Named Member owns or rents;
- (2) Any watercraft the Named Member owns or rents, that is less than 26 feet long and is not being used to carry persons or property for a charge;
- (3) Any watercraft less than 26 feet long, which the Named Member does not own or rent, but only while being operated by a Covered Person in the course of his employment by or duties for the Named Member.
- (4) Parking an Auto on, or on the ways next to, premises the Named Member owns or rents, provided the Auto is not owned by or rented or loaned to any Covered Person;
- (5) Liability assumed under any Insured Contract for the ownership, maintenance or use of Aircraft or watercraft, except with respect to any aerial vehicle that is not controlled by a person from within or on the aerial vehicle; or
- (6) Bodily Injury or Property Damage arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of Mobile Equipment.

h. Mobile Equipment

Bodily Injury or Property Damage arising out of:

- (1) The transportation of Mobile Equipment by an Auto owned or operated by or rented or loaned to any Covered Person; or
- (2) The use of Mobile Equipment in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. Nuclear Energy

- (1) Nuclear reaction or radiation, or radioactive contamination, regardless of cause; or,
- (2) The explosion of any weapon employing atomic fission or fusion.

j. War

Bodily Injury or Property Damage due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

k. Damage to Property

Property Damage to:

- (1) Property the Covered Person owns, rents, or occupies;
- (2) Premises the Covered Person sells, gives away or abandons, if the Property Damage arises out of any part of those premises;
- (3) Property loaned to the Covered Person;
- (4) Personal property in the care, custody or control of a Covered Person;
- (5) That particular part of real property on which the Named Member or any contractors or subcontractors working directly or indirectly on the Named Member's behalf are performing operations, if the Property Damage arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because Your Work was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to Property Damage (other than damage by fire) to premises, including the contents of such premises, rented to the Named Member for a period of 7 or fewer consecutive days. A separate limit of coverage applies to Damage to Premises Rented to the Named Member as described in Section III - Limits of Liability.

Paragraph (2) of this exclusion does not apply if the premises are Your Work and were never occupied, rented or held for rental by the Named Member.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to Property Damage included in the Products-Completed Operations Hazard.

I. Damage to Your Product

Property Damage to Your Product arising out of it or any part of it.

m. Damage to Your Work

Property Damage to Your Work arising out of it or any part of it and included in the Products-Completed Operations Hazard.

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on the Named Member's behalf by a subcontractor.

n. Damage to Impaired Property or Property Not Physically Injured

Property Damage to Impaired Property or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in Your Product or Your Work; or
- (2) A delay or failure by the Named Member or anyone acting on the Named Member's behalf to perform a contract or agreement in accordance with its terms.

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

o. Recall of Products, Work or Impaired Property

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

- (1) Your Product;
- (2) Your Work; or
- (3) Impaired Property; if such product, work, or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

p. Personal and Advertising Injury

Bodily Injury arising out of Personal and Advertising Injury.

q. Civil Rights Violations

Bodily Injury or Property Damage liability arising out of any Covered Person's actual or alleged violation of another person's state or federal civil rights.

r. Law Enforcement Activities

Bodily Injury or Property Damage arising from Law Enforcement Activities. For purposes of this exclusion, Law Enforcement Activities shall mean any Law Enforcement Activities of the Named Member, and the performance by any other Covered Person of duties as a peace officer (whether on duty or off) or as a member of any law enforcement department or agency.

This exclusion does not apply to Claims arising out of the condition of real property or improvements thereon, owned or used by the Named Member for its Law Enforcement Activities. This exclusion also does not apply to Claims arising out of the provision of Medical Services by a Covered Person at a jail or other correctional facility operated by the Named Member, but only if the Covered Person is not a medical doctor or a physician's assistant.

s. Medical Services

Bodily Injury or Property Damage arising out of the rendering or failure to render Medical Services by a private third party including Medical Services administered by a private third party in any:

- (1) Jail or other correction facility owned and/or operated by a private third party:
- (2) Hospital owned and/or operated by a private third party; or
- (3) Nursing home owned and/or operated by a private third party.

For purposes of this exclusion, hospital has the meaning given in Texas Health & Safety Code § 241.003(7).

For purposes of this exclusion, nursing home means a licensed public institution to which Chapter 242, Health and Safety Code, applies.

t. Other Professional Services

Bodily Injury or Property Damage arising out of activities of a Covered Person as an attorney-at-law, architect, engineer or accountant, in the scope of their professional duties as such.

u. Statutory Violations

Bodily Injury or Property Damage arising out of any willful violation of statute, ordinance or regulation committed by or with the knowledge or consent of the Covered Person.

v. Strikes, Riots, Civil Commotions

Bodily Injury or Property Damage arising out of Claims arising out of strikes, riots or civil commotions.

w. Taking, Condemnation or Possession of Property

Bodily Injury or Property Damage arising out of any taking, inverse condemnation or adverse possession of any property.

x. State Responsibility

To any Claim, liability, Loss or Occurrence, for which the State of Texas:

- (1) Has the responsibility to pay or indemnify; or
- (2) Asserts a right to defend; or
- (3) Asserts a right to adjust, handle or settle.

y. Employment-Related Claim

Bodily Injury or Property Damage arising out of any Claim made by anyone related to their employment, termination of employment, application for employment or any employment-related practice, policy, procedure, act, error or omission (such as coercion, demotion, failure to promote, evaluation, reassignment, transfer, discipline, defamation, harassment, humiliation, discrimination, assault, battery, invasion of privacy, malicious prosecution or tort of outrage directed at any person or the failure to provide any person with any benefits of employment, such as retirement, health, life and disability benefits or insurance) even if the injury-causing event occurs before, during or after employment, application for employment or any employment-related practice, policy, procedure, act, error or omission.

z. Cyber Liability and Expense Coverage

(1) This Coverage Part does not provide coverage for any liability, Loss, penalty or expense arising directly or indirectly from any Cyber Security Event.

(2) For purposes of this exclusion the following terms have the following meanings:

Computer System means computers and associated input and output devices, data storage devices, networking equipment and backup facilities:

- (a) Operated by and either owned by or leased to any Named Member or Covered Person; or
- (b) Operated by a third party service provider and used to provide hosted computer application services to the Named Member or Covered Person or for processing, maintaining, hosting or storing the Covered Person's electronic data pursuant to a written contract with the Named Member or Covered Person for such services.

Cyber Security Event means:

- (a) The actual or reasonably suspected theft, Loss or unauthorized disclosure of or access to electronic Personal Information in the care, custody or control of the Named Member or Covered Person or for which the Named Member or Covered Person is legally responsible; or

- (b) A violation or failure of the security of a Computer System, including but not limited to unauthorized access, unauthorized use, a denial of service attack or receipt or transmission of malicious code.

Personal Information means an individual's name in combination with one or more of the following:

- (a) Information concerning the individual that constitutes nonpublic personal information as defined in the Gramm-Leach Bliley Act of 1999, as amended, and implementing regulations;
- (b) Medical or health care information concerning the individual, including without limitation protected health information as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, and implementing regulations;
- (c) The individual's Social Security number, driver's license or state identification number, credit, debit, or other financial account numbers and associated security codes, access codes, passwords or personal identification numbers that allow access to the individual's financial account information; or
- (d) Other nonpublic personally identifiable information, as protected under any local, state, federal or foreign law;

Provided, however, Personal Information does not include information that is lawfully available to the public, including without limitation information lawfully available from any Named Member or Covered Person or any local, state, federal or foreign governmental entity.

COVERAGE B: PERSONAL AND ADVERTISING INJURY LIABILITY

1. COVERAGE AGREEMENT

- a. The Pool will pay those sums that the Covered Person becomes legally obligated to pay as damages because of Personal and Advertising Injury to which this Coverage B applies. The Pool will have the right and duty to defend the Covered Person against any Suit seeking those damages. However, the Pool will have no duty to defend the Covered Person against any Suit seeking damages for Personal and Advertising Injury to which this coverage does not apply. The Pool may, at the Pool's discretion,

investigate any Occurrence and settle any Claim or Suit that may result.
But:

- (1) The amount the Pool will pay for damages is limited as described in Section III - Limits of Liability; and
- (2) The Pool's right and duty to defend end when the Pool has used up the applicable limit of coverage in the payment of judgments or settlements under Coverages A, B, D, or E or medical expenses under Coverage C.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage F: Supplementary Payments For Coverages A, B, D, and E.

- b. This coverage applies to Personal and Advertising Injury caused by an offense arising out of the Named Member's business but only if the offense was committed in the coverage territory during the coverage period.

2. EXCLUSIONS

This Personal and Advertising Injury Coverage does not apply to:

- a. Personal and Advertising Injury:
 - (1) Caused by or at the direction of the Covered Person with the knowledge that the act would violate the rights of another and would inflict Personal and Advertising Injury;
 - (2) Arising out of oral or written publication of material, if done by or at the direction of the Covered Person with knowledge of its falsity;
 - (3) Arising out of oral or written publication of material whose first publication took place before the beginning of the coverage period;
 - (4) Arising out of a criminal act committed by or at the direction of any Covered Person;
 - (5) For which the Covered Person has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the Covered Person would have in the absence of the contract or agreement;

- (6) Arising out of a breach of contract, except an implied contract to use another's advertising idea in the Named Member's Advertisement;
- (7) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in the Named Member's Advertisement;
- (8) Arising out of the wrong description of the price of goods, products or services stated in the Named Member's Advertisement;
- (9) To another Covered Person under this Document.
- (10) Committed by a Covered Person whose business is advertising, broadcasting, publishing or telecasting, designing or determining content of websites for others, or an internet search, access content or service provider. However, this exclusion does not apply to Paragraphs 26. a., b. and c. of Personal and Advertising Injury under the Definitions Section

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for the Named Member or others anywhere on the internet, is not by itself, considered the business of advertising, broadcasting, publishing, or telecasting.

- (11) Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of Pollutants at any time.
- (12) Arising out of a Covered Person's infringement of copyright, patent, trademark, trade secret or other intellectual property rights.
- (13) Arising out of an electronic chat room or bulletin board a Covered Person hosts, owns, or over which a Covered Person exercises control.
- (14) Arising out of the unauthorized use of another's name or product in the Named Member's or Covered Person's E-mail address, domain name or metatag.
- (15) Bodily Injury or Property Damage arising out of any Claim made by anyone related to their employment, termination of employment, application for employment or any employment-related practice, policy, procedure, act, error or omission (such as coercion, demotion, failure to promote, evaluation, reassignment, transfer, discipline, defamation, harassment, humiliation, discrimination, assault, battery, invasion of privacy, malicious prosecution or tort of

outrage directed at any person or the failure to provide any person with any benefits of employment, such as retirement, health, life and disability benefits or insurance)

- (16) Arising out of a Cyber Security Event as set forth in Section 1 Coverage A, Subsection 2 (z) of this Coverage Document. All of the provisions in Section 1 Coverage A, Subsection 2(z), Cyber Liability and Expense Coverage are applicable to this Personal and Advertising Liability Coverage exclusion.
- (17) Arising out of the ownership, maintenance, use or entrustment to others of any Aircraft owned, operated by, rented, loaned to, or borrowed by the Covered Person. This exclusion applies even if the Claims against the Covered Person allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by the Covered Person.

b. Any Loss, cost or expense arising out of any:

- (1) Request, demand or order that any Covered Person or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, Pollutants; or
- (2) Claim or Suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, Pollutants.

c. Civil Rights Violations

Personal and Advertising Injury liability arising out of any Covered Person's actual or alleged violation of another person's state or federal civil rights.

d. Law Enforcement Activities

Personal and Advertising Injury arising from Law Enforcement Activities. For purposes of this exclusion, Law Enforcement Activities shall mean any Law Enforcement Activities of the Named Member, and the performance by any other Covered Person of duties as a peace officer (whether on duty or off) or as a member of any law enforcement department or agency.

e. Professional Services

Personal and Advertising Injury arising out of activities of a Covered Person as an attorney-at-law, architect, engineer, accountant, physician,

or other healthcare professional, in the scope of their professional duties as such.

f. Statutory Violations

Personal and Advertising Injury arising out of any willful violation of statute, ordinance or regulation committed by or with the knowledge or consent of the Covered Person.

g. Strikes, Riots, Civil Commotions

Personal and Advertising Injury arising out of strikes, riots or civil commotions.

h. Taking, Condemnation or Possession of Property

Personal and Advertising Injury arising out of any taking, inverse condemnation or adverse possession of any property.

i. Breach of Contract

Personal and Advertising Injury arising out of a Covered Person's breach of contract. But this exclusion shall not apply to liability that the Covered Person would have in the absence of the contract.

j. Dishonesty

Personal and Advertising Injury arising out of Claims brought about or contributed to by the alleged dishonesty of the Covered Person.

k. State Responsibility

Personal and Advertising Injury arising out of any Claim, liability, Loss or Occurrence, for which the State of Texas:

- (1) Has the responsibility to pay or indemnify; or
- (2) Asserts a right to defend; or
- (3) Asserts a right to adjust, handle or settle.

COVERAGE C: MEDICAL PAYMENTS

1. COVERAGE AGREEMENT

- a. The Pool will pay medical expenses as described below for Bodily Injury caused by an Occurrence:
 - (1) On premises the Named Member owns or rents;
 - (2) On ways next to premises the Named Member owns or rents; or
 - (3) Because of the Named Member's operations;provided that:
 - (1) The Occurrence takes place in the coverage territory and during the coverage period;
 - (2) The expenses are incurred and reported to the Pool within one year of the date of the Occurrence; and
 - (3) The injured person submits to examination, at the Pool's expense, by physicians of the Pool's choice as often as the Pool reasonably requires.
- b. The Pool will make these payments regardless of fault. The amount the Pool will pay for these payments is limited as described in Section III - Limits of Liability. The Pool will pay reasonable expenses for:
 - (1) First aid administered at the time of an Occurrence;
 - (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
 - (3) Necessary ambulance, hospital, professional nursing and funeral services.
- c. The Pool's payment of covered medical expenses under this Coverage does not constitute an admission of fault or liability by or on behalf of any Covered Person.
- d. No deductible applies.

2. EXCLUSIONS

The Pool will not pay expenses for Bodily Injury:

- a. To any Covered Person except Volunteers.
- b. To a person hired to do work for or on behalf of any Covered Person or a tenant of any Covered Person.
- c. To a person injured on that part of the premises the Named Member owns or rents that the person normally occupies.
- d. To a person, whether or not an Employee of any Covered Person, if benefits for the Bodily Injury are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- e. To a person injured while practicing, instructing, or participating in any physical exercises, games, sports or athletic events.
- f. Included within the Products-Completed Operations Hazard.
- g. Excluded under Coverage A.
- h. Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.
- i. For any Claim, liability, Loss or Occurrence, for which the State of Texas:
 - (1) Has the responsibility to pay or indemnify; or
 - (2) Asserts a right to defend; or
 - (3) Asserts a right to adjust handle or settle.

COVERAGE D: EMPLOYEE BENEFITS LIABILITY

1. COVERAGE AGREEMENT

- a. The Pool will pay on behalf of a Covered Person those sums which the Covered Person becomes legally obligated to pay as damages because of Claims made by the Named Member's Employees, former Employees, or the beneficiaries or legal representatives thereof, to which this Employee Benefits Liability coverage applies, because of any Wrongful Act of the Covered Person, or any other person for whose acts the Covered Person is legally liable, in the Administration of the Named Member's Employee Benefits programs.

- b. The Pool will have the right and duty to defend any Suit seeking those damages. However, the Pool will have no duty to defend any Suit seeking damages to which this coverage does not apply. The Pool may, at the Pool's discretion, investigate any Wrongful Act and settle any Claim or Suit that may result, but:
 - (1) The Pool's right and duty to defend end when the Pool has used up the applicable limit of liability in the payment of judgments or settlements under Coverages A, B, D, or E or medical expenses under Coverage C.
 - (2) No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage F: Supplementary Payments For Coverage A, B, D, and E.
 - (3) The Pool will not settle any Suit without the Named Member's written consent. However, if the Named Member withholds its consent to any settlement recommended by the Pool and elects to contest a Claim or continue the litigation, then the Pool's liability for that Claim will not exceed the amount for which that Claim would have been settled plus defense costs incurred, up to the date the Named Member withheld consent.
- c. This coverage applies only to Claims
 - (1) Which are first brought against the Covered Person during the coverage period, and
 - (2) If, at the inception date of this Coverage Document, the Covered Person had no knowledge of and could not have reasonably foreseen any circumstances which might result in a Claim or Suit.
- d. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for herein.
- e. The Coverage F: Supplementary Payments provisions of this General Liability Coverage Document shall also apply to the coverage afforded under this Employee Benefits Liability Coverage.

2. EXCLUSIONS

Employee Benefits Liability Coverage does not apply to:

- a. Any dishonest, fraudulent, criminal or malicious act, libel, slander, discrimination, or humiliation;

- b. Bodily Injury to, or sickness, disease, or death, of any person, or to injury to or destruction of any tangible property, including the loss of use thereof;
- c. Any Claim for failure of performance of contract by any insurer;
- d. Any Claim based upon the Covered Person's failure to comply with any law concerning Workers' Compensation, Unemployment Insurance, Social Security or Disability Benefits;
- e. Any Claim based upon failure of an investment to perform as represented;
- f. Any Claim based upon advice given by a Covered Person to an Employee of the Named Member to participate or not to participate in stock subscription plans.
- g. Any Claim based upon any actual or alleged error or omission or breach of duty, committed or alleged to have been committed by a trustee, in the discharge of fiduciary duties, obligations or responsibilities imposed by the Federal Employee Retirement Income Security Act of 1974.
- h. Cyber Liability and Expense Coverage
 - (1) This Coverage Part does not provide coverage for any liability, Loss, penalty or expense arising directly or indirectly from any Cyber Security Event.
 - (2) For purposes of this exclusion the following terms have the following meanings:

Computer System means computers and associated input and output devices, data storage devices, networking equipment and backup facilities:

 - (a) Operated by and either owned by or leased to any Named Member or Covered Person; or
 - (b) Operated by a third party service provider and used to provide hosted computer application services to the Named Member or Covered Person or for processing, maintaining, hosting or storing the Covered Person's electronic data pursuant to a written contract with the Named Member or Covered Person for such services.

Cyber Security Event means:

- (a) The actual or reasonably suspected theft, Loss or unauthorized disclosure of or access to electronic Personal Information in the care, custody or control of the Named Member or Covered Person or for which the Named Member or Covered Person is legally responsible; or
- (b) A violation or failure of the security of a Computer System, including but not limited to unauthorized access, unauthorized use, a denial of service attack or receipt or transmission of malicious code.

Personal Information means an individual's name in combination with one or more of the following:

- (a) Information concerning the individual that constitutes nonpublic personal information as defined in the Gramm-Leach Bliley Act of 1999, as amended, and implementing regulations;
- (b) Medical or health care information concerning the individual, including without limitation protected health information as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, and implementing regulations;
- (c) The individual's Social Security number, driver's license or state identification number, credit, debit, or other financial account numbers and associated security codes, access codes, passwords or personal identification numbers that allow access to the individual's financial account information; or
- (d) Other nonpublic personally identifiable information, as protected under any local, state, federal or foreign law;

Provided, however, Personal Information does not include information that is lawfully available to the public, including without limitation information lawfully available from any Named Member or Covered Person or any local, state, federal or foreign governmental entity.

- i. Personal and Advertising Injury.
- j. Any insufficiency of funds to meet any obligations under an Employee Benefits plan.

- k. Any liability arising from the termination of an Employee Benefits plan.
- l. Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

3. LIMITS OF LIABILITY AND DEDUCTIBLE

- a. The Limits of Liability are inclusive of a Claim against a Named Member for Employee Benefits Liability Coverage. The amount the Pool will pay for damages is limited as described in Section III - Limits of Liability.
- b. Regardless of the number of persons making Claims, or the number of Covered Persons against whom Claims are made, the Limit of Liability stated in Section III Limits of Liability is the most the Pool will pay for all damages incurred on account of all Occurrences during the coverage period.
- c. With respect to the limits of liability under this Employee Benefits Coverage the Pool's obligations to pay amounts and to defend Claims or Suits will only apply in excess of the applicable deductible of \$1,000 unless otherwise stated on the CCD.
- d. All amounts expended by the Pool, or with the Pool's consent, in defending any Claim or Suit (including attorney's fees, expert witness fees, litigation expenses and costs of court), are includable within the deductible amount.

4. DUTIES IN THE EVENT OF A WRONGFUL ACT, CLAIM OR SUIT UNDER THE EMPLOYEE BENEFITS LIABILITY COVERAGE.

- a. The Named Member and any Covered Person involved must notify the Pool as soon as practicable. To the extent possible, notice should include:
 - (1) How, when and where Wrongful Act took place;
 - (2) The names and addresses of any injured persons and witnesses; and
 - (3) The nature and location of any injury or damage arising out of the Wrongful Act.
- b. If a demand is received or Claim or Suit is brought against any Covered Person, the Named Member and the Covered Person involved must:
 - (1) Immediately record the specifics of the demand or Suit and the date received; and

- (2) Notify the Pool as soon as practicable.
- c. The Named Member and any other involved Covered Person must:
 - (1) Immediately send the Pool copies of any demands, notices, summonses or legal papers received in connection with the Claim or Suit;
 - (2) Authorize the Pool to obtain records and other information;
 - (3) Cooperate with the Pool in the investigation or settlement of the Claim or defense against the Suit; and
 - (4) Assist the Pool, upon the Pool's request, in the enforcement of any right against any person or organization which may be liable to the Covered Person because of injury or damage to which this coverage may also apply.
- d. No Covered Person will, except at that Covered Person's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without the Pool's consent.
- e. No Covered Person will, without the Pool's written consent:
 - (1) Assume or admit any liability; or
 - (2) Waive, abridge, prejudice or fail to assert any right of sovereign or official immunity, limitation of liability, or other defense to liability for amounts otherwise payable under this Document.
- f. In connection with any investigation the Pool may make regarding the applicability of this Employee Benefits Coverage for any Claim or Suit under this Document, or the nature or extent of a Claim or Suit payable under this Document, the Named Member and Covered Person involved agree to provide any relevant Documents or records, submit to examination under oath at the Pool's request and give the Pool a signed statement of his or her answers, as often as the Pool may reasonably require.

COVERAGE E: GARAGE KEEPER'S LIABILITY COVERAGE

1. COVERAGE

- a. The Pool will pay all sums that a Covered Person becomes legally obligated to pay up to the Pool's Limit of Liability as set forth in this coverage as damages for Loss to an Auto, Auto equipment, or any part of an Auto in the

Named Member's custody or control while the Auto is attended, parked or stored in the Named Member's Garage Operations.

- b. The Pool has the right and duty to defend any Covered Person against a Suit asking for these damages. However, the Pool has no duty to defend a Covered Person against a Suit seeking damages for any Loss to which this coverage does not apply. The Pool may investigate and settle any Claim or Suit as the Pool considers appropriate.
- c. The Pool's right and duty to defend end when the Pool has used up the applicable limit of coverage in the payment of judgments or settlements under Coverages A, B, D, or E or medical expenses under Coverage C.
- d. No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments - Coverages A, B, D, and E.
- e. This coverage applies to a Loss only if:
 - (1) The Loss is caused by an Occurrence that takes place in the coverage territory; and
 - (2) The Loss occurs during the coverage period.

2. SUPPLEMENTARY PAYMENTS

The Coverage F: Supplementary Payments provision of the General Liability Coverage Document shall also apply to the coverage afforded under this Garage Keeper's Legal Liability Coverage.

3. EXCLUSIONS

- a. This Garage Keeper's Legal Liability coverage does not apply to any of the following:
 - (1) Contractual Obligations – Liability resulting from any agreement by which a Covered Person accepts responsibility for Loss.
 - (2) Theft – Loss due to theft or conversion caused in any way by the Named Member or the Named Member's Employees.
 - (3) Defective Parts – Defective parts or materials.
 - (4) Faulty work – Faulty work a Covered Person performs.

- b. The Pool will not pay for Loss to any of the following:
- (1) Sound reproducing equipment unless permanently installed in an Auto.
 - (2) Tapes, records or other sound reproducing devices designed for use with sound reproducing equipment.
 - (3) Sound receiving equipment designed for use as a citizen's band radio, two-way mobile radio or telephone or scanning monitor receiver, including its antennas and other accessories, unless permanently installed in the dash or console opening normally used by the Auto manufacturer for the installation of a radio.
 - (4) Equipment designed or used for the detection or location of radar.
- c. The Pool will not pay for Loss caused by or resulting from any of the following unless caused by other Loss that is covered.
- (1) Wear and tear, freezing, mechanical or electrical breakdown.
 - (2) Blowouts, punctures or other road damage to tires.
- d. This coverage does not apply to Loss due to theft of an Auto or any portion of an Auto or contents of the Auto:
- (1) When the lot where Autos are located is not protected at all entrances, exits, openings and the entire perimeter by fences, gates, or heavy chains and locks; or
 - (2) When the building where Autos are located is not protected with locked and secured openings.
- e. This coverage does not apply to Loss to an Auto arising out of the ownership, operation, maintenance or use of any Auto in the Named Member's Garage Operations.
- f. This coverage does not apply to Loss to an Auto arising out of any repossession of non-owned Autos.

4. LIMITS OF LIABILITY

Regardless of the number of Autos, Covered Persons, contributions paid, Claims made or Suits brought, the most the Pool will pay at any one location for any one Occurrence is limited as described in Section III - Limits of Liability.

5. DEDUCTIBLE

For each Auto, the Pool's obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible of \$1,000 unless otherwise stated in the CCD.

6. LOSS ADJUSTMENT AND SETTLEMENT

The most the Pool will pay under the provisions of this Garage Keeper's Liability Legal Liability coverage for any one Loss at any one location, regardless of the number of Autos, is the lesser of:

- a. The actual cash value of the damaged Auto at the time of Loss;
- b. The cost of repairing the Auto(s) to the condition that existed before the Loss;
- c. The amount awarded or ordered by settlement agreement or judgment as a result of the Loss; or
- d. The Named Member's Limit of Liability as described in Section III - Limits of Liability .

COVERAGE F: SUPPLEMENTARY PAYMENTS: FOR COVERAGES A, B, D, AND E

- 1. The Pool will pay, with respect to any Claim the Pool investigates or settles, or any Suit against a Covered Person the Pool defends:
 - a. All expenses the Pool incurs.
 - b. Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. The Pool does not have to furnish these bonds.
 - c. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of coverage. The Pool does not have to furnish these bonds.
 - d. All reasonable expenses incurred by the Covered Person at the Pool's request to assist the Pool in the investigation or defense of the Claim or Suit, including actual Loss of earnings up to \$100 a day because of time off from work.
 - e. All costs taxed against the Covered Person in the Suit.

- f. Pre-judgment interest awarded against the Covered Person on that part of the judgment the Pool pays. If the Pool makes an offer to pay the applicable limit of coverage, the Pool will not pay any pre-judgment interest based on that period of time after the offer.
- g. All interest on the full amount of any judgment that accrues after entry of the judgment and before the Pool has paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of coverage.
- h. Expenses incurred by a Covered Person for first aid to others at the time of an accident, for Bodily Injury to which this Document applies.

These supplementary payments will not reduce the Limits of Liability.

- 2. If the Pool defends a Covered Person against a Suit and an indemnitee of the Covered Person is also named as a party to the Suit, the Pool will defend that indemnitee if all of the following conditions are met:
 - a. The Suit against the indemnitee seeks damages for which the Covered Person has assumed the liability of the indemnitee in a contract or agreement that is an Insured Contract;
 - b. This coverage applies to such liability assumed by the Covered Person;
 - c. The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the Covered Person in the same Insured Contract
 - d. The allegations in the Suit and the information the Pool knows about the Occurrence are such that no conflict appears to exist between the interests of the Covered Person and the interests of the indemnitee;
 - e. The indemnitee and the Covered Person ask the Pool to conduct and control the defense of that indemnitee against such Suit and agree that the Pool can assign the same counsel to defend the Covered Person and the indemnitee; and
 - f. The indemnitee:
 - (1) Agrees in writing to:
 - (a) Cooperate with the Pool in the investigation, settlement or defense of the Suit;

- (b) Immediately send the Pool copies of any demands, notices, summonses or legal papers received in connection with the Suit;
 - (c) Notify any other insurer whose coverage is available to the indemnitee; and
 - (d) Cooperate with the Pool with respect to coordinating other applicable insurance available to the indemnitee; and
- (2) Provides the Pool with written authorization to:
 - (a) Obtain records and other information related to the Suit; and
 - (b) Conduct and control the defense of the indemnitee in such Suit.

So long as the above conditions are met, attorneys' fees incurred by the Pool in the defense of that indemnitee, necessary litigation expenses incurred by the Pool and necessary litigation expenses incurred by the indemnitee at the Pool's request will be paid as supplementary payments. Notwithstanding the provisions of Paragraph 2.b. (2) of Section I - Coverage A - Bodily Injury and Property Damage Liability, such payments will not be deemed to be damages for Bodily Injury and Property Damage and will not reduce the Limits of Liability.

The Pool's obligation to defend a Covered Person's indemnitee and to pay for attorneys' fees and necessary litigation expenses as supplementary payments ends when:

- a. The Pool has used up the applicable limit of coverage in the payment of judgments or settlements; or
- b. The conditions set forth above, or the terms of the agreement described in Paragraph f. above, are no longer met.

SECTION II - WHO IS A COVERED PERSON

Each of the following is a Covered Person:

- 1. The Named Member.
- 2. The Named Member's Officials, Employees and Volunteers, but only for acts within the scope of their employment by the Named Member or while performing duties related to the conduct of the Named Member's business. However, none of these Officials, Employees or Volunteers is a Covered Person for:

- a. Bodily Injury or Personal and Advertising Injury:
 - (1) To the Named Member or another of its Officials, Employees or Volunteers.
 - (2) To the spouse, child, parent, brother or sister of that other Official, Employee or Volunteer, as a consequence of Paragraph a. (1) above;
 - (3) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs a. (1) or a. (2) above; or
- b. Property Damage to property:
 - (1) Owned, occupied or used by,
 - (2) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by, the Named Member or any of its Officials, Employees or Volunteers.
- 3. Any person or organization having proper temporary custody of the Covered Person's property if the Covered Person dies, but only:
 - a. With respect to liability arising out of the maintenance or use of that property; and
 - b. Until the Covered Person's legal representative has been appointed.
- 4. The Covered Person's legal representative if the Covered Person dies, but only with respect to duties as such. That representative will have all the Covered Person's rights and duties under this Coverage Document.
- 5. With respect to Mobile Equipment registered in the Named Member's name under any motor vehicle registration law, any person is a Covered Person while driving such equipment along a public highway with the Named Member's permission. Any other person or organization responsible for the conduct of such person is also a Covered Person, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is a Covered Person with respect to:
 - a. Bodily Injury to a co-Employee of the person driving the equipment; or

- b. Property Damage to property owned by, rented to, in the charge of or occupied by the Named Member, its Officials, Employees or Volunteers, or the employer of any person who is a Covered Person under this provision.

SECTION III – LIMITS OF LIABILITY

1. The Pool will pay all sums per Occurrence, up to the Pool's Limits of Liability as set forth in the CCD or otherwise stated in this section regardless of the number of Covered Persons, Claims made or Suits brought, or persons or organizations making Claims or bringing Suits, for the following:
 - a. Bodily Injury and Property Damage under Coverage A to which this coverage applies, arising out of an Occurrence.
 - b. Damage to Premises Rented to the Named Member under Coverage A is subject to a limit of \$100,000 for damages because of Property Damage to any one premises while rented to the Named Member, or in the case of damage by fire, while rented to the Named Member or temporarily occupied by the Named Member with permission of the owner.
 - c. Personal and Advertising Injury under Coverage B to which this coverage applies, arising out of an Occurrence.
 - d. The Medical Expense Limit under Coverage C is \$5,000 for all medical expenses because of Bodily Injury sustained by any one person and any payments made under Coverage C will erode the limits as listed on the CCD for Coverage A.
 - e. The Employee Benefits Liability Limit under Coverage D is \$500,000 per coverage period.
 - f. The Garage Keeper's Liability Coverage Limit under Coverage E is \$50,000.
2. The Limits of Liability apply separately to each consecutive annual coverage period and to any remaining period of less than 12 months, starting with the beginning of the coverage period shown in the CCD, unless the coverage period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding coverage period for purposes of determining the Limits of Liability.
3. The Named Member is wholly responsible for paying the entire Deductible shown in the CCD or within this Coverage Document. A covered person, other than the Named Member, has no individual responsibility for paying any portion of the

Deductible, and is fully covered for the amount of any liability not in excess of the Texas Tort Claims Limits, as referenced in Texas Civil Practices and Remedies Code Section 108.002.

At the option and discretion of the Pool, the Pool may pay all or part of the Deductible amount to effect settlement, and, upon notification to the Named Member, Named Member shall promptly reimburse the Pool for all expenditures. If the Pool pays any Claims Expenses which fall within the Deductible amount stated in the CCD or within this Coverage Document, the Named Member, upon notification, shall promptly reimburse the Pool for all expenditures.

SECTION IV - GENERAL LIABILITY CONDITIONS

This General Liability Coverage Document and, unless otherwise indicated therein, all other forms and endorsements forming a part of this Coverage Document are subject to the following Conditions:

1. COVERAGE TERRITORY

Under this Document, the Pool covers Occurrences occurring within the coverage territory.

The coverage territory is:

- a. The United States of America;
- b. The territories and possessions of the United States of America;
- c. Puerto Rico; and
- d. Canada;
- e. International waters or airspace, provided the injury or damage does not occur in the course of travel or transportation to or from any place not included in a.-d., above; or
- f. All parts of the world if:
 - (1) The injury or damage arises out of:
 - (a) Goods or products made or sold by the Named Member in the territory described in a. above; or
 - (b) The activities of a Covered Person whose home is in the territory described in a. above, but is away for a short time on the Named Member's business; and

- (2) The Covered Person's responsibility to pay damages is determined in a Suit on the merits, in the territory described in a.-d. above or in a settlement the Pool agrees to.

2. DUTIES IN THE EVENT OF OCCURRENCE, CLAIM OR SUIT

- a. The Named Member and any Covered Person involved must notify the Pool as soon as practicable of an Occurrence which may result in a Claim. To the extent possible, notice should include:

- (1) How, when and where the Occurrence took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the Occurrence.

- b. If a Claim is made or Suit is brought against any Covered Person, the Named Member and the Covered Person involved must:

- (1) Immediately record the specifics of the Claim or Suit and the date received; and
- (2) Notify the Pool as soon as practicable.

The Named Member must see to it that the Pool receives written notice of the Claim or Suit as soon as practicable.

- c. The Named Member and any other involved Covered Person must:

- (1) Immediately send the Pool copies of any demands, notices, summonses or legal papers received in connection with the Claim or Suit;
- (2) Authorize the Pool to obtain records and other information;
- (3) Cooperate with the Pool in the investigation or settlement of the Claim or defense against the Suit; and
- (4) Assist the Pool, upon the Pool's request, in the enforcement of any right against any person or organization which may be liable to the Covered Person because of injury or damage to which this coverage may also apply.

- d. No Covered Person will, except at that Covered Person's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without the Pool's consent.
- e. No Covered Person will, without the Pool's written consent:
 - (1) Assume or admit any liability; or
 - (2) Waive, abridge, prejudice or fail to assert any right of sovereign or official immunity, limitation of liability, or other defense to liability for amounts otherwise payable under this Coverage Document.
- f. In connection with any investigation the Pool may make regarding the applicability of this coverage for any Claim or Suit under this Coverage Document, or the nature or extent of a Claim or Suit payable under this Coverage Document, the Named Member and Covered Person involved agree to provide any relevant documents or records, submit to examination under oath at the Pool's request and give the Pool a signed statement of his or her answers, as often as the Pool may reasonably require.

3. BANKRUPTCY

Bankruptcy or insolvency of a Covered Person or the Covered Person's estate will not relieve the Pool of any obligations under this Coverage Document.

4. LEGAL ACTION AGAINST THE POOL

- a. No one may bring a legal action against the Pool under this Coverage Document until:
 - (1) There has been full compliance with all the terms of this Coverage Document; and
 - (2) The amount of the Covered Person's liability has been determined by final judgment pursuant to a fully adversarial trial, or by an agreed settlement and release of liability signed by the Pool, the Covered Person and the claimant or the claimant's legal representative.
- b. A person or organization may sue the Pool to recover on such a judgment or agreed settlement, but the Pool will not be liable for damages that are not payable under the terms of this Coverage Document or that are in excess of the applicable limit of liability.

- c. No one has the right under this Coverage Document to bring the Pool into an action to determine a Covered Person's liability.

5. TRANSFER OF THE NAMED MEMBER'S RIGHTS AND DUTIES UNDER THIS COVERAGE DOCUMENT

- a. A Covered Person's rights and duties under this Coverage Document may not be transferred without the Pool's written consent, except in the case of death of an individual Covered Person.
- b. If a Covered Person dies, his rights and duties will be transferred to his legal representative but only while acting within the scope of duties as his legal representative. Until that legal representative is appointed, anyone having proper temporary custody of the Covered Person's property will have his rights and duties but only with respect to that property.

6. TRANSFER OF RIGHTS OF RECOVERY AGAINST ANOTHER TO THE POOL

If any person or organization to or for whom the Pool makes payments under this Coverage Document has rights to recover damages from another, those rights are transferred to the Pool. That person or organization must do everything necessary to secure the Pool's rights and must do nothing after an Occurrence or Loss to impair them.

7. DELIVERY OF THIS COVERAGE DOCUMENT

Delivery of this Coverage Document to the Named Member shall be considered delivery to each Covered Person, and the Named Member is authorized by each Covered Person to accept delivery on the Covered Person's behalf.

8. CONTRIBUTIONS

- a. All Contributions charged for this Coverage Document shall be computed in accordance with the Pool's rates and rating plans, as approved by the Pool's Board of Directors. The Named Member agrees to maintain records of all information that the Pool requires for computation of Contributions, and to send copies of such records to the Pool at such times as the Pool reasonably requires.
- b. The Named Member shall pay promptly all Contributions or other payments to the Pool at such times and in such manner as shall be established by the Pool's Bylaws. Any delinquent payments shall be paid with interest as prescribed by the Pool's Bylaws.

- c. The Named Member will be the payee for any return Contributions or other payments the Pool pays.
- d. If during the coverage period, there is a material change in the Named Member's operations, premises owned or other risks or hazards covered by this Coverage Document, the Named Member shall notify the Pool as soon as possible during the coverage period, and the Pool may, at its discretion, adjust the Contribution for this Coverage Document, in accordance with the Pool's rates and rating plans, as approved by the Pool's Board of Directors. If the earned Contribution thus computed exceeds the advance Contribution paid, the Named Member shall pay the excess to the Pool; if less, the Pool shall refund or credit to the Named Member the unearned portion paid.

9. CANCELLATION OR NON-RENEWAL

- a. Either party to this Coverage Document may cancel or non-renew this Document by giving notice of such intent to the other party. The notice must be in writing and must be delivered by certified mail, return receipt requested via U.S. Mail to the other party. Except for notice of cancellation or non-renewal by the Pool for nonpayment of Contributions, such notice must be given not less than sixty (60) days prior to the effective date of cancellation.
- b. The Pool may, in the Pool's sole discretion, permit the Named Member, upon the Named Member's written request, to terminate this Coverage Document by giving the Pool not less than thirty (30) days' notice.
- c. Notice of cancellation by the Named Member must be addressed to:

Texas Association of Counties Risk Management Pool
Attn: Member Services
P.O. Box 2131
Austin, Texas 78768-2131

- d. The Pool may cancel or non-renew this Coverage Document:
 - (1) For nonpayment of Contributions, unless other provision for payment has been made by express written agreement between the Named Member and the Pool;
 - (2) If there is an increase in risk or hazard within the Named Member's control which would result in an increase in the rate or amount of Contribution;
 - (3) For fraud in the obtaining of coverage;

- (4) If the Pool is placed in supervision, conservatorship, receivership and the cancellation is approved or directed by the supervisor, conservator or receiver;
 - (5) If the Named Member does not implement risk management techniques required by the Pool during the initial coverage period, or if risk management techniques do not result in the Named Member's attaining a risk level sufficient to meet the Pool's underwriting criteria during the initial coverage period;
 - (6) If the Interlocal Participation Agreement between the parties is terminated or the Named Member withdraws or is expelled from the Pool;
 - (7) For the Named Member's violation of any of the Named Member's other obligations under the Pool's Bylaws or the Interlocal Participation Agreement between the Named Member and the Pool.
- e. If the Pool cancels this Coverage Document for nonpayment of Contributions, such cancellation shall be effective at 12:01 a.m. on the tenth (10th) day following the Pool's placement of the notice of cancellation in the U.S. Mail. These Conditions do not waive or alter any other applicable provisions of the Pool's Bylaws or the Interlocal Participation Agreement between the Named Member and the Pool.
 - f. Notice of cancellation by the Pool may be given to the county judge or presiding officer of the Named Member at the Named Member's address shown in the CCD.

10. RETAINED CONTRIBUTION PROPORTIONS

- a. If this Coverage Document is terminated by the Named Member, the Pool shall retain the customary short rate proportion of the Contribution.
- b. If this Coverage Document is terminated by or on behalf of the Pool, the Pool shall retain the customary pro-rata proportion of the Contribution.

11. CHANGES

This Coverage Document, the Pool's Bylaws, the Interlocal Participation Agreement between the Named Member and the Pool, and the Pool's duly-adopted underwriting standards and criteria constitute the agreements between the Named Member and the Pool concerning the coverage afforded. The Named Member is authorized to make changes in the terms of this Coverage Document only with consent of the Pool's duly-authorized representative. The Pool may

make changes to this Coverage Document, as permitted by the Pool's Bylaws, the Interlocal Participation Agreement between the Named Member and the Pool, and/or the laws governing the creation and operation of the Pool. This Coverage Document's terms cannot be amended or waived without the written authorization of the Pool. Any changes to the Pool's Bylaws, the Interlocal Participation Agreement between the Pool and the Named Member, or the Pool's underwriting standards or criteria are incorporated herein.

12. LIBERALIZATION

If the Pool changes this Coverage Document to provide more coverage without additional premium charge, the additional coverage will be effective as of the day indicated in the Pool's written notice of change to the Named Member.

13. EXAMINATION OF THE NAMED MEMBER'S BOOKS AND RECORDS

The Pool may examine and audit the Named Member's books and records as they relate to this Coverage Document or as may be required for the Administration of the Pool.

14. INSPECTIONS AND LOSS CONTROL

The Pool has the right but is not obligated to:

- a. Make inspections and surveys at any time;
- b. Make risk management appraisals of the Named Member's operations, policies, procedures, vehicles, personnel and/or facilities;
- c. Require the Named Member to implement and follow risk management procedures or techniques established by the Pool to reduce risk sufficient to meet the Pool's underwriting criteria. Any inspections, surveys, reports or requirements relate only to the Named Member's eligibility for liability coverage and the Contribution to be charged. The Pool does not make safety inspections. The Pool does not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public, nor does the Pool warrant that conditions:
 - (1) Are safe or healthful; or
 - (2) Comply with laws, regulations, codes or standards.

This condition applies not only to the Pool, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

15. OTHER INSURANCE OR COVERAGE

If other valid and collectible insurance or liability coverage is available to the Covered Person for a Loss the Pool covers under Coverages A, B, D, or E of this Coverage Document, the Pool's obligations are limited as follows:

a. Primary Coverage

This coverage is primary except when b. below applies. If this coverage is primary, the Pool's obligations are not affected unless any of the other insurance or coverage is also primary. Then, the Pool will share with all other insurance by the method described in c. below.

b. Excess Coverage

This coverage is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for Your Work;
 - (b) That is Fire insurance for premises rented to the Named Member or temporarily occupied by the Named Member with permission of the owner;
 - (c) That is insurance purchased by the Named Member to cover the Named Member's liability as a tenant for Property Damage to premises rented to the Named Member or temporarily occupied by the Named Member with permission of the owner; or
 - (d) If the Loss arises out of the maintenance or use of Aircraft, Autos or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A - Bodily Injury And Property Damage Liability.
- (2) Any other primary insurance or coverage available to the Named Member covering liability for damages arising out of the premises or operations for which the Named Member has been added as an additional insured or Covered Person by attachment of an endorsement.

When this coverage is excess, the Pool will have no duty under Coverages A, B, D, or E to defend the Covered Person against any Suit if

any other insurer has a duty to defend the Covered Person against that Suit. If no other insurer defends, the Pool will undertake to do so, but the Pool will be entitled to the Covered Person's rights against all those other insurers.

When this coverage is excess over other insurance, the Pool will pay only the Pool's share of the amount of the Loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the Loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

The Pool will share the remaining Loss, if any, with any other insurance that is not described in this Excess Coverage provision and was not bought specifically to apply in excess of the Limits of Liability shown in the CCD of this Coverage Part.

c. Method of Sharing

If all of the other insurance permits Contribution by equal shares, the Pool will follow this method also. Under this approach each the Pool and each insurer contributes equal amounts until they have paid their applicable limit of coverage and/ or insurance, or none of the Loss remains, whichever comes first.

If any of the other insurance does not permit Contribution by equal shares, the Pool will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance or coverage to the total applicable limits of insurance and coverage of all insurers.

16. JURISDICTION AND VENUE

The validity and interpretation of this Coverage Document will be governed by the laws of the State of Texas. This Coverage Document is performable and enforceable in Travis County, Texas. The state courts in Travis County will be the sole and exclusive venue for any litigation, special proceeding, or other proceeding arising from the performance of this Coverage Document.

17. TWO OR MORE COVERAGE DOCUMENTS ISSUED BY THE POOL

If this Coverage Document and any other coverage Document issued to the Named Member by the Pool apply to the same , Occurrence, Wrongful Act or Loss the aggregate maximum limit of liability under all such coverage

Documents shall not exceed the highest applicable limit of liability under any one coverage Document. This condition does not apply to any coverage Document issued by the Pool specifically to apply as excess insurance over this Coverage Document.

18. SEPARATION OF COVERED PERSONS

Except with respect to the Limits of Liability, and any rights or duties specifically assigned in this Coverage Document to the first Named Member, this coverage applies:

- a. As if each Covered Person were the only Covered Person; and
- b. Separately to each Covered Person against whom Claim is made or Suit is brought.

19. NAMED MEMBER'S REPRESENTATIONS

By acceptance of this Coverage Document, the Named Member agrees that the Named Member's statements in the application for Coverage and renewal documents are the Named Member's agreements and representations, that this Document is issued in reliance upon the truth of such representations and that this Coverage Document, the Pool's Bylaws, the Interlocal Participation Agreement between the Named Member and the Pool, and the Pool's duly adopted underwriting standards and criteria embody all agreements existing between the Named Member and the Pool or any of the Pool's agents relating to this Coverage Document.

20. COMPLIANCE WITH CONDITIONS

If any Covered Person breaches any condition or warranty of this Coverage Document, there shall be no coverage, including any obligation to defend, for any Covered Person as to the particular Occurrence or action in connection with which such breach occurred.

21. CONCEALMENT, MISREPRESENTATION OR FRAUD

This Coverage Document is void in any case of fraud by a Covered Person relating to it. It is also void if the Named Member intentionally conceals or misrepresents a material fact concerning the risks covered by this Coverage Document.

22. UNINTENTIONAL FAILURE TO DISCLOSE

It is agreed that the Named Member's failure to disclose all hazards existing as of the inception date of this Coverage Document shall not prejudice a Covered

Person with respect to the coverage afforded by this Coverage Document, if such failure or omission was not intentional.

23. DEFENSE, SETTLEMENT AND ALLOCATION OF DAMAGES

- a. Subject to all of the provisions contained in this Coverage Document, the Pool has the right and duty to defend any Claim against the Member seeking Damages, even if a Claim is groundless, false or fraudulent. The Pool shall have the right to incur Claims Expenses and to make an investigation and settlement of any Claim or suit as may be deemed expedient by the Pool and the Pool may settle any Claim at its sole discretion and without the consent of the Member. The determination by the Pool as to any settlement and as to the reasonableness of settlements and Claims Expenses shall be conclusive on the Member. The Pool shall have the right, but not the obligation, to appeal any judgment adverse to the Member. Claims Expenses shall not be deducted from the Limits of Liability.
- b. The Pool shall have no obligation to pay sums the Member shall become legally liable to pay as Claims or Damages that are not covered by this Coverage Document (including amounts in excess of any applicable sublimits) or to contribute to a settlement of any such Claims or Damages. In negotiating any settlement or Claim payment, the Pool shall have the right to request the Member make an appropriate contribution for uncovered Claims or Damages. If both Damages covered by this Coverage Document and Damages not covered by this Coverage Document are incurred or are to be incurred because a Claim made against the Member or Damages sought from the Member includes both covered and uncovered matters, the Pool and the Member will use their best efforts to determine a fair and appropriate allocation of Damages between that portion of Damages that is covered under this Coverage Document and that portion of Damages that is not covered under this Coverage Document. The Pool and the Member will take into account the relative legal and financial exposures of, and relative benefits obtained in connection with the defense or settlement of, the Claim. In the event the Pool and the Member cannot reach an agreement as to an allocation of Damages, then the parties will each contribute the amount proposed by the Pool until a final amount is agreed upon or determined pursuant to the provisions of this Coverage Document and applicable law.
- c. Upon written request to the Pool by Named Member for pre-Claim involvement of Pool prior to the formal existence of a Claim, the Pool has the right, but not the duty, to designate attorneys, investigators, or other persons to perform work and incur expenses on behalf of the Named Member where the Pool anticipates a Claim.
- d. If, in the sole discretion of the Pool, employing the services of attorneys, investigators, or other persons to perform work and incur expenses on

behalf of any Member, or the Pool, is deemed appropriate to protect Pool interests prior to the formal existence of a Claim, the Pool has the right, but not the duty, to employ persons as a Pool operational expense.

- e. The Pool shall have the right, but not the duty, to monitor and participate in the defense of any investigatory, administrative or disciplinary proceeding relating to any Wrongful Act of the Member. Should the Pool elect to defend, monitor or participate under this provision, the election shall not constitute a waiver of any rights the Pool may have pursuant to any of the provisions of this Coverage Document.
- f. If the Pool determines that the Limits of Liability under this Coverage Document may be insufficient to pay or settle any covered Claim or Claims, or if there are multiple or competing Claims against one or more Members, the Pool may, in its sole discretion, tender the remaining Limits of Liability available under this Coverage Document, either to the treasury of the Named Member, a person authorized to receive funds for the Named Member, or the registry of a court of competent jurisdiction and exhaust the Limits of Liability under this Coverage Document. Tender by the Pool of an amount that would exhaust the Limits of Liability shall terminate: (1) the Pool's liability to pay any amounts for unincurred Claims Expenses with regard to any Claim or Claims; (2) the Pool's duties to defend any Member from any Claim or Claims; and (3) the Pool's liability to pay any amount for Damages with regard to any Claim or Claims.

SECTION V – DEFINITIONS

- 1. **Administration** means:
 - a. Giving counsel to Employees with respect to the Named Member's Employee Benefits programs;
 - b. Interpreting the Named Member's Employee Benefits programs;
 - c. Handling of records in connection with the Named Member's Employee Benefits programs; or
 - d. Effecting enrollment, termination or cancellation of Employees under the Named Member's Employee Benefits programs; provided that all such acts of the Covered Person are authorized by the Named Member
- 2. **Advertisement** means a notice that is broadcast or published to the general public or specific market segments about the Named Member's goods, products or services for the purpose of attracting customers or supporters.

3. **Aircraft** means any machine capable of flight, including but not limited to an airplane, helicopter, glider, balloon or aerial vehicle that is not controlled by a person from within or on the aerial vehicle.
4. **Airport Facilities** means any and all airport property including buildings and facilities for passengers and for maintenance of Aircraft.
5. **Auto** means a land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment. But Auto does not include Mobile Equipment
6. **Bodily Injury** means Bodily Injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
7. **Claim** means with respect to Coverages A, B, C, E and F, a demand against a Covered Person for money or services and with respect to Coverage D, any of the following that arise out of the Administration of the Named Member's Employee Benefits programs:
 - a. A demand against a Covered Person for money or services, or
 - b. the filing of a Suit or the initiation of an arbitration proceeding, naming a Covered Person, and seeking damages for any actual or alleged negligent act, negligent error, or negligent omission. More than one Claim that arises out of the same act, error, or omission, or the same series of acts, errors, or omissions, will be considered a single Claim and will be included within the earliest Claim that arose out of that act, error, or omission, or series of acts, errors, or omissions.
8. **Claims Expenses** means:
 - a. Fees incurred by the Pool for an attorney designated by the Pool;
 - b. All other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a Claim, if incurred by the Pool, except for those fees, costs, and expenses of the employees of the Texas Association of Counties, or expenses of a Claims adjustment contractor for the Pool;
 - c. Fees charged by any attorney designated by the Member with the written consent of the Pool, but only as to those fees incurred after receipt by Member of written consent from the Pool.
9. **Contribution** means the amount paid by the Named Member to the Pool for this coverage.

10. **Contribution & Coverage Declarations (CCD)** means the document that sets forth the specific indication of the coverage, limits and deductibles, Contributions and special provisions elected by each Named Member, including any modifications made by issuance of any amendatory CCD or endorsement.
11. **Coverage Document** means this agreement between the Pool and Named Member, including any endorsements.
12. **Covered Person** means any person or organization qualifying as a Covered Person in Section II – Who Is A Covered Person.
13. **Employee** means:
- a. An officer of a Named Member;
 - b. Any natural person while in the Named Member's service:
 - (1) While providing services on a full time, part time or temporary basis; or
 - (2) Whom the Named Member compensates directly by salary, wages or commissions; and
 - (3) Whom the Named Member has the right to direct and control while performing services for the Named Member; or
 - c. Leased Workers
14. **Employee Benefits** means group life insurance, group health insurance, profit sharing plans, pension plans, Employee stock subscription plans, Employee travel, vacation or savings plans, workers' compensation, unemployment insurance, social security and disability benefits insurance.
15. **Garage Operations** means the ownership, maintenance or use of locations for parked or stored Autos not owned by the Named Member which have been confiscated or impounded by the Named Member.
16. **Hostile Fire** means one which becomes uncontrollable or breaks out from where it was intended to be.
17. **Impaired Property** means tangible property, other than Your Product or Your Work, that cannot be used or is less useful because:
- a. It incorporates Your Product or Your Work that is known or thought to be defective, deficient, inadequate or dangerous; or

- b. the Named Member has failed to fulfill the terms of a contract or agreement; if such property can be restored to use by:
 - (1) The repair, replacement, adjustment or removal of Your Product or Your Work; or
 - (2) The Named Member's fulfilling the terms of the contract or agreement.

18. **Insured Contract** means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to the Named Member or temporarily occupied by the Named Member with permission of the owner is not an Insured Contract;
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to the Named Member's business (including an indemnification of a municipality in connection with work performed for a municipality) under which the Named Member assumes the tort liability of another party to pay for Bodily Injury or Property Damage to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for Bodily Injury or Property Damage arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

- (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
 - (3) Under which the Covered Person, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the Covered Person's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.
19. **Leased Worker** means a person leased to the Named Member by a labor leasing firm under an agreement between the Named Member and the labor leasing firm, to perform duties related to the conduct of the Named Member's business.
20. **Loading or Unloading** means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an Aircraft, watercraft or Auto;
 - b. While it is in or on an Aircraft, watercraft or Auto; or
 - c. While it is being moved from an Aircraft, watercraft or Auto to the place where it is finally delivered; but Loading or Unloading does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the Aircraft, watercraft or Auto.
21. **Loss** means direct and accidental Loss or damage. For Garage keeper's Coverage only, Loss also includes any resulting loss of use.
22. **Medical Services** means:
- a. Any medical, surgical, psychiatric, psychological, dental, x-ray, nursing, therapeutic, emergency medical, or other similar services or treatments;
 - b. The prescription, dispensation or furnishing of food, beverages, drugs, therapies, or medical, dental or surgical supplies, equipment or appliances in connection therewith; or
 - c. Actions by administrative personnel, involving the hiring, credentialing, training, scheduling, discipline, firing or other supervision of persons rendering Medical Services, as described in 21. (a) and 21. (b), above

23. **Mobile Equipment** means a vehicle that is not designated or used primarily to transport persons or property and that is only incidentally operated on a highway. The term includes but is not limited to the following:

- a. Bulldozers, farm machinery, ditch digging apparatus, well boring apparatus, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises the Named Member owns or rents. However, any land motor vehicle, trailer or semi-trailer designed for travel on public roads (including any machinery or apparatus attached thereto) owned or leased by the Named Member is deemed an Auto and not Mobile Equipment if the only reason for considering it Mobile Equipment is that it is maintained for use exclusively on streets or highways owned by the Named Member.
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
 - (1) Power cranes, shovels, loaders, diggers or drills; or
 - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
 - (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in a., b., c., or d. above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not Mobile Equipment but will be considered Autos:
 - (1) Equipment designed primarily for:
 - (a) Snow removal;

- (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning.
 - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
 - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
24. **Named Member** means a county or other political subdivision so designated in the CCD.
25. **Occurrence** means an accident or offense, including continuous or repeated exposure to substantially the same general harmful conditions.
26. **Official** means any duly-elected or appointed Official of the Named Member, but only while that person holds the office for which he or she was elected or appointed.
27. **Personal and Advertising Injury** means injury, including consequential Bodily Injury, arising out of one or more of the following offenses:
- a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
 - d. 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;
 - e. Oral or written publication of material that violates a person's right of privacy;
 - f. The use of another's advertising idea in the Named Member's Advertisement; or
 - g. Infringing upon another's copyright, trade dress or slogan in the Named Member's Advertisement.

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

29. **Products-Completed Operations Hazard:**

- a. Includes all Bodily Injury and Property Damage occurring away from premises the Named Member owns or rents and arising out of Your Product or Your Work except:
- (1) Products that are still in the Named Member's physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, Your Work will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in the Named Member's contract has been completed.
 - (b) When all of the work to be done at the job site has been completed if the Named Member's contract calls for work at more than one job site.
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b. Does not include Bodily Injury or Property Damage arising out of:
- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by the Named Member, and that condition was created by the Loading or Unloading of that vehicle by any Covered Person;
 - (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
 - (3) Products or operations for which the classification, listed in the CCD or in a schedule, states that products-completed operations are subject to the General Aggregate Limit.

30. **Property Damage** means:
- a. Physical injury to tangible property owned by the Named Member, 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
 - b. 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.
31. **Suit** means a civil proceeding in which damages because of Bodily Injury, Property Damage or Personal and Advertising Injury to which this coverage applies are alleged. Suit includes:
- a. An arbitration proceeding in which such damages are claimed and to which the Covered Person must submit or does submit with the Pool consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the Covered Person submits with the Pool's consent.
32. **Temporary Worker** means a person hired by the Named Member as an Employee to substitute for a permanent Employee on leave or to meet seasonal or short-term workload conditions.
33. **Volunteer** means a person who is neither an Official nor an Employee of the Named Member, but who is performing some act or service on behalf of the Named Member, at the Named Member's request, within the scope of that request, and in furtherance of the Named Member's business. Volunteer does not include independent contractors.
34. **Your Product** means:
- a. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - (1) The Named Member;
 - (2) Others trading under the Named Member's name; or
 - (3) A person or organization whose business or assets the Named Member has acquired; and
 - b. Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

Your Product includes:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of Your Product; and
- b. The providing of or failure to provide warnings or instructions.

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

35. **Your Work** means:

- a. Work or operations performed by the Named Member or on the Named Member's behalf; and
- b. Materials, parts or equipment furnished in connection with such work or operations.

Your Work includes:

- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of Your Work; and
- b. The providing of or failure to provide warnings or instructions.

36. **Wrongful Act** means any negligent act, negligent error or negligent omission by a Covered Person in the Administration of the Named Member's Employee Benefits programs, but only if the Covered Person was acting within the scope of authority granted by the Named Member.



TEXAS ASSOCIATION *of* COUNTIES RISK MANAGEMENT POOL

LAW ENFORCEMENT LIABILITY COVERAGE DOCUMENT

LAW ENFORCEMENT LIABILITY COVERAGE

**THIS IS A CLAIMS MADE COVERAGE DOCUMENT.
PLEASE READ THE ENTIRE COVERAGE DOCUMENT CAREFULLY.**

The Texas Association of Counties Risk Management Pool (Pool) was and is created to enable each Member to purchase coverage against liability Claims. This is not a contract of insurance, but is an agreement for liability coverage pursuant to the provisions of Chapter 119 of the Texas Local Government Code, and under Chapters 791 and 2259 of the Texas Government Code. Under this agreement, political subdivisions create and contribute to a Pool as an alternative to commercial insurance markets.

Except as may otherwise be provided, the coverage provided by this Coverage Document is limited to only those Claims THAT ARE FIRST MADE AGAINST THE MEMBER DURING THE COVERAGE DOCUMENT PERIOD AND TIMELY REPORTED TO POOL.

The Contribution and Coverage Declarations (CCD) issued to the Named Member by the Pool is part of this Coverage Document, subject to the terms, conditions, definitions, exclusions, and sublimits contained in this Coverage Document, any endorsements, and the Interlocal Participation Agreement (IPA).

Words and phrases that are capitalized have special meaning. Refer to PART II-DEFINITIONS

PART I - CLAIMS MADE COVERAGE AGREEMENT: PAYMENT AND DEFENSE

In consideration of the Member's contribution to the Pool and in reliance upon the representations made by Member in the Application and any Renewal Application for this coverage, and subject to all provisions contained in this Coverage Document, including any endorsements, the Pool agrees as follows:

A. WHAT WE WILL PAY

The Pool will pay on behalf of the Member, subject to all provisions contained in this Coverage Document, including Section I.B., below, any sums which the Member shall become legally obligated to pay as Damages or Claims Expenses by reason of errors, omissions or negligent acts stated in a Claim, which arise out of the conduct of Law Enforcement Activities of Member and result in:

Personal Injury;
Bodily Injury;
Property Damage; or
Violation of Civil Rights

PROVIDED ALWAYS that the following are true:

1. Notice of Claim occurs during the Coverage Document Period;
2. Notice is provided by the Member to the Pool during the Coverage Document Period (or during the Optional Extended Reporting Period, if applicable);
3. The error, omission or negligent act for which Claim is first made happened during the Coverage Document Period or on or after the retroactive date in the CCD; provided, however that if the Wrongful Act happened before the Coverage Document Period, the Named Member did not give notice to any prior insurer or coverage provider;
4. The Member does not have insurance or coverage for the error, omission, or negligent act through any other contract or policy of insurance or coverage, including any other coverage provided by the Pool; and
5. The Member had no knowledge or reason to believe at the inception of the Coverage Document Period or any extensions or renewals that any error, omission or negligent act was likely to result in a Claim being made against any Member.

B. DEFENSE, SETTLEMENT AND ALLOCATION OF DAMAGES

1. Subject to all of the provisions contained in this Coverage Document, including Sections I.B.4 and I.B.5, the Pool has the right and duty to defend any Claim arising out of the categories of conduct enumerated above brought against the Member, alleging an error, omission or negligent act and seeking Damages, even if a Claim is groundless, false or fraudulent. The Pool shall have the right to incur Claims Expenses and to make an investigation and settlement of any Claim or suit as may be deemed expedient by the Pool and the Pool may settle any Claim at its sole discretion and without the consent of the Member. The determination by the Pool as to any settlement and as to the reasonableness of settlements and Claims Expenses shall be conclusive on the Member. The Pool shall have the right, but not the obligation, to appeal any judgment adverse to the Member. Claims Expenses shall not be deducted from the Limits of Liability.
2. The Pool shall have no obligation to pay sums the Member shall become legally liable to pay as Claims or Damages that are not covered by this Coverage Document (including amounts in excess of any applicable sublimits) or to contribute to a settlement of any such Claims or Damages. In negotiating any settlement or Claim payment, the Pool shall have the right to request the Member make an appropriate contribution for uncovered Claims or Damages. If both Damages covered by this Coverage Document and Damages not covered by this Coverage Document are incurred or are to be incurred because a Claim made against the Member or Damages sought from the Member includes both covered

and uncovered matters, the Pool and the Member will use their best efforts to determine a fair and appropriate allocation of Damages between that portion of Damages that is covered under this Coverage Document and that portion of Damages that is not covered under this Coverage Document. The Pool and the Member will take into account the relative legal and financial exposures of, and relative benefits obtained in connection with the defense or settlement of, the Claim. In the event the Pool and the Member cannot reach an agreement as to an allocation of Damages, then the parties will each contribute the amount proposed by the Pool until a final amount is agreed upon or determined pursuant to the provisions of this Coverage Document and applicable law.

3. a. Upon written request to the Pool by Named Member for pre-Claim involvement of Pool prior to the formal existence of a Claim, the Pool has the right, but not the duty, to designate attorneys, investigators, or other persons to perform work and incur expenses on behalf of the Named Member where the Pool anticipates a Claim.
 - b. If, in the sole discretion of the Pool, employing the services of attorneys, investigators, or other persons to perform work and incur expenses on behalf of any Member or the Pool is deemed appropriate to protect Pool interests prior to the formal existence of a Claim, the Pool has the right, but not the duty, to employ persons as a Pool operational expense.
4. The Pool shall have the right, but not the duty, to monitor and participate in the defense of any investigatory, administrative or disciplinary proceeding relating to any Law Enforcement Activity of the Member. Should the Pool elect to defend, monitor or participate under this provision, this election shall not constitute a waiver of any rights the Pool may have pursuant to any of the provisions of this Coverage Document.
5. If the Pool determines that the Limits of Liability under this Coverage Document may be insufficient to pay or settle any covered Claim or Claims, or if there are multiple or competing Claims against one or more Members, the Pool may, in its sole discretion, tender the remaining Limits of Liability available under this Coverage Document, either to the treasury of the Named Member, a person authorized to receive funds for the Named Member, or the registry of a court of competent jurisdiction and exhaust the Limits of Liability under this Coverage Document. Tender by the Pool of an amount that would exhaust either the Limits of Liability or the Aggregate shall terminate: (1) the Pool's liability to pay any amounts for unincurred Claims Expenses with regard to any Claim or Claims; (2) the Pool's duties to defend any Member from any Claim or Claims; and (3) the Pool's liability to pay any amount for Damages with regard to any Claim or Claims.
6. Exhaustion of the amount designated as Aggregate in the CCD terminates: (1) the Pool's duties to defend any Member in connection with any Claims made

against Member after the exhaustion of the Aggregate; and (2) the Pool's liability to pay any amounts for Claims Expenses or Damages for any Claims or Claims.

7. The Pool will provide, subject to the other provisions of the Coverage Document, a defense to a fraud or dishonesty or malicious or criminal act Claim against a Member that is excluded under Section IV.A.2; provided, however, that the Pool's obligation is limited to \$50,000 per Claim and \$100,000 in the Aggregate. This limited duty to defend is the Pool's sole obligation under this provision. The Pool has no duty to indemnify any Member for sums the Member becomes legally obligated to pay as Damages. All Claims against a Member subject to Section IV.A.2 for Damages arising from any fraud or dishonesty or malicious or criminal act of any Member are specifically excluded from coverage.

PART II - DEFINITIONS

- A. **Aircraft** means any machine capable of flight, including an airplane, helicopter, glider, balloon or aerial vehicle that is not controlled by a person from within or on the aerial vehicle.
- B. **Aggregate** means the Pool's total liability for Damages resulting from all Claims first made against the Members during the Coverage Document Period and shall not exceed the amount stated in the CCD as Aggregate regardless of the time when the Claim is paid. If the Member exercises the right to purchase the Optional Extension Coverage, the Aggregate limit for the Optional Extended Reporting Period shall be no more than that which remains of the Aggregate limit from the immediately preceding Coverage Document Period.
- C. **Bodily Injury** means physical injury to any person (including death) and mental anguish associated with or arising from a physical injury.
- D. **Civil Rights** means a person's rights under the United States constitution or any state constitution, or laws affording a right of action for Damages by reason of invasion of a Civil Right or liberty.
- E. **Claim** means a demand received by the Member specifically for money Damages, including punitive or exemplary Damages, against the Member.

Claims based on or arising out of the same error, omission, or negligent act or interrelated errors, omissions or negligent acts, involving one or more of the Members, shall be considered a single Claim, and a Claim so considered shall be deemed to have been made solely during the one Coverage Document Period which includes the time the Claim is initially made.

- F. **Claims Expenses** means:

1. Fees incurred by the Pool for an attorney designated by the Pool;

2. All other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a Claim, if incurred by the Pool, except for those fees, costs, and expenses of the employees of the Texas Association of Counties, or expenses of a Claims adjustment contractor for the Pool;
 3. Fees charged by any attorney designated by the Member with the written consent of the Pool, but only as to those fees incurred after receipt by Member of written consent from the Pool; and
 4. Expenses incurred where the Pool, in accordance with Section I.B.3.a. of this Coverage Document, responds to a written request by Named Member for pre-Claim involvement of the Pool prior to the formal existence of a Claim to perform work and incur expenses on behalf of the Named Member.
- G. **Contribution and Coverage Declarations (CCD)** means the document that sets forth the specific indication of the coverage, limits and deductibles, Contributions and special provisions elected by each Member, including any modifications made by issuance of any amendatory CCD or endorsement.
- H. **Coverage Document** means this agreement between the Pool and Member, including any endorsements.
- I. **Coverage Document Period** means that one-year period designated in the CCD, unless otherwise specified, or the period as shortened by termination, if any.

If the Optional Extended Reporting Period coverage is purchased by the Member, it shall in no way increase the Coverage Document Period or any renewal, except that any Optional Extended Reporting Period shall be included in the previous Coverage Document Period for purposes of application of the Aggregate limit of the Pool's liability.

- J. **Damages** means actual and compensatory money Damages only, arising out of an error, omission or negligent act of Member, and does not include;
1. Penalties, fines, restitution of any kind or sanctions;
 2. Attorney's fees and any costs, charges, fees or expenses of litigation if any are demanded from Member without an accompanying demand for other relief which would constitute Damages, or that portion of any attorney's fees and any costs, charges, fees or expenses of litigation demanded from Member which may be attributed or allocated to a Claim or any part of a Claim excluded under this Coverage Document (including any part of a Claim that exceeds a sublimit imposed under this Coverage Document), to any demand for relief other than for actual or compensatory Damages, or to any demand or matter not covered under this Coverage Document.

- K. **Effective Date** means the date the Coverage Document becomes effective in a Coverage Document Period. The Effective Date of any renewal of this Coverage Document shall be considered the Effective Date of a new Coverage Document Period.
- L. **Law Enforcement Activity** means all activities performed within the scope of the official duties of the law enforcement officers, public employees, public officials, and volunteers of each Law Enforcement Department or Agency set forth in the CCD.
- M. **Limits of Liability** the Limits of Liability of the Pool for payment of Damages shall be the applicable Limit shown in the CCD under Limits of Liability.
- N. **Member** means only the following:
1. The Named Member;
 2. Each Law Enforcement Department or Agency named in the CCD and which is duly constituted and operating under the jurisdiction of the Named Member;
 3. The individual law enforcement officers or other employees or volunteers of each Law Enforcement Department or Agency set forth in the CCD as are regularly employed or officially engaged in Law Enforcement Activities for the Department or Agency.
 4. Other public officials, employees and volunteers of Named Member, excluding the District Attorney or the District Judge, but only with respect to a Claim or Claims arising out of errors, omissions or negligent acts of:
 - a. The Law Enforcement Departments or Agencies named in the CCD and only with respect to the activities of these persons while in furtherance of the Law Enforcement Activities of the Named Member; or
 - b. Public officials of the Named Member in the making of the decisions concerning the budgeting or other provision of county funds for the conduct of activities of Law Enforcement Departments or Agencies named in the CCD.
 5. The Juvenile Board, but only if the Juvenile Board serves only the Named Member's county. If the Juvenile Board serves more than one county, the Juvenile Board is a Member only if each county represented on the Juvenile Board is a Member of the Pool. The individuals serving on the Juvenile Board are Members only if they are officials or employees or volunteers of the Named Member.
- O. **Named Member** means a county or other political subdivision so designated in the CCD.

- P. **Notice of Claim** means one of the following, whichever occurs first:
1. For a lawsuit against the Member, notice of the suit by service of process or otherwise; or
 2. The Member obtains or receives knowledge or reason to believe that any error, omission or negligent act may reasonably be expected to result in a Claim.
- Q. **Optional Extension Coverage** means the optional coverage that may be purchased if the Pool, or the Named Member, cancels or refuses to renew this Coverage Document, subject to the conditions as set forth in Part VI of this Coverage Document.
- R. **Optional Extended Reporting Period** means the period for which the Named Member elects to purchase Optional Extension Coverage.
- S. **Personal Injury** means:
1. False arrest, false imprisonment, wrongful detention, wrongful eviction, wrongful entry or other invasion of the right of private occupancy, or malicious prosecution;
 2. Wrongful or improper service of process; and
 3. Libel, slander, defamation of character, or violation of an individual's right of privacy.
- T. **Pool** means the Texas Association of Counties Risk Management Pool.
- U. **Property Damage** means:
1. Physical injury to or destruction of tangible property, including the loss of use; or
 2. Loss of use of tangible property which has not been physically injured or destroyed;
- excluding effects on any real or personal property, whether direct or indirect or consequential, which do not constitute physical injury, destruction or loss of use of property.

PART III – LIMITS OF LIABILITY

The following Limits of Liability apply unless otherwise stated on the CCD.

A. LIMITS OF LIABILITY

Regardless of the number of:

1. Members involved in a Claim,
2. Persons or entities who sustain Damages, or
3. Claims made,

exhaustion of the Limits of Liability shown in the CCD shall terminate the Pool's liability to pay any Damages or Claims Expenses. The Pool shall never be required to pay Damages in excess of the applicable Limits of Liability shown in the CCD in connection with any Claim or Claims.

Claims based on or arising out of the same or related acts, errors, omissions or events involving one or more Members shall be considered a single Claim and only one deductible and one Limits of Liability shall be applicable to the Claim. If Member has, or is a beneficiary of, other Coverage Documents through the Pool, the Pool shall not be required to pay an amount in excess of the appropriate Limits of Liability shown in the CCD in connection with any Claim. The Pool and the Named Member agree that Pool coverage does not combine with respect to payment of Damages or Claims Expenses.

The Pool's total liability for Damages for all Claims during any one Coverage Document Period shall never exceed the Aggregate stated in, Limits of Liability, of the CCD.

Tender by the Pool of an amount that would exhaust either the Limits of Liability for any Claim or the Aggregate Limits of Liability applicable to all Claims to the treasury of the Named Member, a person authorized to receive funds for the Named Member, or the registry of a court of competent jurisdiction, shall terminate the Pool's liability to pay any amounts for Damages or Claims Expenses with regard to the Claim or Claims.

B. SUPPLEMENTARY PAYMENTS

The Pool will pay, in addition to the applicable Claims Expenses and the Limits of Liability, as shown in CCD:

1. Expenses incurred by the Texas Association of Counties employees, or Claims adjustment contractors in the monitoring and supervision of Claims;

2. Interest, but only on that portion of any judgment which does not exceed the Pool's Limits of Liability, which accrues after entry of the judgment and before the Pool has paid or tendered or deposited into the court registry that portion of the judgment which is the Pool's liability;
3. Up to \$250 per bond premium on appeal bonds in any suit defended by the Pool and up to \$250 premium on bonds to release attachments in any suit, for an amount not in excess of the Limits of Liability. However, in accordance with its discretionary right to appeal, the Pool shall have the right, but not the obligation, to apply for or furnish any appeal bond.

C. DEDUCTIBLE

The Pool will pay only those Damages and Claims Expenses, with regard to a Claim, which are in excess of the Deductible amounts stated in the CCD. The Deductible amount stated in the CCD shall be borne by Named Member and shall not be borne by the Pool. The Named Member is wholly responsible for paying the entire Deductible shown in the CCD. A Member, other than the Named Member, has no personal responsibility for paying any portion of the Deductible, and is fully covered for the amount of any liability not in excess of \$100,000, as referenced in Texas Civil Practices and Remedies Code Section 108.002.

At the option and discretion of the Pool, the Pool may pay all or part of the Deductible amount to effect settlement, and, upon notification to the Named Member, Named Member shall promptly reimburse the Pool for all expenditures. If the Pool pays any Claims Expenses which fall within the Deductible amount stated in the CCD, the Named Member, upon notification, shall promptly reimburse the Pool for all expenditures.

The Deductible amount stated in the CCD shall be applicable to each Claim and request for pre-Claim assistance under Section I.B.2.a involving each Member and shall include payments for Damages and Claims Expenses.

D. SUBLIMITS

1. Punitive Damages. The Limits of Liability are inclusive of a Claim against a Member for punitive or exemplary damages, subject to a sublimit not to exceed \$1,000,000 per Claim and the Aggregate Limits of Liability.
2. Defense Costs. The Limits of Liability are inclusive of defense costs for a Claim based on fraud or dishonesty or malicious or criminal acts or omissions subject to a sublimit not to exceed \$50,000 per Claim and a \$100,000 annual Aggregate Limit of Liability.

PART IV - EXCLUSIONS

A. THIS COVERAGE DOCUMENT DOES NOT APPLY TO:

Claims arising out of, in whole or in part, directly or indirectly, or arising in concurrent cause with the following:

1. The ownership, operation, management, use, control, repair, maintenance, demonstration, loading or unloading, or entrustment to others of any motor vehicles of any kind, Aircraft, watercraft, or any motor driven equipment, and any policies, practices, customs, usages or procedures related to the above.
2. Fraud or dishonesty or any malicious or criminal act of any Member, except that the Pool will provide a defense under the terms of this Coverage Document for the Named Member and any Member performing a Law Enforcement Activity in any Claim or lawsuit arising or resulting from fraud or dishonesty or any malicious or criminal act of any Member, other than a Claim against a Member which seeks to impose personal liability on the Member for actions he or she takes under color of state law.

This limited duty to defend is the Pool's sole obligation under this provision. The Pool has no duty to indemnify any Member for sums a Member becomes legally obligated to pay as Damages. All Claims against a Member for Damages arising from any malicious or criminal acts or omissions of any Member are specifically excluded from coverage.

3. Unfair, discriminatory or unlawful practices relating to employment or to applicants for employment, trainees or volunteers; any errors, omissions or negligent acts relating to employment, including the processes of hiring and firing and the provision of wages and benefits; any work-related Bodily Injury of a Member for which a Claim for Workers' Compensation could be made.
4. Continuous or repeated exposure to the same or similar conditions in which any exposure existed or happened before the Coverage Document Period or the retroactive date set forth in the CCD, if any.
5. Any interference with or violation of property rights or a reduction or loss in the value of real or personal property other than Property Damage; inverse condemnation, takings as understood under any law, adverse possession, dedication by adverse use or nuisance; or the intentional, negligent or accidental discharge, disbursement, release or escape of pollutants, or potential pollutants including smoke, vapors, soot, fumes, acids, alkalis, toxins, pathogens, chemicals, particulates, fibers, radioactivity or radiation, whether thermal, thermonuclear or otherwise, solids, liquids or gases, waste materials or irritants, contaminants, or other pollutants or potential pollutants of any kind into or upon land, any area below ground, air, the atmosphere, or water; nor to demands or actions arising from any governmental direction or request that the Member test

for, monitor, clean up, remove, contain, analyze, examine, treat, detoxify or neutralize pollutants or potential pollutants. Except that tear gas, mace or similar substances are not considered pollutants or potential pollutants when used or handled in the performance of a Law Enforcement Activity.

6. Any premise defect on the real property of Member or on real property under the control of Member.
7. The performance or non-performance of judicial acts or judicial duties; nor to the performance or non-performance of prosecutorial acts or prosecutorial duties.

B. THIS COVERAGE DOCUMENT ALSO DOES NOT APPLY TO:

1. Any Claim which alleges, involves or arises from any liabilities, responsibilities, duties or activities assumed, undertaken or accepted by any Member pursuant to any contract or agreement whether written, oral, or implied. This exclusion does not apply to Claims brought against a Member that are otherwise covered under this Coverage Document that arise from the Law Enforcement Activities of an employee of the Named Member pursuant to a mutual law enforcement assistance agreement, so long as the employee has been assigned to perform the activities as part of his or her employment with the Named Member.

For the purposes of this section, **Employee** means an individual who: (1) is deputized or appointed by either the governing body or an elected official of the Named Member; (2) is paid a salary by the Named Member; and (3) is entitled to receive as compensation from the Named Member the same benefits afforded to other employees of the Named Member. This section does not provide coverage to any individual who is not an employee of the Named Member as defined in this section.

This Coverage Document does not provide coverage to any entity other than the Named Member. Coverage is not provided for any entity that is created by a mutual law enforcement assistance agreement to which the Named Member is a party. Coverage is not provided to any other entity that enters into a mutual law enforcement assistance agreement with the Named Member. The terms of a mutual law enforcement assistance agreement do not become a part of this Coverage Document.

2. Any act, service, or duty for which an individual Member is being compensated or otherwise engaged other than by a Law Enforcement Department or Agency or other Agency named in the CCD. Except that a Claim arising out of performance of a Law Enforcement Activity performed by Member during a period of time for which the Member receives compensation from other than Named Member is not excluded if: (a) performance of the Law Enforcement Activity is undertaken on behalf of the Named Member; and (b) the Law Enforcement Activity and compensation are authorized by Named Member;

3. Any Claim for the return of money or other property seized, held, auctioned or sold by Member, including any forfeited money or other property or for the value of the money or other property;
4. Demands or actions seeking equitable relief, or redress in any form other than money Damages; actions or demands for costs, charges, attorney's fees or other fees or expenses in relation to any action, suit or proceeding seeking relief or redress in any form other than money Damages; or any investigatory, administrative, disciplinary, or criminal proceeding against a Member;
5. Any Claim by or through any Member against another Member, either individually or collectively; any Claim by any public official on behalf of a Member against any Member; any Claim by any public official or any governmental department or agency against any Member; any Claim by a volunteer engaged in activities for any Member against any Member; or any Claim which alleges or involves Property Damage to property of any Member or to property of any employee, Official, agent or Volunteer of the Member arising out of or in the course of activity with or employment by the Member, including loss of use of property. For the purpose of this exclusion, the term Member includes an individual who was a Member at the time the Claim arose.
6. Any medical malpractice Claim, including a health care liability Claim as defined in Section 74.001 of the Texas Civil Practice & Remedies Code, against a physician, physician's assistant or other health care provider.

C. CYBER LIABILITY AND EXPENSE COVERAGE EXCLUSION

1. This Coverage Document does not provide coverage for any liability, loss, penalty or expense arising directly or indirectly from any Cyber Security Event.
2. For purposes of this exclusion the following definitions apply:

Computer System means computers and associated input and output devices, data storage devices, networking equipment and backup facilities:

- a. Operated by and either owned by or leased to any Member; or
- b. Operated by a third party service provider and used to provide hosted computer application services to the Member or for processing, maintaining, hosting or storing the Member's electronic data pursuant to a written contract with the Member for such services.

Cyber Security Event means:

- a. The actual or reasonably suspected theft, loss or unauthorized disclosure of or access to electronic Personal Information in the care, custody or control of the Member or for which the Member is legally responsible; or
- b. A violation or failure of the security of a Computer System, including but not limited to unauthorized access, unauthorized use, a denial of service attack or receipt or transmission of malicious code.

Personal Information means an individual's name in combination with one or more of the following:

- a. Information concerning the individual that constitutes "nonpublic personal information" as defined in the Gramm-Leach Bliley Act of 1999, as amended, and implementing regulations;
- b. Medical or health care information concerning the individual, including without limitation protected health information as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, and implementing regulations;
- c. The individual's Social Security number, driver's license or state identification number, credit, debit, or other financial account numbers and associated security codes, access codes, passwords or personal identification numbers that allow access to the individual's financial account information; or
- d. Other nonpublic personally identifiable information, as protected under any local, state, federal or foreign law;

Provided, however, Personal Information does not include information that is lawfully available to the public, including without limitation information lawfully available from any Member or any local, state, federal or foreign governmental entity.

PART V – CONDITIONS

A. COMPLIANCE WITH CONDITIONS

If any Member materially breaches any warranty or materially fails to satisfy any condition of this Coverage Document, whether or not the Pool is actually prejudiced, there shall be no coverage, including any obligation to defend, for any Member as to the particular Claim or action in connection with which the breach occurred.

B. CCD

The CCD issued by Pool for any Coverage Document Period constitutes terms and conditions for that Coverage Document Period, and constitutes part of the Coverage Document for the Coverage Document Period. In the case of an extension of coverage, the CCD may be issued in the form of an extension endorsement.

C. DELIVERY OF THIS COVERAGE DOCUMENT

Delivery of this Coverage Document to the Named Member shall be considered delivery to each Member and the Named Member is authorized by each Member to accept delivery on the Member's behalf.

D. APPLICATION FOR COVERAGE

The Application and any Renewal Application for this coverage submitted to the Pool, which is signed by the Named Member or its authorized representative, is part of this Coverage Document for purposes of reliance by the Pool on information contained in the Application. Any substantial mistake or misrepresentation in an Application for coverage which is relied upon by the Pool terminates all the obligations of the Pool under this Coverage Document, including those of payment and defense. The Pool may, at its sole option, elect to waive termination of any part of its obligations.

E. ASSISTANCE AND COOPERATION OF THE MEMBER.

1. The Member shall, without charge to the Pool, provide and assist and cooperate with the Pool in obtaining (whether by discovery in pending litigation against the Member or otherwise) truthful and accurate information pertaining to a Claim and Damages, including information bearing on the existence or nonexistence of coverage for the Claim or Damages under this Coverage Document, and for these purposes shall (a) upon the request of the Pool, or its authorized representative, submit to examination under oath by a representative of the Pool, (b) attend and participate in hearings, (c) attend and testify truthfully in depositions and trials, and (d) assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses in the conduct of suits, in giving accurate and truthful written statements to the Pool's representatives and meeting with the Pool's representatives for the purposes of investigation and defense and for determining whether the Claim or Damages are covered under this Coverage Document.
2. The Member shall not, except at its own cost, make any payment, assume or admit any liability, waive any defense or settle any Claim or action or incur any expense, without the prior written consent of the Pool. Any liabilities admitted, assumed or settled, defenses waived or any payments made, or expenses, including legal expenses, incurred by Member, without prior written consent of the Pool, shall be the sole obligation of the Member.

3. Further, the Member shall not demand, or agree to, arbitration or mediation of any Claim made against the Member without prior written consent of the Pool.
4. Each Member agrees to cooperate with the Pool in the prosecution of Claims, suits, indemnity actions, cross-claims, and counterclaims as the Pool, in its sole discretion, shall deem to be appropriate with respect to any Claim or suit brought against any Member and each Member agrees to execute papers as are required to be executed in the defense of any action against any Member, or with respect to the prosecution of Claims, suits, indemnity actions, cross-claims, and counterclaims.
5. The Named Member is authorized by each Member to give and receive all notices to and from the Pool on the Member's behalf.

F. NOTICE TO THE POOL

As a condition precedent under this Coverage Document, the Member shall:

1. Promptly and as soon as reasonably practicable report to the Pool all events or occurrences that could reasonably be expected to result in the Pool being required to consider a Claim against Member, together with information concerning any particulars known by Members and including any reasonably obtainable information with respect to persons, events, locations and dates involved;
2. Immediately upon receipt of a Claim or Notice of Claim by Member, and during the Coverage Document Period, provide the Pool written notice of any Claim or Notice of Claim made against the Member together with information concerning any particulars known by Members and including any reasonably obtainable information with respect to persons, events, locations and dates involved;
3. If suit is brought against a Member, immediately forward to the Pool any demand, notice, summons or other process received directly or indirectly by the Member or by the Member's representative, along with a precise statement to the Pool of when the demand, notice, summons or other process was received, and by whom it was received;
4. Where conditions precedent in this paragraph require that notice be given to the Pool, immediately render the notice or report to the person or agent specifically designated by the Pool as authorized to receive notice for the Pool. The Pool and the Named Member expressly agree that only notice delivered to an authorized recipient for the Pool can satisfy any notice requirement.

G. ACTION AGAINST THE POOL.

1. No legal action may be brought against the Pool unless there has been full compliance with all terms of this Coverage Document. In addition, no action may be brought against the Pool in regard to any matter involving a Claim or suit or proceeding involving this Coverage Document until the amount of the Member's obligation with respect to the pertinent Claim or suit or proceeding has been finally established either by: (a) final judgment against the Member by the court of last resort after actual trial of the issues and appeal has been determined, or if the time to appeal has expired without an appeal having been taken; or (b) by written agreement of the Member, the Claimant and the Pool.
2. Nothing contained in this Coverage Document shall give the Member or any person, firm, corporation or organization other than the Pool, any right to join the Pool as a party in any action or proceeding against the Member to determine the Member's liability.
3. Any action against the Pool by the Member or any other person must be brought within two years and one day after the cause of action accrues.

H. SUBROGATION

If the Pool makes any payment under this Coverage Document, the Pool shall be subrogated to all of the Member's rights of indemnity or recovery, against any individual, firm, corporation, organization, or any other person. The Member shall execute and deliver instruments and papers and do whatever else shall be reasonably requested to advance the Pool's pursuit of its subrogation rights, and Members shall do nothing after any Claim is made to prejudice the Pool's rights. The Pool shall be entitled to take over and conduct, in the name of the Member, for the Pool's own benefit, any Claim to which the Pool is subrogated against any third party. The Pool may pursue or settle any Claim for its own benefit at its sole discretion.

I. CANCELLATION OR NON-RENEWAL

1. Either party to this Coverage Document may cancel or non-renew this Document by giving notice of such intent to the other party. The notice must be in writing and must be delivered by certified mail, return receipt requested via U.S. Mail to the other party. Except for notice of cancellation or non-renewal by the Pool for nonpayment of Contributions, such notice must be given not less than 60 days prior to the effective date of cancellation.
2. The Pool may, in the Pool's sole discretion, permit the Named Member, upon the Named Member's written request, to terminate this Coverage Document by giving the Pool not less than 30 days' notice.

3. Notice of cancellation by the Named Member must be addressed to:

Texas Association of Counties Risk Management Pool
Attn: Member Services
P.O. Box 2131
Austin, Texas 78768-2131

4. The Pool may cancel or non-renew this Coverage Document:

- a. For nonpayment of Contributions, unless other provision for payment has been made by express written agreement between the Named Member and the Pool;
- b. If there is an increase in risk or hazard within the Named Member's control which would result in an increase in the rate or amount of Contribution;
- c. For fraud in the obtaining of coverage;
- d. If the Pool is placed in supervision, conservatorship, receivership and the cancellation is approved or directed by the supervisor, conservator or receiver;
- e. If the Named Member does not implement risk management techniques required by the Pool during the initial Coverage Document Period, or if risk management techniques do not result in the Named Member's attaining a risk level sufficient to meet the Pool's underwriting criteria during the initial coverage period;
- f. If the Interlocal Participation Agreement between the parties is terminated or the Named Member withdraws or is expelled from the Pool; or
- g. For the Named Member's violation of any of the Named Member's other obligations under the Pool's Bylaws or the Interlocal Participation Agreement between the Named Member and the Pool.

5. If the Pool cancels this Coverage Document for nonpayment of Contributions the cancellation shall be effective at 12:01 a.m. on the 10th day following the Pool's placement of the notice of cancellation in the U.S. Mail. These Conditions do not waive or alter any other applicable provisions of the Pool's Bylaws or the Interlocal Participation Agreement between the Named Member and the Pool.

6. Notice of cancellation by the Pool may be given to the county judge or presiding officer of the Named Member at the Named Member's address shown in the CCD.

J. RETAINED CONTRIBUTION PROPORTIONS

1. If this Coverage Document is terminated by the Named Member, the Pool shall retain the customary short rate proportion of the contribution.
2. If this Coverage Document is terminated by or on behalf of the Pool, the Pool shall retain the customary pro-rata proportion of the contribution.

K. CERTAIN MODIFIED TERMS

An increase in contribution or deductible, or a reduction in Limits of Liability or Aggregate, or addition of endorsements to this Coverage Document, does not constitute a termination or refusal to renew this Coverage Document.

L. CHANGES

This Coverage Document, the CCD, the Pool's Bylaws, the Interlocal Participation Agreement between the Named Member and the Pool, and the Pool's duly-adopted underwriting standards and criteria constitute the agreements between the Named Member and the Pool concerning the coverage afforded. The Pool may make changes to this Coverage Document, as permitted by the Pool's Bylaws, the Interlocal Participation Agreement between the Named Member and the Pool, and the laws governing the creation and operation of the Pool. This Coverage Document's terms cannot be amended or waived without the written authorization of the Pool. Any changes to the Pool's Bylaws, the Interlocal Participation Agreement between the Pool and the Named Member, or the Pool's underwriting standards or criteria are incorporated.

M. LIBERALIZATION

If the Pool changes this Coverage Document to provide more coverage without additional premium charge, the additional coverage will be effective as of the day indicated in the Pool's written notice of change to the Named Member.

N. WAIVER

Notice to any agent or knowledge possessed by any agent or by any other person of any fact, condition or other matter which might constitute grounds for denial of coverage shall not effect a waiver or a change in any part of this Coverage Document or estop the Pool from asserting any rights, including a right to deny coverage, under this Coverage Document. The terms of this Coverage Document may not be waived or changed except by a written endorsement issued by the Pool.

O. ASSIGNMENT

Assignment of any interest under this Coverage Document shall not bind the Pool without its prior written consent.

P. OTHER COVERAGE OR INSURANCE

If there is or may be other coverage or insurance against any incident, loss or Claim for which coverage is afforded under this Coverage Document, the coverage provided under this Coverage Document shall be deemed to be excess over any valid and collectible coverage or insurance available to any Member against whom a Claim is made. Members shall respond promptly to any reasonable inquiries from the Pool concerning other coverage or insurance that may be afforded to the Member or certain Members.

Q. JURISDICTION AND VENUE

The validity and interpretation of this Coverage Document will be governed by the laws of the State of Texas. This Coverage Document is performable and enforceable in Travis County, Texas. The state courts in Travis County will be the sole and exclusive venue for any litigation, special proceeding, or other proceeding arising from the performance of this Coverage Document.

R. ENTIRE AGREEMENT

The Coverage Document, the Pool's Bylaws and Plan of Operation and the Interlocal Participation Agreement between the Pool and the Named Member together constitute the entire coverage agreement and this agreement cannot be modified except as agreed in writing.

S. PAYMENT

Payment of contribution to Pool by Named Member, as consideration for this agreement, shall be made as set forth in the CCD.

T. TWO OR MORE COVERAGE DOCUMENTS ISSUED BY THE POOL

If this Coverage Document and any other coverage document issued to the Named Member by the Pool apply to the same Claim, the aggregate maximum limit of liability under all coverage documents shall not exceed the highest applicable limit of liability under any one coverage document. This condition does not apply to any coverage document issued by the Pool specifically to apply as excess coverage over this Coverage Document.

U. EXAMINATION OF THE NAMED MEMBER'S BOOKS AND RECORDS

The Pool may examine and audit the Named Member's books and records as they relate to this Coverage Document or as may be required for the administration of the Pool.

V. INSPECTIONS AND LOSS CONTROL

The Pool has the right but is not obligated to:

1. Make inspections and surveys at any time;
2. Make risk management appraisals of the Named Member's operations, policies, procedures, vehicles, personnel and facilities;
3. Require the Named Member to implement and follow risk management procedures or techniques established by the Pool to reduce risk sufficient to meet the Pool's underwriting criteria. Any inspections, surveys, reports or requirements relate only to the Named Member's eligibility for liability coverage and the Contribution to be charged. The Pool does not make safety inspections. The Pool does not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public, nor does the Pool warrant that conditions are safe or healthful or comply with laws, regulations, codes or standards.

This condition applies not only to the Pool, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

PART VI - EXTENDED REPORTING PERIODS

If the Pool terminates or refuses to renew this Coverage Document for reasons other than the Named Member's non-payment of contributions or deductibles or non-compliance with the terms and conditions of this Coverage Document, or if the Named Member terminates or refuses to renew this Coverage Document, the Named Member, upon payment of an additional contribution as set forth below, shall have the option to extend the Claims made coverage afforded by this Coverage Document to apply to Claims first made against the Named Member during the 12 or 24 month period immediately following the Effective Date of the termination. An Optional Extended Reporting Period is limited to and shall only be effective for purposes of any error, omission or negligent act committed before the date on which the Optional Extended Reporting Period began and after the retroactive date set forth in the CCD, if any, subject to the terms, conditions, definitions, Limits of Liability, exclusions and deductible provisions of the Coverage Document in effect on the date the Optional Extended Reporting Period is exercised.

An increase in contribution or deductible, or reduction in Limits of Liability or Aggregate, does not constitute a termination or refusal to renew this Coverage Document that would trigger an option to elect an Optional Reporting Period.

The extension of coverage for Claims made and reported subsequent to termination of the Coverage Document shall be endorsed, if purchased, and shall be referred to in this Coverage Document as the Optional Extended Reporting Period. Individual Claims made and reported during any Optional Extended Reporting Period shall be deemed to have occurred during the most recent Coverage Document Period and all terms of the Coverage Document shall apply.

The contribution for the Optional Extended Reporting Period elected by the Named Member shall be:

- A. For a 12 month Optional Extended Reporting Period: 100 percent of the full annual contribution for coverage under this Coverage Document;
- B. For a 24 month Optional Extended Reporting Period: 150 percent of the full annual contribution for coverage under this Coverage Document.

As a condition precedent to the Named Member's right to purchase the Optional Extended Reporting Period coverage, the Named Member must tender payment of all contributions and any unpaid deductibles due for the preceding period of coverage. The Named Member's right to purchase the Optional Extended Reporting Period coverage must be exercised by notice in writing and tendering of the contribution due not later than 10 days after the termination of this Coverage Document. If notice and contributions are not timely and properly made to the Pool, the Named Member shall not at a later date have any right to elect an Optional Extended Reporting Period.

At the beginning of any Optional Extended Reporting Period, the entire contribution shall be deemed earned, and if the Named Member terminates the Optional Extended Reporting Period before the expiration of its full term for any reason, the Pool shall not be liable to return to the Named Member any portion of the contribution for the Optional Extended Reporting Period.

LAW ENFORCEMENT LIABILITY

DISTRICT JUDGE ENDORSEMENT

Coverage Agreement – Subject to the limits shown in the Coverage Document, coverage is extended to cover a district judge, as described in this endorsement.

PART II – DEFINITIONS, Section N, Member, is amended to read:

N. Member - means only the following:

1. The Named Member;
2. Each Law Enforcement Department or Agency named in the CCD and which is duly constituted and operating under the jurisdiction of the Named Member;
3. The individual law enforcement officers or other employees or volunteers of each Law Enforcement Department or Agency set forth in the CCD as are regularly employed or officially engaged in Law Enforcement Activities for the Department or Agency.
4. Other public officials, employees and volunteers of Named Member, excluding the District Attorney or the District Judge, except as provided in Subsection 6 below, but only with respect to a Claim or Claims arising out of errors, omissions or negligent acts of:
 - a) the Law Enforcement Departments or Agencies named in the CCD and only with respect to the activities of these persons while in furtherance of the Law Enforcement Activities of the Named Member; or
 - b) public officials of the Named Member in the making of the decisions concerning the budgeting or other provision of county funds for the conduct of activities of Law Enforcement Departments or Agencies named in the CCD.
5. The Juvenile Board, but only if the Juvenile Board serves only the Named Member's county. If the Juvenile Board serves more than one county, the Juvenile Board is a Member only if each county represented on the Juvenile Board is a Member of the Pool. The individuals serving on the Juvenile Board are Members only if they are officials or employees or volunteers of the Named Member.
6. A district judge whose designated jurisdiction includes the Named Member is a Member, but only in his or her capacity as a member of a Juvenile Board, and only if the Juvenile Board or the Juvenile Probation Department that it oversees is listed in the CCD.

PART V - CONDITIONS is amended to add:

S. REPRESENTATION BY STATE OF TEXAS

The Pool has no duty to:

1. defend a Member for a Claim in which the State of Texas determines that it will defend Member, but the Pool will defend a Member if Member requests a defense from the State and the State declines to provide a defense; or
2. pay or indemnify for a Claim in which the State of Texas has the responsibility to pay or indemnify, or determines to settle on behalf of Member.

Nothing in this Coverage Document acts as a waiver of governmental or official immunity, which can only be waived by an act of the Texas Legislature.

SAMPLE



TEXAS ASSOCIATION *of* COUNTIES RISK MANAGEMENT POOL

PUBLIC OFFICIALS LIABILITY COVERAGE DOCUMENT

**PUBLIC OFFICIALS
LIABILITY COVERAGE**

**THIS IS A CLAIMS MADE COVERAGE DOCUMENT.
PLEASE READ THE ENTIRE COVERAGE DOCUMENT CAREFULLY.**

The Texas Association of Counties Risk Management Pool (Pool) was and is created to enable Member to purchase coverage against liability Claims. This is not a contract of insurance, but is an agreement for liability coverage pursuant to the provisions of Chapter 119 of the Texas Local Government Code, and under Chapters 791 and 2259 of the Texas Government Code. Under this agreement, political subdivisions create and contribute to a pool as an alternative to commercial insurance markets.

Except to the extent as may otherwise be provided herein, the coverage of this Coverage Document is limited to only those Claims THAT ARE FIRST MADE AGAINST THE MEMBER DURING THE COVERAGE DOCUMENT PERIOD AND TIMELY REPORTED TO POOL.

The Contribution and Coverage Declarations (CCD) issued to the Named Member by the Pool is part of this Coverage Document, subject to the terms, conditions, definitions, exclusions, and sublimits contained in this Coverage Document, any endorsements, and the Interlocal Participation Agreement (IPA).

Words and phrases that are capitalized have special meaning. Refer to PART II- DEFINITIONS

PART I - CLAIMS MADE COVERAGE AGREEMENT: PAYMENT AND DEFENSE

In consideration of the Member's contribution to the Pool, and in reliance upon the representations made by Member in the Application for this coverage, and subject to all provisions contained in this Coverage Document, including any endorsements, the Pool agrees as follows:

A. WHAT WE WILL PAY

The Pool will pay on behalf of the Member, subject to all provisions contained in this Coverage Document, any sums which the Member shall become legally obligated to pay as Damages or Claims Expenses solely by reason of any Wrongful Act stated in a Claim.

PROVIDED ALWAYS that the following are true:

1. Notice of Claim occurs during the Coverage Document Period;

2. Notice is provided by the Member to the Pool during the Coverage Document Period (or during the Optional Extended Reporting Period, if applicable);
3. The Wrongful Act for which Claim is made happened during the Coverage Document Period or on or after the retroactive date set forth in the CCD; provided, however that if the Wrongful Act happened before the Coverage Document Period, the Named Member did not give notice to any prior insurer or coverage provider;
4. The Member does not have insurance or coverage for a Wrongful Act through any other contract or policy of insurance or coverage, including any other coverages provided by the Pool; and
5. The Member had no knowledge or reason to believe at the inception of the Coverage Document Period or any extensions or renewals that any Wrongful Act was likely to result in a Claim being made against any Member.

B. DEFENSE, SETTLEMENT AND ALLOCATION OF DAMAGES

1. Subject to all of the provisions contained in this Coverage Document, including sections I.B.4 and I.B.5, the Pool has the right and duty to defend any Claim against the Member alleging a Wrongful Act and seeking Damages, even if a Claim is groundless, false or fraudulent. The Pool shall have the right to incur Claims Expenses and to make an investigation and settlement of any Claim or suit as may be deemed expedient by the Pool and the Pool may settle any Claim at its sole discretion and without the consent of the Member. The determination by the Pool as to any settlement and as to the reasonableness of settlements and Claims Expenses shall be conclusive on the Member. The Pool shall have the right, but not the obligation, to appeal any judgment adverse to the Member. Claims Expenses shall not be deducted from the Limits of Liability.
2. The Pool shall have no obligation to pay sums the Member shall become legally liable to pay as Claims or Damages that are not covered by this Coverage Document (including amounts in excess of any applicable sublimits) or to contribute to a settlement of any such Claims or Damages. In negotiating any settlement or Claim payment, the Pool shall have the right to request the Member make an appropriate contribution for uncovered Claims or Damages. If both Damages covered by this Coverage Document and Damages not covered by this Coverage Document are incurred or are to be incurred because a Claim made against the Member or Damages sought from the Member includes both covered and uncovered matters, the Pool and the Member will use their best efforts to determine a fair and appropriate allocation of Damages between that portion of Damages that is covered under this Coverage Document and that portion of Damages that is not covered under this Coverage Document. The Pool and the Member will take into account the relative legal and financial exposures of, and

relative benefits obtained in connection with the defense or settlement of, the Claim. In the event the Pool and the Member cannot reach an agreement as to an allocation of Damages, then the parties will each contribute the amount proposed by the Pool until a final amount is agreed upon or determined pursuant to the provisions of this Coverage Document and applicable law.

3. a. Upon written request to the Pool by Named Member for pre-Claim involvement of Pool prior to the formal existence of a Claim, the Pool has the right, but not the duty, to designate attorneys, investigators, or other persons to perform work and incur expenses on behalf of the Named Member where the Pool anticipates a Claim.

b. If, in the sole discretion of the Pool, employing the services of attorneys, investigators, or other persons to perform work and incur expenses on behalf of any Member, or the Pool, is deemed appropriate to protect Pool interests prior to the formal existence of a Claim, the Pool has the right, but not the duty, to employ persons as a Pool operational expense.
4. The Pool shall have the right, but not the duty, to monitor and participate in the defense of any investigatory, administrative or disciplinary proceeding relating to any Wrongful Act of the Member. Should the Pool elect to defend, monitor or participate under this provision, the election shall not constitute a waiver of any rights the Pool may have pursuant to any of the provisions of this Coverage Document.
5. If the Pool determines that the Limits of Liability under this Coverage Document may be insufficient to pay or settle any covered Claim or Claims, or if there are multiple or competing Claims against one or more Members, the Pool may, in its sole discretion, tender the remaining Limits of Liability available under this Coverage Document, either to the treasury of the Named Member, a person authorized to receive funds for the Named Member, or the registry of a court of competent jurisdiction and exhaust the Limits of Liability under this Coverage Document. Tender by the Pool of an amount that would exhaust either the Limits of Liability or the Aggregate shall terminate: (1) the Pool's liability to pay any amounts for unincurred Claims Expenses with regard to any Claim or Claims; (2) the Pool's duties to defend any Member from any Claim or Claims; and (3) the Pool's liability to pay any amount for Damages with regard to any Claim or Claims.
6. Exhaustion of the amount designated as Aggregate in the CCD terminates: (1) the Pool's duties to defend any Member in connection with any Claim or Claims made against the Member after the exhaustion of the Aggregate; and (2) the Pool's liability to pay any amounts for Claims Expenses or Damages for any Claim or Claims.

7. The Pool will provide, subject to the other provisions of the Coverage Document, a defense to a constitutional or statutory takings Claim that is excluded from coverage under section IV.A.6; provided, however, that the Pool's obligation is limited to \$50,000 per Claim and \$50,000 in the Aggregate. This limited duty to defend is the Pool's sole obligation under this provision. The Pool has no duty to indemnify any Member for sums Member becomes legally obligated to pay as Damages. All Claims against a Member for Damages subject to section IV.A.6 are specifically excluded from coverage.
8. The Pool will provide, subject to the other provisions of the Coverage Document, a defense to a malicious or criminal acts or omissions Claim against a Member that is excluded under Section IV.A.7; provided, however, that the Pool's obligation is limited to \$50,000 per Claim and \$100,000 in the Aggregate. This limited duty to defend is the Pool's sole obligation under this provision. The Pool has no duty to indemnify any Member for sums Member becomes legally obligated to pay as Damages. All Claims against a Member subject to section IV.A.7 for Damages arising from any malicious or criminal acts or omissions of any Member are specifically excluded from coverage.

PART II - DEFINITIONS

- A. **Aggregate** means the Pool's total liability for Damages resulting from all Claims first made against the Members during the Coverage Document Period and shall not exceed the amount stated in the CCD as Aggregate regardless of the time when the Claim is paid. If the Named Member exercises the right to purchase the Optional Extension Coverage, the Aggregate limit for the Optional Extended Reporting Period shall be no more than that which remains of the Aggregate limit from the immediately preceding Coverage Document Period.
- B. **Claim** means a written demand received by the Member specifically for money Damages, including punitive or exemplary damages and back wages, against the Member, but does not include:
 1. Any demand or suit based upon a Wrongful Act performed while Member was engaged in any activity for which Member received compensation from any source other than the Named Member or was engaged other than by and through the specific authority of the Named Member;
 2. Any demand or suit arising out of a contractual obligation or the breach of a contract, including constructive and implied contracts and demands or suits under a theory of quantum meruit or under any theory of estoppel.

Claims based on or arising out of the same Wrongful Act or interrelated Wrongful Acts, involving one or more of the Members, shall be considered a single Claim, and

a Claim so considered shall be deemed to have been made solely during the one Coverage Document Period which includes the time the Claim is initially made.

C. Claims Expenses means:

1. Fees incurred by the Pool for an attorney designated by the Pool;
2. All other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a Claim, if incurred by the Pool, except for those fees, costs, and expenses of the employees of the Texas Association of Counties, or expenses of a Claims adjustment contractor for the Pool;
3. Fees charged by any attorney designated by the Member with the written consent of the Pool, but only as to those fees incurred after receipt by Member of written consent from the Pool; and
4. Expenses incurred where the Pool, in accordance with section I B.3.a. of this Coverage Document, responds to a written request by Named Member for pre-Claim involvement of the Pool prior to the formal existence of a Claim to perform work and incur expenses on behalf of the Named Member.

D. Contribution and Coverage Declarations (CCD) means the document that sets forth the specific indication of the coverage, limits and deductibles, Contributions and special provisions elected by each Member, including any modifications made by issuance of any amendatory CCD or endorsement.

E. Coverage Document means this agreement between the Pool and Member, including any endorsements.

F. Coverage Document Period means that one-year period Designated in the CCD, unless otherwise specified, or the period as shortened by termination, if any.

If the Optional Extended Reporting Period coverage is purchased by the Member, it shall in no way increase the Coverage Document Period or any renewal, except that any Optional Extended Reporting Period shall be included in the previous Coverage Document Period for purposes of application of the Aggregate limit of the Pool's liability.

G. Damages means actual and compensatory money damages only, arising out of Wrongful Act of Member, and does not include:

1. penalties, fines, sanctions, unpaid or withheld wages, overtime, back benefits, any similar types of damages, or restitution of any kind for any damages just enumerated, even if designated as compensatory or liquidated damages under any federal or state law;

2. any damages resulting from harm to or interference with property of any Member or any employee, agent or volunteer of the Member arising out of activity with or employment by Member, including loss of use of property;
 3. any damages resulting from property seized, held, auctioned or sold by Member, including any forfeited money or other property or its value, or resulting from violation of or interference with property rights;
 4. any amount which may become due and payable under the terms of any contractual obligation whether imposed by law or by agreement of Member;
 5. attorney's fees and any costs, charges, fees or expenses of litigation if any are demanded from Member without an accompanying demand for other relief which would constitute Damages, or that portion of any attorney's fees and any costs, charges, fees or expenses of litigation demanded from Member which may be attributed or allocated to a Claim or any part of a Claim excluded under this Coverage Document (including any part of a Claim that exceeds a sublimit imposed under this Coverage Document), to any demand for relief other than for actual or compensatory damages, or to any other demand or matter not covered under this Coverage Document.
- H. **Effective Date** means the date the Coverage Document becomes effective in the Coverage Document Period. The Effective Date of any renewal of this Coverage Document shall be considered the Effective Date of a new Coverage Document Period.
- I. **Limits of Liability** the Limits of Liability of the Pool for payment of Damages shall be the applicable Limit shown in the CCD under Limits of Liability.
- J. **Member** means (1) Named Member; (2) those persons, individually or collectively, acting within the scope of their Official Capacity who are duly elected or appointed officials or employees or volunteers of the Named Member; and (3) a board, committee or similar entity that (a) is created solely by the Named Member's governing body, (b) is comprised only of persons appointed by the Named Member's governing body, (c) serves only the Named Member's purposes, and (d) is funded at least in part by Named Member.

The Juvenile Board is a Member, but only if the Juvenile Board serves only the Named Member's county. If the Juvenile Board serves more than one county, the Juvenile Board is a Member only if each county represented on the Juvenile Board is a Member of the Pool. The individuals serving on the Juvenile Board are Members only if they are officials or employees or volunteers of the Named Member.

The district attorney is not a Member, nor is a district judge. An individual serving as criminal district attorney, county/district attorney or another statutorily-created office that is, effectively, a combination of the offices of county attorney and district attorney is a Member, but only when performing functions performed by the county attorney in a county that has a county attorney.

- K. **Named Member** means a county or other political subdivision so designated in the CCD.
- L. **Notice of Claim** means one of the following, whichever occurs first:
 - 1. For a lawsuit against the Member, notice of the suit by service of process or otherwise; or
 - 2. The Member obtains or receives knowledge or reason to believe that any Wrongful Act may reasonably be expected to result in a Claim.
- M. **Official Capacity** means only those functions and responsibilities that come within the scope of performance of a Member for or on behalf of the Named Member.
- N. **Optional Extension Coverage** means the optional coverage that may be purchased if the Pool, or the Named Member, cancels or refuses to renew this Coverage Document as set forth in Part VII of this Coverage Document.
- O. **Optional Extended Reporting Period** means the period for which the Named Member elects to purchase Optional Extension Coverage.
- P. **Pool** means the Texas Association of Counties Risk Management Pool.
- Q. **Wrongful Act** means any actual or alleged error or misstatement, omission, act of neglect or breach of duty including misfeasance, malfeasance or nonfeasance by the Member, or Members in their Official Capacity, individually or collectively, or any matter claimed against them solely by reason of their having served or acted in an Official Capacity.

PART III - LIMITS OF LIABILITY

The following Limits of Liability apply unless otherwise stated on the CCD.

A. LIMITS OF LIABILITY

Regardless of the number of:

1. Members involved in a Claim,
2. Persons or entities who sustain Damages, or
3. Claims made,

Exhaustion of the Limits of Liability shown in the CCD shall terminate the Pool's liability to pay any Damages or Claims Expenses. The Pool shall never be required to pay Damages in excess of the applicable Limits of Liability shown in the CCD in connection with any Claim or Claims.

Claims based on or arising out of the same or related acts, omissions or events involving one or more Members shall be considered a single Claim and only one deductible and one Limits of Liability shall be applicable to the Claim. If Member has, or is a beneficiary of, other Coverage Documents through the Pool, the Pool shall not be required to pay an amount in excess of the appropriate Limits of Liability shown in the CCD in connection with any Claim. The Pool and the Named Member agree that Pool coverages do not combine with respect to payment of Damages or Claims Expenses.

The Pool's total liability for Damages for all Claims during any one Coverage Document Period shall never exceed the Aggregate stated in, Limits of Liability, of the CCD.

Tender by the Pool of an amount that would exhaust either the Limits of Liability for any Claim or the Aggregate Limits of Liability applicable to all Claims to the treasury of the Named Member, a person authorized to receive funds for the Named Member, or the registry of a court of competent jurisdiction, shall terminate the Pool's liability to pay any amounts for Damages or Claim Expenses with regard to any Claim or Claims.

B. SUPPLEMENTARY PAYMENTS

The Pool will pay, in addition to the applicable Claims Expenses and the Limits of Liability, as shown in CCD:

1. Expenses incurred by Texas Association of Counties employees, or Claims adjustment contractors in the monitoring and supervision of Claims;
2. Interest, but only on that portion of any judgment which does not exceed the Pool's Limits of Liability thereon, which accrues after entry of the judgment and before the Pool has paid or tendered or deposited into the court registry that portion of the judgment which is the Pool's liability;
3. Up to \$250 per bond premium on appeal bonds in any suit defended by the Pool and up to \$250 premium on bonds to release attachments in any suit, for an amount not in excess of the Limits of Liability. However, in accordance with its discretionary right to appeal, the Pool shall have the right, but not the obligation, to apply for or furnish any appeal bond.

C. DEDUCTIBLE

The Pool will pay only those Damages and Claims Expenses, with regard to a Claim, which are in excess of the Deductible amounts stated in the CCD. The Deductible amount stated in CCD shall be borne by Named Member and shall not be borne by the Pool. The Named Member is wholly responsible for paying the entire Deductible shown in the CCD. A Member, other than the Named Member, has no personal responsibility for paying any portion of the Deductible, and is fully covered for the amount of any liability not in excess of \$100,000, as referenced in Texas Civil Practices and Remedies Code Section 108.002.

At the option and discretion of the Pool, the Pool may pay all or part of the Deductible amount to effect settlement, and, upon notification to the Named Member, Named Member shall promptly reimburse the Pool for all expenditures. If the Pool pays any Claims Expenses which fall within the Deductible amount stated in the CCD, the Named Member, upon notification, shall promptly reimburse the Pool for all expenditures.

The Deductible amount stated in the CCD shall be applicable to each Claim and request for pre-Claim assistance under section I.B.3.a involving each Member and shall include payments for Damages and Claims Expenses.

D. SUBLIMITS

1. County or District Clerk. The Aggregate Limit of Liability is exclusive of a Claim against the county clerk or a deputy county clerk and the district clerk or a deputy district clerk for liability incurred through errors or omissions in the performance of their official duties. The Limit of Liability for a Claim for liability incurred through errors or omissions in the performance of their official duties against the county clerk or a deputy county clerk shall not exceed \$1,000,000. The Limit of Liability for a Claim for liability incurred through errors or omissions in the

performance of their official duties against the district clerk or a deputy district clerk shall not exceed \$1,000,000. These Limits of Liability are provided in addition to and are distinct from the Limits of Liability provided under this Coverage Document.

2. Back Wages. The Limits of Liability are inclusive of a Claim against a Member for back wages subject to a sublimit not to exceed \$50,000 per Claim and a \$100,000 annual Aggregate Limit of Liability.
3. Prosecutor. The Limits of Liability are inclusive of a Claim against the county attorney, an assistant county attorney, an assistant district attorney, or other employee of the county attorney or district attorney for malicious prosecution subject to a sublimit not to exceed \$500,000 per Claim and a \$1,000,000 annual Aggregate Limit of Liability.
4. Punitive Damages. The Limits of Liability are inclusive of a Claim against a Member for punitive or exemplary damages subject to a sublimit not to exceed \$1,000,000 per Claim and the Aggregate Limits of Liability.
5. Defense Costs. The Limits of Liability are inclusive of defense costs for a statutory or constitutional takings Claim up to a sublimit of \$50,000 per Claim and a \$50,000 annual Aggregate Limit of Liability. The Limits of Liability are inclusive of defense costs for a Claim based on malicious or criminal acts or omissions subject to a sublimit not to exceed \$50,000 per Claim and a \$100,000 annual Aggregate Limit of Liability.

PART IV - EXCLUSIONS

A. THIS COVERAGE DOCUMENT DOES NOT APPLY TO:

Claims arising out of, in whole or in part, directly or indirectly, or arising in concurrent cause with the following:

1. Fraud, dishonesty or bad faith of any Member, except as an element of a Claim of malicious prosecution; and except that Members shall be defended, under the terms of this Coverage Document, as to any claims upon which suit may be brought against them by reason of any alleged fraud or dishonesty or bad faith on the part of any Member, unless a judgment or other final adjudication adverse to the Member shall establish that acts of dishonesty or fraud committed by the Member were material to the cause of action so adjudicated.
2. Bodily Injury, sickness, assault or battery, disease or death of any person.
3. Physical injury to property or loss of use of property.

4. False arrest, false imprisonment, excessive use of force, wrongful detention, wrongful eviction, wrongful entry, or other invasion of the right of private occupancy, wrongful or improper service of process, humiliation, libel, slander, or violation of an individual's right of privacy.
5. Any acts, services or duties in furtherance of or supervision of the law enforcement pursuits or activities of any law enforcement officials, department or agency of the Named Member including budgeting for law enforcement, except as an element of: (1) a Claim of malicious prosecution; or (2) a Claim arising out of actual or alleged wrongful employment practices brought by employees of the Named Member who are not elected officials of the Named Member.
6. Inverse condemnation, takings as understood under any law, adverse possession, dedication by adverse use or nuisance; nor the intentional, negligent or accidental discharge, disbursement, release or escape of pollutants, or potential pollutants, including smoke, vapors, soot, fumes, acids, alkalis, toxins, pathogens, chemicals, particulates, fibers, radioactivity or radiation, whether thermal, thermonuclear or otherwise, solids, liquids or gases, waste materials or irritants, contaminants, or other pollutants or potential pollutants of any kind into or upon land, any area below ground, air, the atmosphere, or water; nor demands or actions arising from any governmental direction or request that the Member test for, monitor, clean up, remove, contain, analyze, examine, treat, detoxify or neutralize pollutants or potential pollutants.
7. Malicious or criminal acts or omissions of any Member, except as an element of a Claim of malicious prosecution; and except that the Pool will provide a defense under the terms of this Coverage Document, for the Named Member and any Member sued in his or her Official Capacity only, in any Claim or lawsuit arising or resulting from a malicious or criminal act or omission by a Member.

This limited duty to defend is the Pool's sole obligation under this provision. The Pool has no duty to indemnify any Member for sums Member becomes legally obligated to pay as Damages. All Claims against a Member for Damages arising from any malicious or criminal acts or omissions of any Member are specifically excluded from coverage.

8. Acts or omissions relating to Member's fiduciary capacity as respects any employee benefit plan or as trustee of any employee benefit plan.
9. Continuous or repeated exposure to the same or similar conditions in which any exposure or condition existed or happened before the Coverage Document Period or the retroactive date set forth on the CCD, if any.
10. Laboratory testing or medical malpractice. For the purpose of this exclusion a medical malpractice Claim includes a health care liability Claim as defined in

Section 74.001 of the Texas Civil Practice & Remedies Code, against a physician, physician's assistant or other health care provider.

11. A regulatory act or similar act by a Member that restricts limits or prohibits a person or entity's right to: 1) use property owned by the person or entity; or 2) to pursue a certain business.
12. Preparation of bid specifications, failure to supply governmental services, and strikes, riots or civil commotion.
13. The failure to pay: a) any bond, including interest on any bond; or b) any debt, financial guarantee or debenture.
14. The ownership, operation, management, use, control, repair, maintenance, demonstration, loading or unloading, or entrustment to others of any aircraft and any policies, practices, customs, usages or procedures related to the above. For the purposes of this exclusion "aircraft" means any machine capable of flight, including an airplane, helicopter, glider, balloon, or aerial vehicle that is not controlled by a person from within or on the aerial vehicle.

B. THIS COVERAGE DOCUMENT ALSO DOES NOT APPLY TO:

1. Any Claim by or through any Member against another Member, either individually or collectively, nor to any Claim by any public official on behalf of a Member against any Member; nor to any Claim by a volunteer engaged in activities for any Member against any Member; however, this exclusion shall not apply to Claims arising out of actual or alleged wrongful employment practices brought by employees of the Named Member who are not elected officials of the Named Member, nor to any Claim brought against a county clerk or deputy county clerk, or district clerk or deputy district clerk for liability incurred through errors and omissions in the performance of their official duties. For the purpose of this exclusion, the term Member includes an individual that was a Member at the time the Claim arose.
2. Demands or actions seeking equitable relief, or redress in any form other than money Damages; nor to any action, suit or proceeding seeking relief or redress in any form other than money Damages; nor to any investigatory, administrative, disciplinary, or criminal proceeding against a Member.
3. Demands or actions related to a Claim resulting from the actual or reasonably suspected theft, loss or unauthorized disclosure of or access to electronic information or a violation or failure of the security of the Named Member's Computer System, except as provided in Part V, Cyber Liability and Expense Coverage.

PART V – CYBER LIABILITY AND EXPENSE COVERAGE

Terms and definitions below may vary from the terms and definitions set forth in Parts I and II. To the extent terms and definitions between Parts I and II and this Part V conflict, for purposes of a Cyber Security Event, the terms and definitions under Part V control. Coverage under this Part is only available for a Cyber Security Event occurring on or after the Retroactive Date.

A. CYBER LIABILITY AND EXPENSE COVERAGE AGREEMENT

1. Third-Party Liability

- a. The Pool will pay those sums a Member becomes legally obligated to pay as Damages because of a Cyber Security Event. The Pool will have the right and duty to defend the Member against any Suit seeking such Damages. However, the Pool will have no duty to defend any Member against any Suit seeking Damages to which this coverage does not apply. The Pool may at its discretion investigate any Cyber Security Event and settle any Claim that may result.

But:

- i. The amount the Pool will pay for Damages and Claim Expenses is limited as described in Part V., Section D; and
 - ii. The right and duty of the Pool to defend ends when the applicable limit of liability is exhausted in the payment of judgments or settlements, Regulatory Penalties, Claim Expenses and Privacy Response Expenses.
- b. This coverage applies only if:
 - i. The Cyber Security Event commenced on or after the Retroactive Date and before the end of the Coverage Period;
 - ii. A Claim for Damages because of the Cyber Security Event is first made against the Member during the Coverage Period or any Extended Reporting Period provided under Part VII; and
 - iii. The Member gives written notice of the Claim to the Pool in accordance with Section E.
 - c. A Claim seeking Damages will be deemed to have been made when notice of the Claim is received by any Member or by the Pool, whichever occurs first.

2. Privacy Response Expenses

- a. The Pool will pay for Privacy Response Expenses incurred by the Member in connection with a Cyber Security Event that results in the actual or reasonably suspected theft, loss or unauthorized disclosure of or access to Personal Information.

But: The amount the Pool will pay for Privacy Response Expenses is limited as described in Section D.

- b. This coverage applies only if:

- i. The Cyber Security Event commenced on or after the Retroactive Date and before the end of the Coverage Period; and
- ii. The Member gives written notice of the Cyber Security Event to the Pool in accordance with Section E.

3. Regulatory Proceedings and Penalties

- a. The Pool will pay for Regulatory Penalties the Member becomes legally obligated to pay as a result of a Regulatory Proceeding resulting from a Cyber Security Event. The Pool will have the right and duty to defend the Member against any Regulatory Proceeding to which this coverage applies. The Pool may at its discretion investigate any Cyber Security Event and settle any Claim that may result.

But:

- i. The amount the Pool will pay for Regulatory Penalties and Claim Expenses resulting from a Regulatory Proceeding is limited as described in Section D; and
- ii. The duty of the Pool to defend a Regulatory Proceeding ends when the applicable limit of liability is exhausted.

- b. This coverage applies only if:

- i. The Cyber Security Event commenced on or after the Retroactive Date and before the end of the Coverage Period;
- ii. A Regulatory Proceeding because of the Cyber Security Event is initiated against the Member during the Coverage Period or any Extended Reporting Period Provided under Part VII; and

- iii. The Member gives written notice of the Regulatory Proceeding to the Pool in accordance with Section E.
- c. A Regulatory Proceeding will be deemed to have been initiated when notice of the Regulatory Proceeding is received by the Member or by the Pool, whichever occurs first.

B. DEFINITIONS

The following definitions apply to this coverage:

1. **Bodily Injury** means physical injury, sickness or disease sustained by any person, including death resulting from these at any time. Bodily Injury also means mental illness, mental anguish or emotional distress, pain or suffering or shock sustained by any person, whether or not resulting from physical injury, sickness, disease or death of any person.
2. **Claim** means any demand for money Damages, Suit for Damages or Regulatory Proceeding resulting from a Cyber Security Event. All Claims because of a single Cyber Security Event will be deemed to be a single Claim and to have been made at the time the first such Claim is made against any Member, regardless of the number of individuals or entities making such Claims or the time period over which such Claims are made, even if subsequent Claims are made after the Coverage Period or any Extended Reporting Period provided under Part VII.
3. **Claim Expenses** means:
 - a. Reasonable and necessary fees charged by attorneys designated by the Pool or designated by the Member with the Pool's prior consent to assist with the investigation, adjustment, negotiation, arbitration, defense or appeal of a Claim;
 - b. All other reasonable and necessary fees, costs and expenses resulting from the investigation, adjustment, negotiation, arbitration, defense or appeal of a Claim and incurred by the Pool or by the Member with the Pool's prior consent; and
 - c. Premiums on appeal bonds, attachment bonds or similar bonds; however, the Pool is not obligated to apply for or furnish any such bond;

Provided, however, Claim Expenses do not include:

- a. Any internal salary, administrative, overhead or other related expenses of any Member or any charges by a Member for time spent cooperating with the investigation and defense of any Claim; or
 - b. Privacy Response Expenses.
4. **Computer System** means computers and associated input and output devices, data storage devices, networking equipment and backup facilities:
- a. Operated by and either owned by or leased to the Member; or
 - b. Operated by a third party service provider and used to provide hosted computer application services to the Member or for processing, maintaining, hosting or storing the Member's electronic data pursuant to a written contract with the Member for such services.
5. **Cyber Security Event** means:
- a. The actual or reasonably suspected theft, loss or unauthorized disclosure of or access to electronic Personal Information in the care, custody or control of the Member or for which the Member is legally responsible; or
 - b. A violation or failure of the security of a Computer System, including but not limited to unauthorized access, unauthorized use, a denial of service attack or receipt or transmission of malicious code.
- Any Cyber Security Event that is continuous or part of a series of repeated or related Cyber Security Events will be considered to be a single Cyber Security Event and will be considered to have commenced when the first such Cyber Security Event commenced regardless of:
- a. The number of individuals or entities engaged in such Cyber Security Events;
 - b. The number of individuals or entities affected by such Cyber Security Events;
 - c. The number of locations where such Cyber Security Events occurred; or
 - d. The number of such Cyber Security Events occurring or period of time over which they occur, even if subsequent Cyber Security Events take place after the Coverage Period.
6. **Personal Information** means an individual's name in combination with one or more of the following:

- a. Information concerning the individual that constitutes “nonpublic personal information” as defined in the Gramm-Leach Bliley Act of 1999, as amended, and implementing regulations;
- b. Medical or health care information concerning the individual, including without limitation “protected health information” as defined in the Health Insurance Portability and Accountability Act of 1996, as amended, and implementing regulations;
- c. The individual’s Social Security number, driver’s license or state identification number, credit, debit, or other financial account numbers and associated security codes, access codes, passwords or personal identification numbers that allow access to the individual’s financial account information; or
- d. Other nonpublic personally identifiable information, as protected under any local, state, federal or foreign law;

Provided, however, Personal Information does not include information that is lawfully available to the public, including without limitation information lawfully available from any Member or any local, state, federal or foreign governmental entity.

7. **Privacy Response Expenses** means the following reasonable and necessary costs incurred by the Member within one year of the discovery of a Cyber Security Event that results in the actual or reasonably suspected theft, loss or unauthorized disclosure of or access to electronic Personal Information in the care, custody or control of the Member or for which the Member is legally responsible:
- a. For the services of a computer security expert designated by the Pool to determine the scope and cause of a Cyber Security Event and the extent to which Personal Information was disclosed to or accessed by unauthorized persons;
 - b. For the services of consultants or attorneys designated by the Pool to determine the Member’s obligations, if any, under applicable law to give notice to affected individuals;
 - c. To notify affected individuals if required by applicable law or if the Member voluntarily elects to give such notice, and for the services of a contractor designated by the Pool to assist with providing such notice and responding to questions and concerns raised by individuals who are notified;

- d. For the services of a contractor designated by the Pool to provide identity theft protection services to affected individuals if the Member elects to provide such services; and
- e. For the services of a public relations consultant designated by the Pool to avert or mitigate damage to the Member's reputation as a result of the Cyber Security Event;

Provided, however, Privacy Response Expenses do not include:

- a. Any internal salary, administrative, overhead or other related expenses of any Member or any charges by a Member for time spent cooperating with the investigation and response to any Cyber Security Event; or
 - b. Claim Expenses.
8. **Property Damage** means physical injury to tangible property, including all resulting loss of use or loss of use of tangible property that is not physically injured. For purposes of this definition tangible property does not include information or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, compact disks, tapes, drives, cells, data processing devices or any other media that are used with electronically controlled equipment.
9. **Regulatory Penalties** means any civil fine or civil monetary penalty imposed in a Regulatory Proceeding payable by a Member to the governmental entity bringing the Regulatory Proceeding and any sum of money that a Member is legally obligated to deposit in a fund as equitable relief for the payment of consumer Claims due to an adverse judgment or settlement of a Regulatory Proceeding.
10. **Regulatory Proceeding** means a civil investigative demand, Suit, civil investigation or civil proceeding commenced by or on behalf any local, state, federal or foreign governmental entity in the entity's regulatory or Official Capacity.
11. **Retroactive Date** means May 1, 2015 or a later date, if any, shown on the CCD.
12. **Suit** means a civil proceeding arising out of a Cyber Security Event and includes an arbitration proceeding or other alternative dispute resolution proceeding and to which the Member must submit or does submit with the consent of the Pool.

C. DEDUCTIBLE

For each Cyber Security Event, the Pool will pay only such amounts as are in excess of the deductible amount shown in the CCD.

D. LIMITS OF LIABILITY

The following Limits of Liability apply unless otherwise stated on the CCD.

1. The Limits of Liability stated below establish the most the Pool will pay regardless of the number of Cyber Security Events, Members, Claims made, Suits or Regulatory Proceedings brought or individuals or entities making Claims or bringing Suits or Regulatory Proceedings. The Limits of Liability and sublimits stated below are provided in addition to and are distinct from the Limits of Liability and sublimits provided under Part III of this Coverage Document.
2. The following general Aggregate limit applies: The Pool will pay no more than \$1,000,000, less applicable deductible amounts, for the sum of the following:
 - a. All Damages and Claim Expenses covered under Part V. Section A.1;
 - b. All Privacy Response Expenses covered under Part V. Section A.2; and
 - c. All Regulatory Penalties and Claim Expenses covered under Part V. Section A.3.
3. The following per Cyber Security Event limit applies: Subject to the general Aggregate limit specified in Part V. Section D.2, for any one Cyber Security Event, the Pool will pay no more than \$1,000,000, less the applicable deductible amount, for the sum of the following:
 - a. All Damages and Claim Expenses covered under Part V. Section A.1;
 - b. All Privacy Response Expenses covered under Part V. Section A.2; and
 - c. All Regulatory Penalties and Claim Expenses covered under Part V. Section A.3.

This Cyber Security Event limit is within the general Aggregate limit specified in Part V. Section D.2. and does not add to that limit.

4. The following sublimit applies: Subject to the general Aggregate and per Cyber Security Event limits specified in Part V. Sections D.2 and D.3, the Pool will pay no more than \$500,000 in Aggregate, less applicable deductible amounts, for

all Privacy Response Expenses covered under Part V. Section A.2. This sublimit is within the general Aggregate and per Cyber Security Event limits set forth in Part V. Sections D.2 and D.3 and does not add to those limits.

5. Subject to the general Aggregate and per Cyber Security Event limits specified in Sections D.2 and D.3, the Pool will pay no more than \$250,000 in Aggregate, less applicable deductible amounts, for all Regulatory Penalties and Claims Expenses covered under Part V. Section A.3.

This sublimit is within the general Aggregate and per Cyber Security Event limits set forth in Part V. Sections D.2 and D.3 and do not add to those limits.

E. NOTICE TO THE POOL

1. As a condition precedent to the obligations of the Pool under this coverage, the Member must give written notice to the Pool of any Claim made against the Member as soon as practicable, but in no event later than the end of the Coverage Period or any Extended Reporting Period provided under Part VII.
2. If during the Coverage Period, any Member becomes aware of a Cyber Security Event that may reasonably be expected to give rise to a Claim against any Member or Privacy Response Expenses, the Member must give written notice to the Pool of such Cyber Security Event as soon as practicable, but in no event later than the end of the Coverage Period or any Extended Reporting Period provided under Part VII. Notice must include:
 - a. A specific description of the Cyber Security Event, including all relevant dates;
 - b. The names of persons involved in the Cyber Security Event, including names of potential claimants and a specific description of any Personal Information actually or reasonably suspected to have been subject to theft, loss or unauthorized access or disclosure;
 - c. The specific reasons for anticipating that a Claim may result from such Cyber Security Event;
 - d. The specific nature of the alleged or potential Damages arising from such Cyber Security Event; and
 - e. The specific circumstances by which the Member first became aware of the Cyber Security Event.

Any Claim subsequently made against any Member arising out of such Cyber Security Event shall be deemed to be a Claim made during the Coverage Period in which the Cyber Security Event was first reported to the Pool.

F. EXCLUSIONS

The following exclusions apply to this Cyber Security and Expense coverage in addition to all exclusions set forth in Part IV of this Coverage Document.

This coverage does not apply to any Claim, Suit, Regulatory Proceeding, Damages, Regulatory Penalties, Claim Expenses or Privacy Response Expenses:

1. For, arising out of, or resulting from Bodily Injury or Property Damage;
2. For, arising out of, or resulting from any contractual liability or obligation, or arising out of or resulting from breach of contract or agreement either oral or written; provided, however, that this exclusion shall not apply to the extent the Member would have been liable in the absence of such contract or agreement;
3. For, arising out of, or resulting from any actual or alleged antitrust violation, restraint of trade, unfair competition, or false or deceptive or misleading advertising or violation of the Sherman Anti-Trust Act, the Clayton Act, or the Robinson-Patman Act, as amended;
4. For, arising out of or resulting from any actual or alleged false, deceptive or unfair trade practices; however, this exclusion does not apply to any Claim or loss covered that results from a theft, loss or unauthorized disclosure of or access to Personal Information;
5. For, arising out of or resulting from:
 - a. The actual or alleged unlawful collection or acquisition of Personal Information by or on behalf of the Member; or the failure to comply with a legal requirement to provide individuals with the ability to assent to or withhold assent (*i.e.*, opt-in or opt-out) from the collection, disclosure or use of Personal Information; or
 - b. The distribution of unsolicited email, direct mail, or facsimiles, wiretapping, audio or video recording, or telemarketing, if such distribution, wiretapping, recording or telemarketing is done by or on behalf of the Member;
6. For, arising out of, or resulting from any of the following conduct by a Member:
 - a. Any actual or alleged violation of the Organized Crime Control Act of 1970 (commonly known as the Racketeer Influenced and Corrupt Organizations

Act or RICO), as amended, or any regulation promulgated thereunder or any similar federal law or law of any state, locality or foreign government, whether such law is statutory, regulatory or common law;

- b. Any actual or alleged violation of any securities law, regulation or legislation, including but not limited to the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Act of 1940, any state blue sky or securities law, any other federal securities law or legislation, or any other similar law or legislation of any state, locality or foreign government, or any amendment to such laws, or any violation of any order, ruling or regulation issued pursuant to such laws;
 - c. Any actual or alleged violation of the Fair Labor Standards Act of 1938, the National Labor Relations Act, the Worker Adjustment and Retraining Act of 1988, the Certified Omnibus Budget Reconciliation Act of 1985, the Occupational Safety and Health Act of 1970, the Employee Retirement Security Act of 1974 or any similar law or legislation of any state, locality or foreign government, or any amendment to such laws, or any violation of any order, ruling or regulation issued pursuant to such laws; or
 - d. Any actual or alleged discrimination of any kind including but not limited to age, color, race, sex, creed, national origin, marital status, sexual preference, disability or pregnancy;
7. For, arising out of, or resulting from any criminal, dishonest, fraudulent, or malicious act, error or omission, any intentional security breach, or any intentional or knowing violation of the law committed by any Member; provided, however, this exclusion shall not apply unless there is a final adjudication of such conduct, an admission of such conduct by the Member, or in a criminal proceeding a plea of guilty, *nolo contendere*, no contest or any similar plea by the Member;
8. For, arising out of or resulting from any actual or alleged:
- a. Infringement of patent or patent rights or misuse or abuse of patent; or
 - b. Infringement of copyright arising from or related to software code or software products; or
 - c. Use or misappropriation of any ideas or trade secrets by a Member or on behalf of, or in collusion with a Member;
9. Arising out of or resulting from any of the following:
- a. Trading losses, trading liabilities or change in value of accounts;

- b. Any loss of monies, securities or tangible property of others in the care, custody or control of the Member;
 - c. The monetary value of any electronic fund transfers or transactions by or on behalf of the Member that is lost, diminished, or damaged during transfer from, to or between accounts; or
 - d. The value of coupons, price discounts, prizes awards, or any other valuable consideration given in excess of the total contracted or expected amount that is lost, diminished or damaged;
10. For damage to, destruction of, corruption of, or any loss of use by any Member of any Computer System or data, including without limitation any costs or expenses to the Member to repair or replace any Computer System or data;
11. For, arising out of or resulting from any threat, extortion or blackmail including but not limited to ransom payments.

PART VI - CONDITIONS

A. COMPLIANCE WITH CONDITIONS

If any Member shall materially breach any warranty or materially fail to satisfy any condition of this Coverage Document, whether or not the Pool is actually prejudiced, there shall be no coverage, including any obligation to defend, for any Member as to the particular Claim or action in connection with which the breach occurred.

B. CCD

The CCD issued by Pool for any Coverage Document Period constitutes terms and conditions for that Coverage Document Period, and constitutes part of the Coverage Document for the Coverage Document Period. In the case of an extension of coverage, the CCD may be issued in the form of an extension endorsement.

C. DELIVERY OF THIS COVERAGE DOCUMENT

Delivery of this Coverage Document to the Named Member shall be considered delivery to each Member and the Named Member is authorized by each Member to accept delivery on the Member's behalf.

D. APPLICATION FOR COVERAGE

The Application and any Renewal Application for this coverage submitted to the Pool, which is signed by the Named Member or its authorized representative, is part of this

Coverage Document for purposes of reliance by the Pool on information contained in the Application. Any substantial mistake or misrepresentation in an Application for coverage which is relied upon by the Pool terminates all the obligations of the Pool under this Coverage Document, including those of payment and defense. The Pool may, at its sole option, elect to waive termination of any part of its obligations.

E. ASSISTANCE AND COOPERATION OF THE MEMBER

1. The Member shall, without charge to the Pool, provide and assist and cooperate with the Pool in obtaining (whether by discovery in pending litigation against the Member or otherwise) truthful and accurate information pertaining a Claim and Damages, including information bearing on the existence or nonexistence of coverage for the Claim or Damages under this Coverage Document, and for these purposes shall (a) upon the request of the Pool, or its authorized representative, submit to examination under oath by a representative of the Pool, (b) attend and participate in hearings, (c) attend and testify truthfully in depositions and trials, and (d) assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses in the conduct of suits, in giving accurate and truthful written statements to the Pool's representatives and meeting with the Pool's representatives for the purposes of investigation and defense and determining whether the Claim or Damages are covered under this Coverage Document.
2. The Member shall not, except at its own cost, make any payment, assume or admit any liability, waive any defense or settle any Claim or action or incur any expense, without the prior written consent of the Pool. Any liabilities admitted, assumed or settled, defenses waived or any payments made, or expenses, including legal expenses, incurred by Member, without prior written consent of the Pool, shall be the sole obligation of the Member.
3. Further, the Member shall not demand, or agree to, arbitration or mediation of any Claim made against the Member without prior written consent of the Pool.
4. Each Member agrees to cooperate with the Pool in the prosecution of Claims, suits, indemnity actions, cross-claims, and/or counterclaims as the Pool, in its sole discretion, shall deem to be appropriate with respect to any Claim or suit brought against any Member and each Member agrees to execute papers as are required to be executed in the defense of any action against any Member, or with respect to the prosecution of Claims, suits, indemnity actions, cross-claims, and/or counterclaims.
5. The Named Member is authorized by each Member to give and receive all notices to and from the Pool on the Member's behalf.

F. NOTICE TO THE POOL

As a condition precedent under this Coverage Document, the Member shall:

1. Promptly and as soon as reasonably practicable report to the Pool all events or occurrences that could reasonably be expected to result in the Pool being required to consider a Claim against Member, together with information concerning any particulars known by Members and including any reasonably obtainable information with respect to persons, events, locations and dates involved;
2. Immediately upon receipt of a Claim or Notice of Claim by Member, and during the Coverage Document Period, give the Pool written notice of any Claim or Notice of Claim made against the Member together with information concerning any particulars known by Members and including any reasonably obtainable information with respect to persons, events, locations and dates involved;
3. If suit is brought against a Member, immediately forward to the Pool any demand, notice, summons or other process received directly or indirectly by the Member or by the Member's representative, along with a precise statement to the Pool of when the demand, notice, summons or other process was received, and by whom it was received;
4. Where conditions precedent in this paragraph require that notice be given to the Pool, immediately render the notice or report to the person or agent specifically designated by the Pool as authorized to receive notice for the Pool. The Pool and the Named Member expressly agree that only notice delivered to an authorized recipient for the Pool can satisfy any notice requirement.

G. ACTION AGAINST THE POOL

1. No legal action may be brought against the Pool unless there has been full compliance with all terms of this Coverage Document. In addition, no action may be brought against the Pool in regard to any matter involving a Claim or suit or proceeding involving this Coverage Document until the amount of the Member's obligation with respect to the pertinent Claim or suit or proceeding has been finally determined either by: (a) final judgment against the Member by the court of last resort after actual trial of the issues and appeal has been determined, or if the time to appeal therefrom has expired without an appeal having been taken; or (b) by written agreement of the Member, the claimant and the Pool.
2. Nothing contained in this Coverage Document shall give the Member or any person, firm, corporation or organization other than the Pool, any right to join the Pool as a party in any action or proceeding against the Member to determine the Member's liability.

3. Any action against the Pool by the Member or any other person must be brought within two years and one day after the cause of action accrues.

H. SUBROGATION

If it makes any payment under this Coverage Document, the Pool shall be subrogated to all of the Member's rights of indemnity or recovery, against any individual, firm, corporation, organization, or any other person. The Member shall execute and deliver instruments and papers and do whatever else shall be reasonably requested to advance the Pool's pursuit of its subrogation rights, and Members shall do nothing after any Claim is made to prejudice the Pool's rights. The Pool shall be entitled to take over and conduct, in the name of the Member, for the Pool's own benefit, any Claim to which the Pool is subrogated against any third party. The Pool may pursue or settle any Claim for its own benefit at its sole discretion.

I. CANCELLATION OR NON-RENEWAL

1. Either party to this Coverage Document may cancel or non-renew this Document by giving notice of such intent to the other party. The notice must be in writing and must be delivered by certified mail, return receipt requested via U.S. Mail to the other party. Except for notice of cancellation or non-renewal by the Pool for nonpayment of Contributions, such notice must be given not less than 60 days prior to the effective date of cancellation.
2. The Pool may, in the Pool's sole discretion, permit the Named Member, upon the Named Member's written request, to terminate this Coverage Document by giving the Pool not less than 30 days' notice.
3. Notice of cancellation by the Named Member must be addressed to:

Texas Association of Counties Risk Management Pool
Attn: Member Services
P.O. Box 2131
Austin, Texas 78768-2131
4. The Pool may cancel or non-renew this Coverage Document:
 - a. For nonpayment of Contributions, unless other provision for payment has been made by express written agreement between the Named Member and the Pool;
 - b. If there is an increase in risk or hazard within the Named Member's control which would result in an increase in the rate or amount of Contribution;

- c. For fraud in the obtaining of coverage;
 - d. If the Pool is placed in supervision, conservatorship, receivership and the cancellation is approved or directed by the supervisor, conservator or receiver;
 - e. If the Named Member does not implement risk management techniques required by the Pool during the initial Coverage Document Period, or if risk management techniques do not result in the Named Member's attaining a risk level sufficient to meet the Pool's underwriting criteria during the initial coverage period;
 - f. If the Interlocal Participation Agreement between the parties is terminated or the Named Member withdraws or is expelled from the Pool; or
 - g. For the Named Member's violation of any of the Named Member's other obligations under the Pool's Bylaws or the Interlocal Participation Agreement between the Named Member and the Pool.
- 5. If the Pool cancels this Coverage Document for nonpayment of Contributions the cancellation shall be effective at 12:01 a.m. on the 10th day following the Pool's placement of the notice of cancellation in the U.S. Mail. These Conditions do not waive or alter any other applicable provisions of the Pool's Bylaws or the Interlocal Participation Agreement between the Named Member and the Pool.
 - 6. Notice of cancellation by the Pool may be given to the county judge or presiding officer of the Named Member at the Named Member's address shown in the CCD.

J. RETAINED CONTRIBUTION PROPORTIONS

- 1. If this Coverage Document is terminated by the Named Member, the Pool shall retain the customary short rate proportion of the contribution.
- 2. If this Coverage Document is terminated by or on behalf of the Pool, the Pool shall retain the customary pro-rata proportion of the contribution.

K. CERTAIN MODIFIED TERMS

An increase in contribution or deductible, or reduction in Limit of Liability or Aggregate, or addition of endorsements to the Coverage Document, does not constitute a termination or refusal to renew this Coverage Document.

L. CHANGES

This Coverage Document, the CCD, the Pool's Bylaws, the Interlocal Participation Agreement between the Named Member and the Pool, and the Pool's duly-adopted underwriting standards and criteria constitute the agreements between the Named Member and the Pool concerning the coverage afforded. The Pool may make changes to this Coverage Document, as permitted by the Pool's Bylaws, the Interlocal Participation Agreement between the Named Member and the Pool, and the laws governing the creation and operation of the Pool. This Coverage Document's terms cannot be amended or waived without the written authorization of the Pool. Any changes to the Pool's Bylaws, the Interlocal Participation Agreement between the Pool and the Named Member, or the Pool's underwriting standards or criteria are incorporated.

M. LIBERALIZATION

If the Pool changes this Coverage Document to provide more coverage without additional premium charge, the additional coverage will be effective as of the day indicated in the Pool's written notice of change to the Named Member.

N. WAIVER

Notice to any agent or knowledge possessed by any agent or by any other person of any fact, condition or other matter which might constitute grounds for denial of coverage shall not effect a waiver or a change in any part of this Coverage Document or estop the Pool from asserting any rights, including a right to deny coverage, under this Coverage Document. The terms of this Coverage Document may not be waived or changed except by a written endorsement issued by the Pool.

O. ASSIGNMENT

Assignment of any interest under this Coverage Document shall not bind the Pool without its prior written consent.

P. OTHER COVERAGE OR INSURANCE

If there is or may be other coverage or insurance against any incident, loss or Claim for which coverage is afforded under this Coverage Document, the coverage provided under this Coverage Document shall be deemed to be excess over any valid and collectible coverage or insurance available to any Member against whom a Claim is made. Members shall respond promptly to any reasonable inquiries from the Pool concerning other coverage or insurance that may be afforded to the Member or certain Members.

Q. JURISDICTION AND VENUE

The validity and interpretation of this Coverage Document will be governed by the laws of the State of Texas. This Coverage Document is performable and enforceable in Travis County, Texas. The state courts in Travis County will be the sole and exclusive venue for any litigation, special proceeding, or other proceeding arising from the performance of this Coverage Document.

R. ENTIRE AGREEMENT

The Coverage Document, the Pool's Bylaws and Plan of Operation and the Interlocal Participation Agreement between the Pool and the Named Member together constitute the entire coverage agreement and this agreement cannot be modified except as agreed in writing.

S. PAYMENT

Payment of contribution to Pool by Named Member, as consideration for this agreement, shall be made as set forth in the CCD.

T. TWO OR MORE COVERAGE DOCUMENTS ISSUED BY THE POOL

If this Coverage Document and any other coverage document issued to the Named Member by the Pool apply to the same Claim, the aggregate maximum limit of liability under all coverage documents shall not exceed the highest applicable limit of liability under any one coverage document. This condition does not apply to any coverage document issued by the Pool specifically to apply as excess insurance over this Coverage Document.

U. EXAMINATION OF THE NAMED MEMBER'S BOOKS AND RECORDS

The Pool may examine and audit the Named Member's books and records as they relate to this Coverage Document or as may be required for the administration of the Pool.

V. INSPECTIONS AND LOSS CONTROL

The Pool has the right but is not obligated to:

1. Make inspections and surveys at any time;
2. Make risk management appraisals of the Named Member's operations, policies, procedures, vehicles, personnel and facilities;

3. Require the Named Member to implement and follow risk management procedures or techniques established by the Pool to reduce risk sufficient to meet the Pool's underwriting criteria. Any inspections, surveys, reports or requirements relate only to the Named Member's eligibility for liability coverage and the Contribution to be charged. The Pool does not make safety inspections. The Pool does not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public, nor does the Pool warrant that conditions are safe or healthful or comply with laws, regulations, codes or standards.

This condition applies not only to the Pool, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

PART VII - EXTENDED REPORTING PERIODS

If the Pool terminates or refuses to renew this Coverage Document for reasons other than the Named Member's non-payment of contributions or deductibles or non-compliance with the terms and conditions of this Coverage Document, or if the Named Member terminates or refuses to renew this Coverage Document, the Named Member, upon payment of an additional contribution as set forth below, shall have the option to extend the claims made coverage afforded by this Coverage Document to apply to Claims first made against the Named Member during the 12 or 24 month period immediately following the Effective Date of the termination. An Optional Extended Reporting Period is limited to and shall only be effective for purposes of any Wrongful Act committed before the date on which the Optional Extended Reporting Period began and after the retroactive date set forth in the CCD, if any, subject to the terms, conditions, definitions, Limits of Liability, exclusions and deductible provisions of the Coverage Document in effect on the date the Optional Extended Reporting Period is exercised.

An increase in contribution or deductible, or reduction in Limit of Liability or Aggregate, does not constitute a termination or refusal to renew this Coverage Document that would trigger an option to elect an Optional Extended Reporting Period.

The extension of coverage for Claims made and reported subsequent to termination of the Coverage Document shall be endorsed, if purchased, and shall be referred to in this Coverage Document as the Optional Extended Reporting Period. Individual Claims made and reported during any Optional Extended Reporting Period shall be deemed to have occurred during the most recent Coverage Document Period and all terms of the Coverage Document shall apply.

The contribution for the Optional Extended Reporting Period elected by the Named Member shall be:

- A. For a 12 month Optional Extended Reporting Period: 100 percent of the full annual contribution for coverage under this Coverage Document;
- B. For a 24 month Optional Extended Reporting Period: 150 percent of the full annual contribution for coverage under this Coverage Document.

As a condition precedent to the Named Member's right to purchase the Optional Extended Reporting Period coverage, the Named Member must tender payment of all contributions and any unpaid deductibles due for the preceding period of coverage. The Named Member's right to purchase the Optional Extended Reporting Period coverage must be exercised by notice in writing and tendering of the contribution due not later than 10 days after the termination of this Coverage Document. If notice and contributions are not timely and properly made to the Pool, the Named Member shall not at a later date have any right to elect an Optional Extended Reporting Period.

At the beginning of any Optional Extended Reporting Period, the entire contribution shall be deemed earned, and if the Named Member terminates the Optional Extended Reporting Period before the expiration of its full term for any reason, the Pool shall not be liable to return to the Named Member any portion of the contribution for the Optional Extended Reporting Period.

PUBLIC OFFICIAL LIABILITY

DISTRICT ATTORNEY – MALICIOUS PROSECUTION ENDORSEMENT

Coverage Agreement – Subject to the Limits of Liability shown in the Coverage Document, coverage is extended to provide a defense for a district attorney against a Claim of malicious prosecution, as described in this endorsement.

PART II – DEFINITIONS, Section J, Member, is amended to read:

- J. **Member** means (1) Named Member; (2) those persons, individually or collectively, acting within the scope of their Official Capacity who are duly elected or appointed officials or employees or volunteers of the Named Member; and (3) a board, committee or similar entity that (a) is created solely by the Named Member's governing body, (b) is comprised only of persons appointed by the Named Member's governing body, (c) serves only the Named Member's purposes, and (d) is funded at least in part by Named Member.

The Juvenile Board is a Member, but only if the Juvenile Board serves only the Named Member's county. If the Juvenile Board serves more than one county, the Juvenile Board is a Member only if each county represented on the Juvenile Board is a Member of the Pool. The individuals serving on the Juvenile Board are Members only if they are officials or employees or volunteers of the Named Member.

Except as provided below, the district attorney is not a Member, nor is a district judge. An individual serving as criminal district attorney, county/district attorney or another statutorily-created office that is, effectively, a combination of the offices of county attorney and district attorney is a Member, but only when performing functions performed by the county attorney in a county that has a county attorney.

Under Part I, Section B.8, the district attorney whose designated jurisdiction includes the Named Member county is a Member, but only when acting in his prosecutorial or other statutory Official Capacity in the Named Member county.

PART III - LIMITS OF LIABILITY, Section D.3, Prosecutor, is amended to read as follows:

3. Prosecutor. The Limits of Liability are inclusive of a Claim against the county attorney, a district attorney, an assistant county attorney, an assistant district attorney, or other employee of the county attorney or district attorney for malicious prosecution subject to a sublimit not to exceed \$500,000 per Claim and \$1,000,000 in the Aggregate.

PART VI - CONDITIONS is amended to add:

W. REPRESENTATION BY STATE OF TEXAS

The Pool has no duty to:

1. Defend a Member for a Claim in which the State of Texas determines that it will defend Member, but the Pool will defend a Member if Member requests a defense from the State and the State declines to provide a defense; or
2. Pay or indemnify for a Claim in which the State of Texas has the responsibility to pay or indemnify, or determines to settle on behalf of the Member.

Nothing in this Coverage Document acts as a waiver of governmental or official immunity, which can only be waived by an act of the Texas Legislature.

SAMPLE

PUBLIC OFFICIALS LIABILITY

DISTRICT JUDGE ENDORSEMENT

Coverage Agreement – Subject to the limits shown in the Coverage Document, coverage is extended to cover a district judge, as described in this endorsement.

PART II – DEFINITIONS, Section J, Member, is amended to read:

- J. **Member** means (1) Named Member; (2) those persons, individually or collectively, acting within the scope of their Official Capacity who are duly elected or appointed officials or employees or volunteers of the Named Member; and (3) a board, committee or similar entity that (a) is created solely by the Named Member's governing body, (b) is comprised only of persons appointed by the Named Member's governing body, (c) serves only the Named Member's purposes, and (d) is funded at least in part by Named Member.

The Juvenile Board is a Member, but only if the Juvenile Board serves only the Named Member's county. If the Juvenile Board serves more than one county, the Juvenile Board is a Member only if each county represented on the Juvenile Board is a Member of the Pool. The individuals serving on the Juvenile Board are Members only if they are officials or employees or volunteers of the Named Member.

Except as provided below, the district attorney is not a Member, nor is a district judge. An individual serving as criminal district attorney, county/district attorney or another statutorily-created office that is, effectively, a combination of the offices of county attorney and district attorney is a Member, but only when performing functions performed by the County Attorney in a county that has a county attorney.

A district judge whose designated jurisdiction includes the Named Member county is a Member, but only when acting in a judicial capacity concerning a case filed in the jurisdiction of the Named Member, or when acting concerning administrative matters of either the Named Member or a Juvenile Board that serves the Named Member.

PART VI - CONDITIONS is amended to add:

W. REPRESENTATION BY STATE OF TEXAS

The Pool has no duty to:

1. Defend a Member for a Claim in which the State of Texas determines that it will defend Member, but the Pool will defend a Member if Member requests a defense from the State and the State declines to provide a defense; or
2. Pay or indemnify for a Claim in which the State of Texas has the responsibility to pay or indemnify, or determines to settle on behalf of the Member.

Nothing in this Coverage Document acts as a waiver of governmental or official immunity, which can only be waived by an act of the Texas Legislature.

SAMPLE



TEXAS ASSOCIATION *of* COUNTIES RISK MANAGEMENT POOL

PROPERTY COVERAGE DOCUMENT

PROPERTY COVERAGE

SECTION A

This Coverage Document, subject to the terms, exclusions, limits and conditions set out or endorsed, covers against all risks of direct physical loss of or direct physical damage to Member property as described, provided such loss or damage occurs during the coverage period.

The Contribution and Coverage Declarations (CCD) issued to the Member by the Pool is part of this Coverage Document, subject to the terms, conditions, definitions, exclusions and sublimits contained in this Coverage Document, any endorsements, and the Interlocal Participation Agreement (IPA).

Words and phrases that are capitalized have special meaning. Refer to SECTION A, 2-DEFINITIONS.

1. USE OF COVERAGE TERMS

The Texas Association of Counties Risk Management Pool (Pool) was created by interlocal agreement to enable its Members to obtain coverage against various types of risk. For convenience and clarity, this document may use terms customarily used in the insurance industry, but this is not a contract of insurance. It is an agreement between political subdivisions to cover certain property against risk pursuant to the provisions of Chapters 791 and 2259 of the Texas Government Code. The Pool's Members, which are political subdivisions of the State of Texas, participate in the Pool as an alternative to commercial insurance.

2. DEFINITIONS

- A. **Actual Cash Value** means the amount it would cost to repair or replace covered property, on the date of loss, with material of like kind and quality, with proper deduction for obsolescence and physical depreciation. ACV is computed by subtracting the depreciation of the lost or damaged Covered Property from the actual replacement cost, using material of like kind and quality, of the Covered Property at the time of Loss.
- B. **Contribution** means the amount paid by the Member to the Pool for this coverage.
- C. **Contribution & Coverage Declarations (CCD)** means the document that sets forth the specific indication of the coverage, limits and deductibles, Contributions and special provisions elected by each Member, including any modifications made by issuance of any amendatory CCD or endorsement.

- D. **Coverage Document** means the Texas Association of Counties Risk Management Pool's Property Coverage Document that sets forth in detail the exact coverage provided.
- E. **Coverage Territory** means locations in the United States of America.
- F. **Earthquake** means any natural or man-made earth movement, including earthquake, landslide, subsidence or volcanic eruption regardless of any other cause or event contributing concurrently or in any other sequence of loss, excluding physical damage by fire, explosion or sprinkler leakage resulting from an Earthquake. All Earthquakes within a continuous 72 hour period will be considered a single Earthquake, the beginning of which will be determined by the Member.
- G. **Flood** means a general and temporary condition of partial or complete inundation normally dry land area from: rising waters, waves, tide, or tidal water; unusual and rapid accumulation or runoff of surface waters from any source; mudslide or mudflow caused by accumulation of water on or under the ground; or the release of water, the rise, overflow, or break of the boundary of a natural or man-made body of water, including spray, excluding physical damage by fire, explosion or sprinkler leakage resulting from Flood.
- H. **Location** means: (1) a Member Location specified in the Schedule of Locations, except for Miscellaneous Unnamed Locations; or (2) a building, yard, dock, wharf, pier or bulkhead (or any group of the foregoing. bound on all sides by public streets, clear land space or open waterways, each not less than a fifty feet wide separation, including a Miscellaneous Unnamed Location, except that a bridge or tunnel crossing a street, space or waterway will render the separation inoperative.
- I. **Member** means the political subdivision of the State of Texas that is a current participant in the Pool and designated on the CCD.
- J. **Member Location** means a location that is: (1) listed on a schedule or appraisal on file with the Pool; (2) covered as a Miscellaneous Unnamed Location; or (3) covered under the terms and conditions of the Automatic Coverage, Errors and Omissions, or Property in Course of Construction and Soft Costs.
- K. **Mobile Equipment** means a motorized vehicle that is only incidentally operated on a public roadway and is not subject to a motor vehicle insurance law, including road construction and maintenance machinery such as a bulldozer, forklift, loader or grader.
- L. **Occurrence** means any one loss, disaster, casualty or series of losses, disasters, or casualties, arising out of one event during a continuous period of 72 hours.

M. **Pollution** means any solid, liquid, gaseous or thermal irritant or contaminant, including, but not limited to, smoke, vapor, soot, fumes, acids, alkalis, chemicals, bacteria, fungi, virus, mold, spores, vaccines and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

N. **Pool** means the Texas Association of Counties Risk Management Pool.

O. **Special Hazard Zone for Flood** means areas in which the Member's property is located that at the time of direct physical loss, damage or destruction:

- 1) has been designated on a Flood Insurance Rate Map published by the Federal Insurance Administration, and in effect at the time of the loss, to be a Special Flood Hazard Area (areas identified as Zones A, AO, AH, AI — A30, AE, A99, AR, AR/A, AR/AE, AR/A1 — A30, AR/AH, AR/A0, V, V1-V30, and VE.); or
- 2) in areas where the National Flood Insurance Program is not in effect, an area that in the past 100 years has been subjected to flooding regardless of whether:
 - a. the building or structure existed at the time of the flooding;
 - b. any direct physical loss or damage from Flood occurred; or
 - c. any flood claim for loss was ever filed.

P. **Storm Surge** means water driven inland from coastal waters by high winds and low atmospheric pressure. Storm surge shall not be considered flood.

Q. **Time Element Value** means the sum of Gross Earnings, Extra Expense, Leasehold Interests, Loss of Rents, and Contingent Tax Revenue Interruption that would have been earned or received for the Location where the physical loss or damage occurs, had there not been physical loss or damage.

3. MEMBER LOCATION

The coverage under this Coverage Document applies to a Member Location unless otherwise provided. This Coverage Document covers Member Locations in The United States of America.

4. LIMITS OF LIABILITY

The Pool's maximum Limit of Liability in a single occurrence regardless of the number of Locations or coverage involved will not exceed the Total Covered Value Limit indicated on the CCD or any amended coverage schedules.

The terms and conditions in this document, including the stated sublimits, constitute the program as a whole for the Member. The sublimits are a part of, and do not increase, any Limits of Liability of the program.

When an annual aggregate limit is provided below, the Pool's maximum limit of liability will not exceed that limit for all covered losses that occur during the Coverage Document Period regardless of the number of Locations and coverage involved.

Any sublimit for Earthquake, Flood, and Named Storm is the maximum amount potentially recoverable for all covered loss, damage, expense or time element loss relating to such an occurrence.

The following sublimits apply on a per occurrence basis, unless otherwise stated on the CCD. Any sublimit shown as an annual aggregate applies per occurrence and to all losses for that peril/coverage in the aggregate during the coverage term.

Coverage	Sublimit
Accounts Receivable	\$500,000 or as specifically scheduled
Automatic Coverage – 90 Day Limitation	Newly Acquired Locations \$2,500,000, including \$100,000 any one piece of Rental Mobile Contractors Equipment; subject to \$2,500,000 annual aggregate
Demolition & Increased Cost of Construction	\$2,000,000
Contingent Business Interruption/ Extra Expense	\$250,000
Contingent Tax Revenue Interruption	\$100,000
Crime	\$100,000 per occurrence
Employee Dishonesty	Included
Forgery or Alteration	Included
Theft, Disappearance and Destruction	Included
Robbery and Safe Burglary	Included
Computer Fraud and Funds Transfer Fraud	Included
Money Orders and Counterfeit Paper	Included
Currency	Included
Debris Removal	Lesser of 25% of Loss or \$2,500,000
Decontamination Costs	\$500,000
Deferred Payments	\$100,000
Earthquake	\$5,000,000 annual aggregate limit
EDP Data & Media	\$1,000,000

Equipment Breakdown, including	\$25,000,000
Spoilage	\$250,000
Service Interruption	\$1,000,000
Business Income	Included
Extra expense	\$500,000
Expediting Expense	\$250,000
Hazardous Substance	\$125,000
Ammonia Contamination	\$125,000
Data & Media	\$1,000,000
CFC Refrigerants	\$100,000
Computer Equipment	Included
Water Damage	\$50,000
Consequential Loss	\$50,000
Errors and Omissions	\$2,500,000
Evacuation Expense	\$1,000,000
Expediting Expense	\$500,000
Extended Period of Indemnity (Lesser of actual loss for period of 180 days or limit shown)	\$1,000,000
Fine Arts	As scheduled; not to exceed \$1,000,000
Flood –as respects Locations situated wholly or partially within Special Hazard Zones for Flood	\$1,000,000 per occurrence subject to \$1,000,000 annual aggregate
Flood – Except SPECIAL HAZARD ZONES FOR FLOOD	\$5,000,000 per occurrence subject to \$5,000,000 annual aggregate
Flood – as respects structures located wholly or partially within Special Hazard Zones for Flood that is ineligible property under the National Flood Insurance Program	\$100,000 per occurrence
Interruption by Civil Authority (Lesser of actual loss sustained for 30 consecutive days or limit shown), subject to a 5 mile limitation.	\$1,000,000
Land and Water Pollutant Cleanup and Removal	\$100,000 subject to \$1,000,000 annual aggregate
Landscape Improvements	\$100,000, subject to \$5,000 for any one tree or shrub
Law Enforcement Dogs and Horses	\$30,000 per animal
Miscellaneous Unnamed Locations – per Occurrence	\$2,500,000
Mobile Equipment (includes Mobile Medical Equipment)	As scheduled; not to exceed \$500,000 for any one piece of Mobile Medical Equipment
Mold- Valuable Papers, & Records and EDP Media	\$1,000,000
Named Storm	Total Covered Value; not to exceed \$50,000,000

Personal Property of Others: not subject to deductible	\$2,500 per occurrence
Piers, Docks, Pilings, Bulkheads, and Wharves	Total Covered Value; not to exceed \$500,000 any one location, subject to \$1,000,000 any one occurrence
Airport Runways	Not to exceed \$250,000 any one location, unless scheduled
Professional Fees	\$100,000
Property in the Course of Construction and Soft Costs	\$2,500,000
Valuable Papers, Records	\$1,000,000
Temporary Removal	Included; except \$1,000,000 for removal for the purpose of being repaired or serviced
Time Element	
Gross Earnings and Extra Expense	\$1,000,000
Leasehold Interest	\$500,000
Loss of Rents	\$500,000
Property Damage and Time Element combined	
Service Interruption	\$500,000
Transit	\$500,000
Any one Watercraft, 27 feet or less in length	\$250,000 \$1,500,000 Aggregate any one Occurrence

Time Limits

In addition to the time limits shown elsewhere in this Coverage Document, the following apply:

Automatic Coverage	90 Day Period
Extended Period of Indemnity	180 Day Period
Ingress/Egress	30 Day Period
Interruption by Civil Authority	30 Day Period

5. OCCURRENCE LIMIT OF LIABILITY

The Limit of Liability shown on the CCD or in this Coverage Document, or endorsed onto this Coverage Document, is the total limit of the Pool's liability applicable to each Occurrence. The Pool's liability will never exceed the applicable Limit of Liability or Aggregate Limit of Liability regardless of the number of locations involved.

In the event of a covered loss, the Pool's liability is limited to the lesser of the following:

- A. The actual adjusted amount of loss, less applicable deductible; or
- B. The Limit of Liability or Aggregate Limit of Liability shown on the CCD or in this Coverage Document or endorsed onto this Coverage Document.

6. VALUE REPORTING PROVISIONS

The Member is required to provide the Pool 100% replacement cost values by Location at the beginning of the Coverage Document Period. The Member is not required to report changes in value for existing Locations during the Coverage Document Period. However, the Member must report to the Pool all changes in value annually at renewal to allow the Pool to accurately determine the Member's renewal Contribution.

7. WAITING PERIOD

There is a 24-hour waiting period before Service Interruption, Interruption by Civil Authority and Ingress/Egress Coverage will be applicable.

8. DEDUCTIBLES

For a loss covered by this Coverage Document, the Pool will be liable only if the Member sustains a loss in a single occurrence greater than the underlying limit or the applicable deductible specified below, and only for its share of that greater amount.

A. Named Storm in Tier 1 Counties:

This section applies to the following Tier One Counties in Named Storm Designated Wind Areas: Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Harris, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio, and Willacy (Note: exposures declared by Harris County CSCD are not considered Tier One).

Named Storm means all loss or damage occurring during a period of 72 consecutive hours that is caused by or results from a storm or weather disturbance that is named as a Tropical Storm or Hurricane by the National Weather Service or any other recognized meteorological authority, including all weather phenomenon associated with or occurring in conjunction with the storm or weather disturbance, such as Flood, Storm Surge, wind driven rain, wind, hail, sleet, tornadoes, or lightning.

The Member's deductible for Property Damage Coverage resulting from a Named Storm is 2% of the 100% Replacement Cost Value, or 100% Reproduction Cost Value if applicable, as determined under the Loss Adjustment and Settlement section, with a minimum deductible of \$50,000 per occurrence for all Locations combined.

If a claim for loss from the perils of Wind, Hail and Flood resulting from a Named Storm involves loss or damage at more than one Location, the deductible amount will be calculated separately for each Location suffering loss or damage and applied separately to the adjusted loss at each Location, subject to the minimum deductible of \$50,000 for all such loss or damage at all Locations combined.

If the Member maintains underlying coverage through the Texas Windstorm Insurance Association (TWIA), it is agreed that the coverage provided by this Coverage Document is excess and excludes the perils of Wind and Hail to the extent of recovery under the Member's TWIA policy. If the amount of loss payable under the Member's TWIA policy exceeds the applicable Named Storm in Tier 1 Counties deductible under this Coverage Document, then no deductible shall apply hereunder. However, if the amount to be paid under such TWIA policy is less than the applicable Named Storm in Tier 1 Counties deductible under this Coverage Document, the Member's deductible will not exceed the difference between the amount to be paid under the Member's TWIA policy and the applicable Named Storm in Tier 1 Counties deductible under this Coverage Document.

If a claim for losses resulting from Flood, as covered and defined under the National Flood Insurance Program, related to a Named Storm includes Member's property located in a Special Hazard Zone for Flood, the following separate deductibles apply individually and supersede the two or more deductible provision:

- 1) If insurance is available under the National Flood Insurance Program, whether purchased by Member or not, the deductible is the maximum limits of insurance that the Member could have purchased for eligible property; the deductibles will be calculated as if individual insurance for buildings and personal property could have been purchased from the National Flood Insurance Program, and will apply only to those buildings where Flood damage or destruction has occurred and for which the Member is making a claim.
- 2) If insurance is not available under the National Flood Insurance Program, or if the National Flood Insurance Program is discontinued, the deductible for Flood related to a Named Storm is \$500,000 per building or structure and \$500,000 for the contents at each building or structure.
- 3) If insurance is otherwise available under the National Flood Insurance Program but the Member Property is a structure similar in character and nature to those structures listed as "ineligible property" under the National

Flood Insurance Program General Rules and not otherwise excluded by this Coverage Document, the Member's deductible shall be \$25,000 subject to an amount not to exceed \$100,000 per occurrence. Examples include, but are not limited to, gazebos, pavilions, park equipment, fences, and gates.

B. Flood

Except as provided below, the Member's Deductible for a loss resulting from a Flood is \$25,000 unless otherwise stated on the Contributions & Coverage Declarations.

If a claim for losses resulting from Flood, as covered and defined under the National Insurance Flood Program, includes a Member's property wholly or partially located in a Special Hazard Zone for Flood the following separate deductibles apply individually and supersede the two or more deductible provision:

- 1) If insurance is available under the National Flood Insurance Program, whether purchased by the Member or not, the deductible is the maximum limits of insurance that the Member could have purchased for eligible property; the deductibles will be calculated as if individual insurance for buildings and personal property could have been purchased from the National Flood Insurance Program and will apply only to those buildings where flood damage or destruction has occurred and for which the Member is making a claim.
- 2) If insurance is not available under the National Flood Insurance Program, or if the National Flood Insurance Program is discontinued, the deductible is \$500,000 per building or structure and \$500,000 for the contents at each building or structure.
- 3) If insurance is otherwise available under the National Flood Insurance Program but the Member Property is a structure similar in character and nature to those structures listed as "ineligible property" under the National Flood Insurance Program General Rules and not otherwise excluded by this Coverage Document, the Member's deductible shall be \$25,000 subject to an amount not to exceed \$100,000 per occurrence. Examples include, but are not limited to, gazebos, pavilions, park equipment, fences, and gates.

C. All Other Perils

The Member's deductibles for all other perils are indicated on the Contribution & Coverage Declarations.

D. Two or More Deductibles

Except for losses resulting from Flood, if two or more deductibles apply to an Occurrence resulting in loss or damage covered under this Coverage Document,

the total deductible will not exceed the single largest deductible applicable to the Occurrence.

Notwithstanding the terms of this section, in any Occurrence where loss or damage is caused by more than one peril covered under this Coverage Document, the Member may separate the loss amount by peril and request the use of multiple applicable deductibles.

SECTION B PROPERTY DAMAGE

1. PROPERTY COVERED

This Coverage Document covers the following property, unless otherwise excluded elsewhere in this Coverage Document, anywhere within the Coverage Territory, to the extent of the interest of the Member in such property.

A. Real Property, including buildings, remodeling, installations, and additions under construction at any new or existing location(s), in which the Member has an insurable interest.

B. Personal Property:

- 1) Owned by the Member, including the Member's interest as a tenant in improvements and betterments. In the event of physical loss or damage, the Pool agrees to accept and consider the Member as sole and unconditional owner of improvements and betterments, notwithstanding any contract or lease to the contrary;
- 2) Of officers and employees of the Member while at a Covered Location, or when in use within the scope of duties performed on behalf of the Member;
- 3) Of others in the Member's custody to the extent the Member is under obligation to keep covered for physical loss or damage covered by this Coverage Document; or
- 4) Of others in the Member's custody to the extent of the Member's legal liability for physical loss or damage to personal property. The Pool will defend that portion of any suit against the Member that alleges such liability and seeks damages for such covered physical loss or damage. The Pool may, without prejudice, investigate, negotiate and settle any claim or suit as the Pool deems expedient.
- 5) Equipment and towers owned, rented, or leased by the Member.
- 6) Personal property is covered anywhere within the Coverage Territory.

This Coverage Document also covers the interest of contractors and subcontractors in covered property during construction at a Covered Location or within 1,000 feet thereof, to the extent of the Member's legal liability for covered physical loss or damage to such property. Such interest of contractors and subcontractors is limited to the property for which they have been hired to perform work and such interest will not extend to any Time Element coverage provided under this Coverage Document.

2. PROPERTY EXCLUDED

This Coverage Document excludes:

- A. Animals (other than law enforcement dogs and horses), standing timber, or growing crops.
- B. Currency, money, precious metal in bullion form, notes, or securities.
- C. Dams; canals; off shore drilling rigs; reservoirs; tunnels or bridges used by public vehicular traffic.
- D. Roadways, highways or streets or any pavement that is part of a roadway highway or street (this includes but is not limited to sidewalks, curbs, culverts or other paved surfaces).
- E. Land, water or any other substance in or on land; except this exclusion does not apply to:
 - 1) Land improvements consisting of landscaping, trees & shrubs, tunnels, bridges, piers, docks, pilings, bulkheads, wharves, piping, retaining walls, but not including any land beneath the property.
 - 2) Site improvements consisting of parking lots, sidewalks, and culverts.
 - 3) Athletic Fields
 - 4) Water that is contained within any enclosed tank, piping system or any other processing equipment.
- F. Motor vehicles licensed for road use.
- G. Trailers licensed for road use not including trailers used for covered watercraft.
- H. Overhead transmission and distribution lines located more than 1,000 feet from a Covered Location.
- I. Property in Transit unless otherwise described in this Coverage Document.
- J. Property sold by the Member under conditional sale, trust agreement, installment plan or other deferred payment plan after delivery to customers except as

provided by the Deferred Payment coverage of this Coverage Document.

- K. Underground mines, mineshafts or caverns or any property within such mine, shaft or cavern.
- L. Watercraft greater than 27 feet or aircraft (aircraft includes but is not limited to any aerial vehicle that is not controlled by a person from within or on the aerial vehicle), spacecraft or satellites.

3. ADDITIONAL COVERAGE

This Coverage Document includes the following additional coverage for physical loss or damage covered by this Coverage Document.
Additional Coverage:

Is subject to the applicable Limit of Liability;

Will not increase the Total Coverage Value limit of liability; and

Is subject to the coverage provisions, including applicable exclusions and deductibles in this Coverage Document.

A. ACCOUNTS RECEIVABLE

This Coverage Document covers any shortage in the collection of accounts receivable, resulting from covered physical loss or damage to accounts receivable records while anywhere within this Coverage Document Territory, including while in transit. The Pool will be liable for the interest charges on any loan to offset impaired collections pending repayment of a sum uncollectible as the result of a loss or damage. Unearned interest and service charges on deferred payment accounts and normal credit losses on bad debts will be deducted in determining the recovery.

- 1) In the event of loss to accounts receivable records, the Member will use all reasonable efforts, including legal action, if necessary, to effect collection of outstanding accounts receivable.
- 2) In reducing the loss under this additional coverage, the Member agrees to use any suitable property or service owned or controlled by the Member or obtainable from other sources. The Pool will pay reasonable and necessary costs incurred by the Member to reduce a loss up to the amount the loss was reduced.
- 3) If it is possible to reconstruct accounts receivable records so that no shortage is sustained, the Pool will be liable only for the reasonable and necessary cost incurred for material and time required to re-establish or reconstruct the records, and not for any costs covered by any other coverage.

- 4) Accounts Receivable Exclusions: The following exclusions are in addition to the Exclusions subsection of this Section:

This additional coverage does not cover a shortage resulting from:

- a. Bookkeeping, accounting or billing errors or omissions;
- b. (i) Alteration, falsification, manipulation; or

(ii) Concealment, destruction or disposal;

of accounts receivable records committed to conceal the wrongful giving, taking, obtaining or withholding of money, securities or other property; but only to the extent of such wrongful giving, taking, obtaining or withholding.

- 5) The Pool will settle a loss under this subsection within 90 days from the date the physical loss or damage is reported by the Member. All amounts recovered by the Member on outstanding accounts receivable on or after the date of a loss reported to the Pool will belong and be paid to the Pool up to the amount of loss paid by the Pool. All recoveries exceeding the amount paid by the Pool will belong to the Member.

B. AUTOMATIC COVERAGE (NEWLY ACQUIRED)

This Coverage Document covers property at any Location that is rented, leased or purchased by the Member after the inception date of this Coverage Document, and equipment and towers located in the Coverage Territory.

This additional coverage does not apply to property covered in whole or in part by any other coverage.

This coverage will apply until the Locations are reported and bound by the Pool or the time limit shown in the Time Limits clause in the Limits of Liability has been reached. The Time Limit Begins on the date of rental, lease, or purchase.

C. BRANDS AND LABELS

If branded or labeled property covered by this Coverage Document is physically damaged and the Pool elects to take all or any part of that property, the Member may at the Pool's expense:

- 1) Stamp salvage on the property or its containers; or
- 2) Remove or obliterate the brands or labels;

If doing so will not damage the property. In either event, the Member must relabel property or its containers to be in compliance with any applicable law.

D. CONSEQUENTIAL REDUCTION IN VALUE

This Coverage Document covers the reduction in value of covered merchandise that is a part of pairs, sets or components, directly resulting from physical loss or damage covered by this Coverage Document to other covered parts of pairs, sets or components of the merchandise. If settlement is based on a constructive total loss, the Member will surrender the undamaged parts of the merchandise to the Pool.

E. DEBRIS REMOVAL

This Coverage Document covers the reasonable and necessary costs incurred to remove debris from a Covered Location that remains as a direct result of physical loss or damage covered by this Coverage Document.

This Additional Coverage does not cover the costs of removal of:

- 1) Contaminated uncovered property; or
- 2) The contaminant in or on uncovered property;

whether or not the contamination results from covered physical loss or damage. Contamination includes, but is not limited to, the presence of Pollution or hazardous material.

F. DECONTAMINATION COSTS

If covered property is contaminated as a direct result of physical damage covered by this Coverage Document subject to a current law or ordinance regulating contamination, including the presence of Pollution or hazardous material, this Coverage Document covers, as a direct result of enforcement of the law or ordinance, the increased cost of decontamination and removal of such contaminated covered property required to comply with the law or ordinance. This additional coverage applies only to that part of covered property contaminated as a direct result of covered physical damage.

The Pool is not liable for the costs required to remove contaminated uncovered property or the contaminant, whether or not the contamination results from a covered event.

G. DEFERRED PAYMENTS

This Coverage Document covers physical loss or damage to personal property covered and sold by the Member under a conditional sale or trust agreement or any installment or deferred payment plan and after the property has been delivered to the buyer. Coverage is limited to the unpaid balance for the property.

In the event of loss to property sold under deferred payment plans, the Member will use all reasonable efforts, including legal action, if necessary, to effect collection of outstanding amounts due or to regain possession of the property.

There is no liability under this Coverage Document for loss:

- 1) Pertaining to products recalled, including the costs to recall, test or to advertise such recall by the Insured.
- 2) From theft or conversion by the buyer of the property after the buyer has taken possession of the property.
- 3) To the extent the buyer continues payments.
- 4) Not within the Coverage Territory.

H. DEMOLITION AND INCREASED COST OF CONSTRUCTION

- 1) This Coverage Document covers the reasonable and necessary costs incurred to satisfy the minimum requirements of the enforcement of any law or ordinance effective on the date of covered loss or damage regulating the demolition, construction, repair, replacement or use of buildings or structures at a Covered Location, provided that the enforcement is a direct result of the covered loss or damage.
- 2) This additional coverage does not cover any loss due to any law or ordinance with which the Member should have complied before the loss.
- 3) This additional coverage covers only:
 - a. The cost to repair or rebuild the physically damaged portion of property with materials and in a manner to satisfy the law or ordinance; and
 - b. To the extent that the costs result when the total demolition of the damaged covered property is required to satisfy the law or ordinance the cost:
 - (i) to demolish the physically undamaged portion of the property covered; and

(ii) to rebuild it with materials and in a manner to satisfy such law or ordinance.

- 4) This additional coverage excludes any costs incurred as a direct or indirect result of enforcement of any laws or ordinances regulating any form of contamination, including the presence of Pollution or hazardous material.
- 5) The Pool's maximum liability for this additional coverage at each Covered Location in any Occurrence will not exceed the actual cost incurred in demolishing the physically undamaged portion of the property covered plus the lesser of:
 - a. The reasonable and necessary cost incurred, excluding the cost of land, in rebuilding on another site; or
 - b. The cost of rebuilding on the same site.

I. EARTHQUAKE

This Coverage Document covers physical loss or damage caused by or resulting from Earthquake.

This additional coverage does not apply to loss or damage caused by or resulting from flood; rising waters; waves; tide or tidal water; the release of water; the rising, overflowing or breaking of boundaries of natural or man-made bodies of water, or the spray therefrom; surface water or sewer back-up resulting from any of the foregoing; all regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

J. EVACUATION EXPENSE

In the case of actual loss or damage of the type covered against by this Coverage Document or a Mandatory Evacuation Order, this additional coverage will pay the expenses incurred by the Member for the emergency evacuation of patients from a covered Location and will cover the reasonable and necessary expenses to return the patients.

Mandatory Evacuation Order means the first public broadcast of a compulsory evacuation made by the responsible civil authority that is specific as to the effective date, time and area affected and which arises out of a peril for which coverage would have been provided if such peril had caused loss or damage to a covered Location. The Mandatory Evacuation Order must commence during the coverage period. Recommended, advisory, precautionary, or voluntary evacuation is not included in the definition of Mandatory Evacuation Order.

This additional coverage does not apply to any expenses incurred for scheduled evacuation drills, fire or safety drills or the evacuation of a patient due to a medical condition.

K. ERRORS AND OMISSIONS

If physical loss or damage is not payable under this Coverage Document solely due to an error or unintentional omission:

- 1) In the description of where covered property is physically located;
- 2) To include any Location:
 - a. Owned, rented or leased by the Member on the effective date of this Coverage Document; or
 - b. Purchased, rented or leased by the Member during the term of this Coverage Document; or
- 3) That results in cancellation of the property covered under this Coverage Document;

This Coverage Document covers such physical loss or damage, to the extent it would have provided coverage had such error or unintentional omission not been made provided that the Member promptly report any error or unintentional omission to the Pool when discovered and corrected.

L. EXPEDITING COSTS

This Coverage Document covers the reasonable and necessary costs incurred to pay for the temporary repair of covered damage to covered property and to expedite the permanent repair or replacement of the damaged property.

This additional coverage does not cover costs:

- 1) Recoverable elsewhere in this Coverage Document; or
- 2) Of permanent repair or replacement of damaged property.

M. FINE ARTS

This Coverage Document covers physical loss or damage to Fine Arts articles while anywhere within the Coverage Territory, when scheduled including while in transit.

- 1) This additional coverage excludes loss or damage if the Fine Arts cannot be replaced with other of like kind and quality, unless it is specifically declared to the Pool.

- 2) Fine Arts Exclusions: The exclusions the Exclusions clause of this Section do not apply to Fine Arts coverage except for: A.1), A.2), B.1), B.2), B.3) and B.4). In addition, as respects Fine Arts, the following exclusions apply:

This Coverage Document does not cover against:

- a. Deterioration, wear and tear, or inherent vice; or
 - b. Loss or damage from any repairing, restoration or retouching process.
- 3) **Fine Arts** means paintings; etchings; pictures; tapestries; rare or art glass; art glass windows; valuable rugs; statuary; sculptures; antique furniture; antique jewelry; bric-a-brac; porcelains; and similar property of rarity, historical value, or artistic merit, excluding automobiles, coins, stamps, furs, jewelry, precious stones, precious metals, watercraft, aircraft, money, or securities.

N. FIRE BRIGADE CHARGES AND EXTINGUISHING EXPENSES

This Coverage Document covers the following expenses resulting from a covered loss:

- 1) Fire brigade charges and any extinguishing expenses which the Member incurs; and
- 2) Loss and disposal of fire extinguishing materials expended.

O. FLOOD

This Coverage Document covers physical loss or damage caused by or resulting from Flood. Storm Surge is not considered to be loss by Flood within the terms and conditions of this Coverage Document.

P. LAND AND WATER CONTAMINANT OR POLLUTANT CLEANUP, REMOVAL & DISPOSAL

This Coverage Document covers the reasonable and necessary cost for the cleanup, removal and disposal of contaminants or pollutants from uncovered property consisting of land, including water or any other substance in land, and water on land, at a Location if the release, discharge or dispersal of contaminants or pollutants is a direct result of covered physical loss or damage to covered property.

This Coverage Document does not cover the cost to cleanup, remove and dispose of contaminants or pollutants from property:

- 1) At any location covered for personal property only;

- 2) At any property covered under Automatic Coverage, Errors And Omissions or Miscellaneous Unnamed Locations coverage provided by This Coverage Document; or
- 3) When the Member fails to give written notice of loss to the Pool within 180 days after inception of the loss.

Q. LANDSCAPE IMPROVEMENTS

This Coverage Document covers loss to shrubs or trees caused by or resulting from the following causes of loss: drought, Earthquake, explosion, falling aircraft, fire, Flood, hail, lightning, Named Storm, smoke, tornado, vehicle impact, wind driven water and windstorm.

R. LAW ENFORCEMENT DOGS AND HORSES – MORTALITY, THEFT AND LOSS OF USE

Animal means a dog or horse solely owned by the Member and used in the service of a law enforcement department or agency of the Member, excluding any puppies or foals within the covered dog or horse.

Humane destruction means the destruction of an Animal to prevent excessive continued suffering due to an incurable injury or terminal disease.

Mortality means death resulting directly or indirectly from accident, illness, or disease.

Theft has the meaning prescribed in the Texas Penal Code §31.03.

The Pool will pay the Member for losses resulting from the Mortality or Theft of an Animal up to the Limit of Liability shown on the CCD. If coverage is terminated, the coverage provided by the Pool will be extended to cover death which occurs within 30 days after the date of termination that is the result of an accident, illness, or disease that occurred and was reported by the Member during the Coverage Document Period.

- 1) The Pool will not provide coverage for a claim on an Animal that:
 - a. Suffered from an illness or injury within the 12 months before the Coverage Document Period that the Member did not report to the Pool;
 - b. Is not solely owned by the Member;
 - c. Is retired from active duty; or
 - d. Is eight years old or older.

The Pool's liability for a loss resulting from Theft of an Animal begins 90 days

after the date the Member notifies the Pool of the Theft, provided that the Animal has not been recovered in that time. If an Animal has been recovered after a Theft, the Member must return any payment made by the Pool before the recovery.

2) Coverage is excluded for any loss resulting directly or indirectly from:

- a. Surgical operations, administration of drugs, medication or inoculation,
- b. unless it is performed by a licensed veterinarian and certified as required in an attempt to prevent death or humane destruction of an animal;
- c. Mysterious disappearance or escape;
- d. Intentional destruction, except humane destruction or if the Pool agrees to the destruction;
- e. Destruction as a result of governmental order, due to exposure to or contraction of any communicable disease;
- f. Voluntary parting with the title or possession of the animal because of fraud, trick, or false pretense; or
- g. Death of an animal boarded outside the United States and then returned to the United States within the six months preceding its death.

3) As a condition of coverage:

- a. The Member shall dispose of the remains of any animal at the Member expense.
- b. In case of injury or illness to an animal, the Member must:
 - (i) Immediately notify the Pool;
 - (ii) Employ a licensed veterinarian, at the Member expense, to treat the animal; and
 - (iii) Secure proper care and, if required, allow the animal to be removed for treatment, at the Member expense.
- c. If the animal dies or is stolen, the Member must:
 - i) Immediately notify the Pool, and in the case of theft, also the police, local animal control, and humane society.
 - ii) Give to the Pool, within 60 days, a copy of:

- (a) The registration certificate or other proof of age;
 - (b) The postmortem examination report in the event of death; and
 - (c) A signed and sworn proof of loss.
- 4) Loss of Use: If a Member loses the use of an Animal, the Pool will pay the Member if the animal:
- a. Is injured by external, accidental, and violent means during the period this additional coverage is in effect;
 - b. Becomes totally and permanently unfit for its current use as a result of such injury; and
 - c. Does not require destruction for humane reasons.

Coverage for loss of use is extended after the expiration of the Coverage Document Period to loss of use first occurring within 90 days after expiration, resulting from injury which occurs prior to expiration

- 5) As a condition of coverage:
- a. The Member must give the Pool immediate notice of any accident resulting in an injury which may give rise to a claim for loss of use.
 - b. Within 14 days of such accident, the Member must provide a full veterinary report by a qualified Veterinary Surgeon, which will include:
 - i) A description of the injury suffered;
 - ii) The treatment rendered; and
 - iii) The opinion of the Veterinary Surgeon as to the animal's fitness for its current use.

S. MISCELLANEOUS UNNAMED LOCATIONS

This Coverage Document covers the Member's interest in covered property within the Coverage Territory which is not specifically on file, identified, or scheduled, except for property that is waterborne.

This provision does not cover any property covered or excluded under any other provision of this Coverage Document.

T. MOBILE MEDICAL EQUIPMENT

This Coverage Document covers physical loss or damage to medical equipment contained in mobile medical care vans, ambulances, mobile MRI, CAT scan or other similar mobile units owned or operated by the Member.

U. PROFESSIONAL FEES

This Coverage Document covers the actual costs incurred by the Member of reasonable fees payable to accountants, architects, auditors, engineers, or other professionals and the cost of using the Member's employees, to produce and certify information in the Member's records, or other proofs, information or evidence required by the Pool related to a covered loss payable under this Coverage Document for which the Pool has accepted liability.

This additional coverage excludes the fees and costs of attorneys, public adjusters, and loss appraisers, and any subsidiary or related entities owned or retained to assist them.

V. PROPERTY IN THE COURSE OF CONSTRUCTION AND SOFT COSTS

This Coverage Document covers projects in the course of construction, at scheduled and non-scheduled locations, subject to the sublimit in the Limits of Liability.

This additional coverage also covers the reasonable and necessary Soft Costs incurred by the Member during the period of recovery and directly caused by physical loss or damage of the type covered against to covered real or personal property in the course of construction, including those at new sites and non-scheduled locations subject to the total project value not to exceed the sublimit in the Limits of Liability.

This coverage will apply until the Location is bound by the Pool.

Soft Costs means:

- 1) Interest expense;
- 2) General overhead-developer expenses and additional real estate taxes;
- 3) Legal or professional fees;
- 4) Marketing expenses and advertising expenses;
- 5) Debt service payments and coverage contributions;
- 6) Refinancing charges and bond interest;

- 7) Founders fees and miscellaneous operating expenses.

W. PROTECTION AND PRESERVATION OF PROPERTY

This Coverage Document covers:

- 1) Reasonable and necessary costs, as specified below, incurred for actions to temporarily protect or preserve covered property, provided actions that are necessary due to actual covered physical loss or damage or to prevent immediately impending covered physical loss or damage.
- 2) Subject to the deductible provisions that would have applied had physical loss or damage occurred to covered property, this additional coverage covers the reasonable and necessary costs incurred for:
 - a. Fire department fire-fighting charges imposed as a result of responding to a fire in, on or exposing covered property;
 - b. Restoring and recharging fire protection systems following a covered loss; and
 - c. The water used for fighting a fire in, on or exposing covered property.

X. SERVICE INTERRUPTION PROPERTY DAMAGE

- 1) This Coverage Document covers physical loss or damage to covered property at a Covered Location when the physical loss or damage results from the interruption of the following incoming or outgoing services: electricity, telecommunications, gas, fuel, steam, water, refrigeration, or sewerage because of physical loss or damage to the service suppliers facilities if it is the type covered against for a Member's covered real and personal property located within the Coverage Territory and the physical loss or damage immediately prevents in whole or in part the delivery of service.
- 2) This additional coverage will apply when the Period of Service Interruption exceeds the Waiting Period in Section A.
 - a. As a condition of coverage, the Member must immediately notify the service supplier of any interruption to service.
 - b. Coverage is excluded if the interruption of services is caused directly or indirectly by the failure of the Member to comply with the terms and conditions of any contracts the Member has for the supply of services.

Period of Service Interruption means the period starting at the time an interruption of specified services occurs and ending when, with due diligence and dispatch, the service could be wholly restored or the time the service was actually restored, whichever is earlier.

Y. TEMPORARY REMOVAL OF PROPERTY

- 1) When covered property is removed from a Covered Location to be repaired or serviced or to avoid threatened covered physical loss or damage, this Coverage Document covers the property:
 - a. At the location to which the property has been moved; and
 - b. For physical loss or damage as provided at the Member Location from which the property was removed.
- 2) This additional coverage does not apply to property:
 - a. Covered, in whole or in part, elsewhere in this Coverage Document;
 - b. Covered, in whole or in part, by any other coverage; or
 - c. Removed for normal storage, processing or preparation for sale or delivery.

Z. TRANSIT

- 1) This Coverage Document covers personal property in transit in the Coverage Territory, except as specifically excluded provided that it is:
 - a. Owned by the Member;
 - b. Shipped to customers under F.O. B., C & F or similar terms and the Member's contingent interest in the shipment is admitted;
 - c. Owned by another and in the actual or constructive custody of the Member, to the extent of the Member interest or legal liability; or
 - d. Owned by another if sold by the Member and the Member has agreed before the loss to insure the personal property during course of delivery.
- 2) This additional coverage excludes:
 - a. Samples in the custody of salespeople or selling agents;
 - b. Personal property covered under import or export ocean marine coverage;

Waterborne shipments, unless by inland water; or

by coastal shipments;
 - c. Airborne shipments unless by regularly scheduled passenger airlines or air freight carriers.

- d. Property of others, including the Member's legal liability for it, hauled on vehicles owned, leased or operated by the Member when acting as a common or contract carrier;
 - e. Any transporting vehicle; and
 - f. Property shipped between continents, except by land or air between Europe and Asia.
 - g. This additional coverage covers from the time the property leaves the original point of shipment for transit until the property arrives at its destination. Except that coverage on export shipments not covered under ocean cargo policies ends when the property is loaded on board overseas vessels or aircraft and coverage on import shipments not covered under ocean cargo policies begins after discharge from overseas vessels or aircraft.
- 3) This additional coverage covers:
- a. General average and salvage charges on shipments covered while waterborne; and
 - b. Physical loss or damage caused by or resulting from:
 - i) Unintentional acceptance of fraudulent bills of lading, shipping or messenger receipts; or
 - ii) Improper parties having gained possession of property through fraud or deceit.
- 4) Transit Exclusions: The exclusions in the Exclusion clause of this Section do not apply to Transit coverage except for: A.1) through A.4), B.1) through B.4), C.1), C.3), C.5), C.6), D.1) and D.2).
- a. This additional coverage will not inure directly or indirectly to the benefit of any carrier or bailee.
 - b. As a condition of coverage, the Member may:
 - i) accept ordinary bills of lading used by carriers, released bills of lading, undervalued bills of lading, and shipping or messenger receipts;
 - ii) waive subrogation against railroads under sidetrack agreements; and
 - iii) not enter into any special agreement with carriers releasing them from their common law or statutory liability.

AA. VALUABLE PAPERS & RECORDS AND EDP DATA & MEDIA

- 1) This Coverage Document covers physical loss or damage to Valuable Papers & Records and EDP Data & Media in the Coverage Territory, including while in transit.

This additional coverage excludes loss or damage to currency, money or securities and property held as samples for sale or delivery after sale if the property cannot be replaced with other of like kind and quality, unless specifically declared to the Pool.

- 2) Valuable Papers & Records and EDP Data & Media Exclusions: The exclusions in the Exclusions provision of this Section do not apply to Valuable Papers & Records and EDP Data & Media coverage except for: A.1) and B.1) to B.4).

This Coverage Document does not cover:

- 3) Errors or omissions in processing, programming or copying unless physical damage not excluded by this Coverage Document results, limited to the resulting damage; or
- 4) Deterioration, inherent vice, vermin or wear and tear, all unless physical damage not excluded by this coverage results, limited to the resulting damage.

Valuable Papers & Records means written, printed or otherwise inscribed documents, securities, and records including but not limited to books, maps, films, drawings, abstracts, evidence of debt, deeds, mortgages, mortgage files, manuscripts and micro or electronically/magnetically inscribed documents, excluding the monetary value of monies and securities.

EDP Data & Media means all forms of data, converted data, electronically converted data, programs, applications, instructions and media vehicles employed.

4. EXCLUSIONS

The following exclusions apply unless specifically stated elsewhere in this Coverage Document:

A. This Coverage Document excludes:

- 1) Indirect or remote loss or damage;
- 2) Interruption of business except to the extent provided by this coverage document;

- 3) Loss of market value or loss of use;
 - 4) Loss or damage or deterioration arising from any delay;
 - 5) Mysterious disappearance, loss or shortage disclosed on taking inventory for which the loss can be proven solely on the inventory records, or any unexplained loss;
 - 6) Loss from enforcement of any law or ordinance:
 - a. Regulating the construction, repair, replacement, use or removal, including debris removal, of any property; or
 - b. Requiring the demolition of any property, including the cost in removing its debris; except as provided by the Debris Removal, Decontamination Costs and Demolition And Increased Cost of Construction coverage of the Property Damage Section;
 - 7) Vandalism, sprinkler leakage, building glass breakage, water damage, theft or attempted theft when a building has been vacant for a period of more than 90 consecutive days before the loss or damage occurs, except when proper security and maintenance is provided. Buildings under construction or renovation shall not be considered vacant or unoccupied; and
 - 8) Loss from the accumulated effects of smog, smoke, vapor, liquid and dust.
 - 9) Damage resulting from lack of, faulty or inadequate maintenance
- B. This Coverage Document excludes loss or damage directly or indirectly caused by or resulting from any of the following regardless of any other cause or event, whether or not Covered under this Coverage Document, contributing concurrently or in any other sequence to the loss:
- 1) Nuclear reaction or nuclear radiation or radioactive contamination. However:
 - a. If physical damage by fire or sprinkler leakage results, then only that resulting damage is Covered; but not including any loss or damage due to nuclear reaction, radiation or radioactive contamination.
 - b. This Coverage Document does cover physical damage directly caused by sudden and accidental radioactive contamination, including resultant radiation damage, from material used or stored or from processes conducted on the Member Location, provided that on the date of loss, there is neither a nuclear reactor nor any new or used nuclear fuel on the Member Location.

- 2) a. Hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack by any:
 - (i) Government or sovereign power (de jure or de facto);
 - (ii) Military, naval or air force; or
 - (iii) Agent or authority of any party specified in (i) or (ii) above.
 - b. Discharge, explosion or use of any nuclear device, weapon or material employing or involving nuclear fission, fusion or radioactive force, whether in time of peace or war and regardless of who commits the act.
 - c. Insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an event.
 - d. Seizure or destruction under quarantine or custom regulation, or confiscation by order of any governmental or public authority.
 - e. Risks of contraband, or illegal transportation or trade.
- 3) Except as provided in Section F, Crime Coverage, any dishonest act, including theft, committed alone or in collusion with others, at any time:
- a. By a Member or any officer, or employee of a Member; or
 - b. By any proprietor, partner, director, trustee, or officer of any business or entity (other than a common carrier) engaged by a Member to do anything in connection with property covered under this Coverage Document.

This Coverage Document covers acts of direct covered physical damage intentionally caused by an employee of a Member or any individual specified in b. above, and done without the knowledge of the Member, except loss by theft by any individual specified in a. or b. above.

- 4) Lack of the following services:
- a. Incoming or outgoing electricity, fuel, water, gas, steam, refrigerant;
 - b. Incoming or outgoing sewerage;
 - c. Incoming or outgoing telecommunications;

all when caused by an occurrence off the Member Location, except as provided in Service Interruption in the Property Damage or Time Element

Sections of this Coverage Document. Except when the lack of such a service directly causes physical damage covered by this Coverage Document on the Member Location, limited to the resulting damage that is covered.

C. This Coverage Document excludes the following, unless physical damage not excluded by this Coverage Document results, limited to the resulting damage that is covered:

- 1) Faulty workmanship, material, construction or design from any cause.
- 2) Loss or damage to stock or material attributable to manufacturing or processing operations while the stock or material is being processed, manufactured, tested, or otherwise worked on.
- 3) Deterioration, depletion, rust, corrosion or erosion, wear and tear, inherent vice or latent defect.
- 4) Settling, cracking, shrinking, bulging, or expansion of foundations (including any pedestal, pad, platform or other property supporting machinery), floors, pavements, walls, ceilings or roofs.
- 5) a. Changes of temperature damage (except to machinery or equipment); or
b. Changes in relative humidity damage;
all whether atmospheric or not.
- 6) Insect, animal or vermin damage.

D. This Coverage Document excludes the following unless directly resulting from other physical damage not excluded by this Coverage Document:

- 1) Contamination including but not limited to the presence of Pollution or hazardous material; and
- 2) Shrinkage, changes in color, flavor, texture or finish.

E. This Coverage Document excludes the following unless directly resulting from the following causes of loss: fire, lightning, Earthquake, explosion, falling aircraft, Flood, smoke, vehicle impact, Named Storm, wind driven water, hail, windstorm, and tornado.

- 1) Any functioning or malfunctioning of the internet or similar facility, or of any intranet or private network or similar facility, including but not limited to Computer Virus. Computer Virus shall mean a set of corrupting, harmful or otherwise unauthorized instructions or code including a set of maliciously introduced unauthorized instructions or code, programmatic or otherwise, that propagate themselves through a computer system or network of whatsoever

nature. Computer Virus includes but is not limited to 'Trojan Horses', 'worms', and 'time or logic bombs'.

- 2) Any corruption, destruction, distortion, erasure or other loss or damage to data, software, or any kind of programming or instruction set.
- 3) Loss of use or functionality whether partial or entire of data, coding, program, software, any computer or computer system or other device dependent upon any microchip or embedded logic, and any ensuing liability or failure of the Insured to conduct business.

F. CYBER LIABILITY AND EXPENSE COVERAGE EXCLUSION

- 1) This Coverage Document does not provide coverage for any liability, loss, penalty or expense arising directly or indirectly from any Cyber Security Event.
- 2) For purposes of this exclusion the following definitions apply:

Computer System means computers and associated input and output devices, data storage devices, networking equipment and backup facilities:

- a. Operated by and either owned by or leased to any Member; or
- b. Operated by a third party service provider and used to provide hosted computer application services to the Member or for processing, maintaining, hosting or storing the Member's electronic data pursuant to a written contract with the Member for such services.

Cyber Security Event means:

- a. The actual or reasonably suspected theft, loss or unauthorized disclosure of or access to electronic Personal Information in the care, custody or control of the Member or for which the Member is legally responsible; or
- b. A violation or failure of the security of a Computer System, including but not limited to unauthorized access, unauthorized use, a denial of service attack or receipt or transmission of malicious code.

Personal Information means an individual's name in combination with one or more of the following:

- a. Information concerning the individual that constitutes "nonpublic personal information" as defined in the Gramm-Leach Bliley Act of 1999, as amended, and implementing regulations;
- b. Medical or health care information concerning the individual, including without limitation "protected health information" as defined in the Health

Insurance Portability and Accountability Act of 1996, as amended, and implementing regulations;

- c. The individual's Social Security number, driver's license or state identification number, credit, debit, or other financial account numbers and associated security codes, access codes, passwords or personal identification numbers that allow access to the individual's financial account information; or
- d. Other nonpublic personally identifiable information, as protected under any local, state, federal or foreign law;

Provided, however, Personal Information does not include information that is lawfully available to the public, including without limitation information lawfully available from any Member or any local, state, federal or foreign governmental entity.

SECTION C TIME ELEMENT

Capitalized terms in this Section refer to the descriptions in the Time Element Coverage provision below.

1. LOSS COVERED

- A. This Coverage Document covers Time Element loss, as provided in the Time Element Coverage, directly resulting from covered physical loss or damage:
 - 1) To property described elsewhere in this Coverage Document and not otherwise excluded by this Coverage Document or otherwise limited in the Time Element Coverage provision below;
 - 2) Used by the Member, or for which the Member has contracted use;
 - 3) Located at a Covered Location or in the case of personal property in the Coverage Territory;
 - 4) While in transit as provided by this Coverage Document; and
 - 5) During the Periods of Liability described in this Section.
- B. This Coverage Document covers Time Element loss only to the extent it cannot be reduced through:
 - 1) The use of any property or service owned or controlled by the Member;
 - 2) The use of any property or service obtainable from other sources;

3) Working extra time or overtime; or

4) The use of inventory;

at a Covered Location or at any other location.

C. This Coverage Document covers expenses reasonably and necessarily incurred by the Member to reduce the loss otherwise payable under this Section, not to exceed the amount by which the loss has been reduced.

D. Except for Leasehold Interest, in determining the amount of loss payable, the Pool will consider the experience of the Member before and after and the probable experience during the Period of Liability.

2. TIME ELEMENT COVERAGE

A. GROSS EARNINGS

1) Measurement of Loss:

a. The recoverable Gross Earnings loss is the actual loss sustained by the Member of the following during the Period of Liability:

i) Gross Earnings, including Ordinary Payroll;

ii) Less all charges and expenses that do not necessarily continue during the interruption of production or suspension of business operations or services;

iii) Plus all other earnings derived from the operation of the business.

b. In determining the amount payable as the actual loss sustained, the Pool will consider the continuation of only those normal charges and expenses that the amount payable would have been earned had no interruption of production or suspension of business operations or services occurred.

c. There is recovery under this coverage only to the extent that the Member is:

i) Wholly or partially prevented from producing goods or continuing business operations or services;

ii) Unable to make up lost production within a reasonable period of time, not limited to the period during which production is interrupted;

iii) Unable to continue such operations or services during the Period of Liability; and

- iv) Able to demonstrate a loss of sales for the services or production prevented.

2) Definitions.

Gross Earnings means:

- a. For manufacturing operations: the net sales value of production less the cost of all raw stock, materials and supplies used in such production; or
- b. For mercantile or non-manufacturing operations: the total net sales less cost of merchandise sold, materials and supplies consumed in the operations or services rendered by the Member.

Any amount recovered under property damage coverage at selling price for loss or damage to merchandise will be considered to have been sold to the Member's regular customers and will be credited against net sales.

Ordinary Payroll includes the Member payroll for all employees except officers, executives, department managers, and employees under contract. It is comprised of, but not limited to, the payroll, benefits paid for the payroll, social security (FICA), union dues paid for the payroll, and workers compensation paid for the payroll.

B. EXTRA EXPENSE

1) Measurement of Loss:

The recoverable Extra Expense loss will be the reasonable and necessary extra costs incurred by the Member of the following during the Period of Liability:

- a. Extra expenses to temporarily continue as nearly normal as practicable the conduct of the Member business in the conditions that would have existed had no physical loss or damage occurred;
- b. Plus extra costs of temporarily using property or facilities of the Member or others;
- c. Less any value remaining at the end of the Period of Liability for property obtained in connection with the above.

2) For an Extra Expense loss, the following are excluded:

- a. Any loss of income.
- b. Costs that normally would have been incurred in conducting the business

during the same period had no physical loss or damage occurred.

- c. Cost of permanent repair or replacement of property that has been damaged or destroyed.
- d. Any expense recoverable elsewhere in this Coverage Document.

C. LEASEHOLD INTEREST

1) Measurement of Loss:

The recoverable Leasehold Interest loss is as follows:

- a. If the lease agreement requires continuation of rent, and if the property is wholly untenantable or unusable, the actual rent payable for the unexpired term of the lease; or if the property is partially untenantable or unusable, the proportion of the rent payable for the unexpired term of the lease.
- b. If the lease is canceled by the lessor pursuant to the lease agreement or by the operation of law, the Lease Interest for the first three months following the loss and the Net Lease Interest for the remaining unexpired term of the lease.

2) Definitions.

- a. Lease Interest means the excess rent paid for the same or similar replacement property over actual rent payable plus cash bonuses or advance rent paid (including maintenance or operating charges) for each month during the unexpired term of the Member's lease.
- b. Net Lease Interest means that sum which placed at three percent interest rate compounded annually would equal the Lease Interest (less any amounts otherwise payable hereunder).

3) Leasehold Interest Exclusions: For a Leasehold Interest loss, the Time Element Exclusions below do not apply and the following exclusions apply instead:

This Coverage Document does not cover any increase in loss resulting from the suspension, lapse or cancellation of any lease, or from the Member exercising an option to cancel the lease, or from any act or omission of the Member that constitutes a default under the lease.

In addition, there is no coverage for the Member's loss of Leasehold Interest directly resulting from damage to personal property.

D. LOSS OF RENTS

Measurement of Loss:

- 1) The recoverable Loss of Rents loss is the actual loss sustained by the Member, excluding non-continuing charges and expenses, of the following during the Period of Liability:
 - a. The fair rental value of any portion of the property occupied by the Member;
 - b. The income reasonably expected from rentals of unoccupied or unrented portions of the property; and
 - c. The rental income from the rented portions of the property according to bona fide leases, contracts or agreements in force at the time of loss.
- 2) Loss of Rents Exclusions: For a Loss of Rents loss, Time Element Exclusion A below does not apply and the following applies instead:

This Coverage Document does not cover any loss of rental income during any period in which the Member's property would not have been tenantable for any reason other than a covered loss.

E. CONTINGENT TAX REVENUE INTERRUPTION (EXCLUDING EARTHQUAKE, NAMED STORM, AND FLOOD).

This Coverage Document covers against loss resulting directly from necessary interruption of sales, property or other tax revenue collected by or due the Member caused by damage or destruction by a peril not excluded from this Coverage Document to property which is not operated by the Member and which wholly or partially prevents the generation of revenue for the account of the Member.

- 1) In the event of such damage or destruction, the Pool will provide coverage, with limitations as indicated, if the following conditions are both met:
 - a. The Member's total revenue is reduced to less than 97.5% of the Member anticipated revenue had no loss occurred; and
 - b. The Member's actual loss is limited to the length of time that would be required with exercise of due diligence and dispatch to rebuild, replace or repair the contributing property beginning on the date of damage to the contributing property, but not limited by the expiration date of this Coverage Document.

If the Member has reported Tax Revenue Interruption values for which contribution has been charged, the Member's loss recovery after deductible is

limited to the least of:

- a. The amount declared;
- b. The actual loss sustained; or
- c. The difference in amount between 97.5% of the anticipated revenue and the actual total revenue after the loss.

If the Member has not reported Tax Revenue Interruption values for which contribution has been charged, the Member's loss recovery after deductible is limited to the least of:

- a. The coverage sublimit; or
 - b. The latest values for these items declared by the Member or USD \$100,000 per Occurrence if no values have been declared by the Member.
- 2) Deductible: Each loss or series of losses arising out of one event at each location shall be adjusted separately and from the aggregated amount of all such losses 2.50% of the annual revenue value shall be deducted.

3. TIME ELEMENT COVERAGE EXTENSIONS

A. CONTINGENT BUSINESS INTERRUPTION

This Coverage Document covers the actual loss sustained and Extra Expense incurred by the Member during the Period of Liability directly resulting from covered physical loss or damage to covered property at direct supplier or customer locations in the Coverage Territory.

The term supplier or customer does not include any entity supplying to or receiving from the Member Location electricity, fuel, gas, water, steam, refrigeration, sewage or telecommunications.

B. EXTENDED PERIOD OF INDEMNITY

The Gross Earnings and Loss of Rents are extended to cover the reduction in sales resulting from:

- 1) The interruption of business covered by Gross Earnings:
 - a. For the additional length of time required to exercise due diligence and dispatch to restore the Member's business to the condition that would have existed had no loss occurred; and
 - b. Beginning on the date on which the Pool's liability for loss resulting from interruption of business would terminate if this extension had not been

included.

- 2) The loss or rental income or rental value as covered by Loss of Rents.

Extended Period of Indemnity Exclusions: As respects Extended Period of Indemnity, the Time Element Exclusion for increase in loss due to suspension, lapse of any lease, contract or license or order does not apply.

This Coverage Document does not cover any increase in loss due to fines or damages for breach of contract or for late or non-completion of orders, or penalties of any nature.

Coverage under this Extension for the reduction in sales due to contract cancellation is limited to only those sales that would have been earned under the contract during the extended period of indemnity.

Coverage under this extension does not apply for more than the number of consecutive days shown in the Limits of Liability provision in Section A.

C. INGRESS/EGRESS

This Coverage Document covers the actual loss sustained and Extra Expense incurred by the Member due to the necessary interruption of the Member's business due to prevention of ingress to or egress from a Covered Location, provided that such prevention is a direct result of covered physical damage to the kind of property not excluded by this Coverage Document located within five mile of the Member Location incurring loss.

Ingress/Egress Exclusions: As respects Ingress/Egress, the following exclusions are applicable:

This Coverage Document does not cover loss resulting from:

- 1) lack of incoming or outgoing service consisting of electric, fuel, gas, water, steam, refrigerant, sewerage and telecommunications.
- 2) picketing or other action by strikers except for physical damage not excluded by this Coverage Document.

This Coverage Document does not provide coverage under this extension for more than the number of consecutive days shown in the Limits of Liability provision in Section A.

D. INTERRUPTION BY CIVIL AUTHORITY

This Coverage Document covers the actual loss sustained and Extra Expense incurred by the Member during the Period of Liability when access to covered locations is specifically prohibited by order of civil authority, provided such order is a direct result of actual loss or damage from a peril covered under this Coverage Document to property of the type covered against under this Coverage Document located within five miles of the Member Location to which access is prohibited.

All claims under this extension for loss, damage or expense arising out of one occurrence shall be adjusted as one loss.

This Coverage Document does not provide coverage under this extension for more than the number of consecutive days shown in the Limits of Liability provision in Section A.

E. ON PREMISES SERVICES

This Coverage Document covers the actual loss sustained by the Member during the Period of Liability directly resulting from physical loss or damage of the type covered to the following property located on the Member premises:

- 1) Electrical and telecommunications equipment; and
- 2) Electrical, telecommunications, fuel, gas, water, steam, refrigeration and sewerage transmission lines.

F. PROTECTION AND PRESERVATION OF PROPERTY – TIME ELEMENT

This Coverage Document covers the actual loss sustained by the Member for a period of time not to exceed 24 hours before and 24 hours after the Member first taking reasonable action to temporarily protect and preserve property covered by this Coverage Document, if the action is necessary to prevent immediately impending physical loss or damage covered by this Coverage Document at the covered property.

This extension is subject to the deductible provisions that would have applied had the physical loss or damage occurred.

G. RELATED REPORTED VALUES

If reported Time Element values include:

- 1) A location used by the Member but not reported or listed on a schedule under this Coverage Document; and
 - a. A Time Element loss would result at a location; and,

- b. From covered physical loss or damage at a Covered Location;

then this Coverage Document provides coverage for the resulting Time Element loss in accordance with the coverage applicable at the Covered Location.

H. RESEARCH AND DEVELOPMENT

The Gross Earnings coverage is extended to cover the actual loss sustained by the Member for continuing fixed charges and Ordinary Payroll directly attributable to the interruption of research and development activities that in themselves would not have produced income during the Period of Liability.

The Period of Liability for this Time Element Coverage Extension will be the period from the time of direct physical loss or damage of the type covered by this Coverage Document to the time when the property could be repaired or replaced and made ready for operations under the same or equivalent physical and operating conditions that existed prior to damage.

I. SERVICE INTERRUPTION TIME ELEMENT

- 1) This Coverage Document covers the actual loss sustained and Extra Expense incurred by the Member during the Period of Service Interruption at Covered Locations when the loss is caused by the interruption of incoming or outgoing services consisting of electricity, gas, fuel, steam, water, refrigeration or from the lack of incoming or outgoing sewerage service by reason of physical loss or damage of the type covered against to real and personal property of the type covered to the facilities of the utility supplier (excluding overhead transmission and distribution lines located more than 1,000 feet from a Covered Location) of service located in the Coverage Territory, that immediately prevents in whole or in part the delivery of usable services.
- 2) This extension will apply when the Period of Service Interruption is in excess of the time shown as Waiting Period in Section A.
- 3) As a condition of coverage:
 - a. The Member must immediately notify the suppliers of services of any interruption of services.
 - b. Coverage is excluded if the interruption of services is caused directly or indirectly by the failure of the Member to comply with the terms and conditions of any contracts the Member has for the supply of services.
- 4) **Period of Service Interruption** means the period starting at the time an interruption of specified services occurs and ending when, with due diligence and dispatch, the service could be wholly restored and the Location receiving the service could or would have resumed normal operations following the

restorations of service under the same or equivalent physical and operating conditions as provided by the Period of Liability provision of this Section, limited to only those hours during which the Member would or could have used service if it had been available.

4. PERIOD OF LIABILITY

A. The Period of Liability applying to all Time Element Coverage, except Gross Profit and Leasehold Interest, or as otherwise provided under the Time Element Coverage Extensions, is as follows:

- 1) For building and equipment, the period, not to be limited by the expiration of this Coverage Document:
 - a. Starting from the time of physical loss or damage of the type covered against; and
 - b. Ending when with due diligence and dispatch the building and equipment could be:
 - i) Repaired or replaced; and
 - ii) Made ready for operations;

under the same or equivalent physical and operating conditions that existed before the damage.

- 2) For building and equipment under construction:
 - a. The equivalent of the above period of time applied to the level of business that would have been reasonably achieved after construction and startup would have been completed had no physical damage occurred; and
 - b. Considering the actual experience of the business compiled after completion of the construction and startup.
- 3) For stock-in-process and mercantile stock, including finished goods not manufactured by the Member, the time required with the exercise of due diligence and dispatch:
 - a. To restore stock in process to the same state of manufacture in which it stood at the beginning of the interruption of production or suspension of business operations or services; and
 - b. To replace physically damaged mercantile stock.

This provision does not apply to Loss of Rents.

- 4) For raw materials and supplies, the period of time:
- a. of actual interruption of production or suspension of operations or services resulting from the inability to get suitable raw materials and supplies to replace similar ones damaged; but
 - b. Limited to that period for which the damaged raw material and supplies would have supplied operating needs.

5) If water:

- a. Used for any manufacturing purpose, including but not limited to as a raw material or for power;
- b. Stored behind dams or in reservoirs; and
- c. On any Covered Location;

is released as the result of physical damage of the type covered against under this Coverage Document to such dam, reservoir or connected equipment, coverage due to inadequate water supply is limited to 30 consecutive days after the damaged dam, reservoir or connected equipment has been repaired or replaced.

This provision does not apply to Loss of Rents.

- 6) For physically damaged exposed film, records, manuscripts and drawings, the time required to copy from backups or from originals of a previous generation. This time does not include research, engineering or any other time necessary to restore or recreate lost information.

This provision does not apply to Loss of Rents.

- 7) For physically damaged or destroyed data, programs or other software stored on electronic, electro-mechanical, electro-magnetic data processing or production equipment, the time to recreate or restore including the time for researching or engineering lost information.

This item does not apply to Loss of Rents.

If an order of civil authority prohibits access to the Member Location and the order is the direct result of physical damage of the type covered against under this Coverage Document at the Covered Location or within five miles of it, the period of time starting at the time of physical damage, not to exceed the Time Limit provision in Limits of Liability.

- B. The Period of Liability does not include any additional time due to the Member's inability to resume operations for any reason, including:

- 1) Making changes to equipment;
- 2) Making changes to the buildings or structures, except as provided in the Demolition and Increased Cost of Construction provisions; or
- 3) Restaffing or retraining employees.

If two or more Periods of Liability apply, the periods will not be cumulative.

5. TIME ELEMENT EXCLUSIONS

In addition to exclusion elsewhere in this Coverage Document, the following exclusions apply to Time Element loss:

This Coverage Document does not cover:

- A. Any loss during an idle period, including when production, operation, service or delivery or receipt of goods would cease, or would not have taken place or would have been prevented due to:
 - 1) Physical loss or damage not covered by this Coverage Document on or off of the Member Location;
 - 2) Planned or rescheduled shutdown;
 - 3) Strikes or other work stoppage; or
 - 4) Any other reason other than physical loss or damage covered by this Coverage Document.
- B. Any increase in loss due to:
 - 1) Suspension, cancellation or lapse of any lease, contract, license or orders;
 - 2) Fines or damages for breach of contract or for late or non-completion of orders;
 - 3) For penalties of any nature; or
 - 4) Any other consequential or remote loss.
- C. Any loss resulting from loss or damage to finished goods manufactured by the Member, nor the time required for their reproduction.

SECTION D EQUIPMENT BREAKDOWN

1. BREAKDOWN IS A COVERED PERIL ON COVERED EQUIPMENT.

2. COVERED EQUIPMENT:

A. **Covered Equipment** means:

- 1) Equipment built to operate under internal pressure or vacuum other than weight of contents;
- 2) Electrical or mechanical equipment that is used in the generation, transmission or utilization of energy; and
- 3) Communication equipment and computer equipment.

B. Covered Equipment excludes:

- 1) Media;
- 2) Part of pressure or vacuum equipment that is not under internal pressure of its contents or internal vacuum;
- 3) Insulating or refractory material, except the glass lining of any Covered Equipment;
- 4) Non-metallic pressure or vacuum equipment, unless it is constructed and used in accordance with the American Society of Mechanical Engineers code or another appropriate and approved code;
- 5) Catalyst;
- 6) Vessels, piping and other equipment that is buried below ground and requires the excavation of materials to inspect, remove, repair or replace;
- 7) Structure, foundation, cabinet or compartment supporting or containing the Covered Equipment or part of the Covered Equipment including penstock, draft tube or well casing;
- 8) Vehicle, aircraft (aircraft includes but is not limited to any aerial vehicle that is not controlled by a person from within or on the aerial vehicle), self-propelled equipment or floating vessel including any Covered Equipment that is mounted upon or used solely with any one or more vehicle, aircraft, self-propelled equipment or floating vessel;
- 9) Dragline, excavation, or construction equipment including any Covered Equipment that is mounted upon or used solely with any one or more

dragline(s), excavation, or construction equipment;

- 10) Felt, wire screen, die, extrusion plate, swing hammer, grinding disc, cutting blade, non-electrical cable, chain, belt, rope, clutch plate, brake pad, non-metal part or any part or tool subject to periodic replacement; and
- 11) Equipment or any part of such equipment manufactured by the Member for sale.

3. BREAKDOWN

A. **Breakdown** means the direct physical loss, unless the loss or damage is otherwise excluded in the Coverage Document, resulting from one or more of the following items that causes damage to Covered Equipment and necessitates its repair or replacement:

- 1) Failure of pressure or vacuum equipment;
- 2) Mechanical failure including rupture or bursting caused by centrifugal force;
- 3) Electrical failure including arcing;
- 4) Explosion of steam boilers, steam piping, steam engines or steam turbines owned or leased by you, or operated under your control;
- 5) Loss or damage to steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment; or
- 6) Loss or damage to hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment.

B. Breakdown excludes:

- 1) Malfunction including adjustment, alignment, calibration, cleaning or modification;
- 2) Defects, erasures, errors, limitations or viruses in Computer Equipment and programs including the inability to recognize and process any date or time or provide instructions to Covered Equipment;
- 3) Leakage at any valve, fitting, shaft seal, gland packing, joint or connection;
- 4) Damage to any vacuum tube, gas tube, or brush;
- 5) Damage to any structure or foundation supporting the Covered Equipment or any of its parts;

- 6) The functioning of any safety or protective device; or
- 7) The cracking of any part on an internal combustion gas turbine exposed to the products of combustion.

4. LIMIT OF LIABILITY:

The Pool will pay up to \$25,000,000 for loss or damage from any One Breakdown. The following sublimits apply unless a higher limit or "Included" is shown on the CCD. Unless indicated on this table, the most the Pool will pay for damage as a direct result of a Breakdown to Covered Equipment is \$50,000. The limits for coverage extensions are part of, not in addition to, the Limit of Liability for Equipment Breakdown shown in the sublimits.

Equipment Breakdown, including	\$25,000,000
Spoilage	\$250,000
Service Interruption	\$1,000,000
Business Income	Included
Extra Expense	\$500,000
Expediting Expense	\$250,000
Hazardous Substance	\$125,000
Ammonia Contamination	\$125,000
Data & Media	\$1,000,000
CFC Refrigerants	\$100,000
Computer Equipment	Included
Water Damage	\$50,000
Consequential Loss	\$50,000

5. EQUIPMENT BREAKDOWN COVERAGE EXTENSIONS

A. Spoilage:

- 1) The Pool will pay for the spoilage damage to raw materials, property in process or finished products, provided all of the following conditions are met:
 - a. The raw materials, property in process or finished products must be in storage or in the course of being manufactured;
 - b. The Member must own or be legally liable under written contract for the raw materials, property in process or finished products; and
 - c. The spoilage damage must be due to the lack or excess of power, light, heat, steam or refrigeration.
- 2) The Pool will also pay any necessary expenses the Member incurs to reduce the amount of loss under this coverage not to exceed the amount of loss that

otherwise would have been payable under the Coverage Document.

B. Service Interruption:

The Pool will pay for loss resulting from the interruption of utility services provided all of the following conditions are met:

- 1) The interruption is the direct result of a Breakdown to Covered Equipment owned, operated or controlled by the local private or public utility or distributor that directly generates, transmits, distributes or provides utility services which the Member receives;
- 2) The Covered Equipment is used to supply electric power, communication services, air conditioning, heating, gas, sewer, water or steam to the Member premises; and
- 3) The interruption of utility service to the Member premises lasts at least the consecutive period of time shown in the Waiting Period provision of Section A. Once this waiting period is met, coverage will begin at the initial time of the interruption and is subject to all applicable deductibles.

C. Business Income:

- 1) The Pool will pay the Member actual loss of business income that results directly from the necessary total or partial interruption of the Member business caused by a Breakdown.
- 2) The Pool will also pay any necessary expenses the Member incurs to reduce the amount of loss under this coverage not to exceed the amount of loss that otherwise would have been payable under the Coverage Document.
- 3) The Pool will consider the actual experience of the Member's business before the loss or damage and the probable experience the Member would have had without the loss or damage in determining the amount of its payment.
- 4) This coverage continues until the date the damaged property is repaired or replaced.

D. Expediting Costs:

The Pool will pay the reasonable and necessary costs incurred to pay for the temporary repair of covered damage to covered property and to expedite the permanent repair or replacement of such damaged property caused by a Breakdown.

This coverage extension does not cover costs:

- 1) Recoverable elsewhere in this Coverage Document; or

2) Of permanent repair or replacement of damaged property.

E. Hazardous Substance:

The Pool will pay any Additional Expenses incurred by the Member for the clean-up, repair or replacement or disposal of Covered Property that is damaged, contaminated or polluted by a Hazardous Substance caused by a Breakdown.

As used here, **Additional Expenses** mean the additional cost incurred over and above the amount that the Pool would have paid had no Hazardous Substance been involved with the loss.

F. Ammonia Contamination:

The Pool will pay the spoilage to covered property contaminated by ammonia, including any salvage expense caused by a Breakdown.

G. Water Damage:

The Pool will pay for the damage to covered property by water including any salvage expenses caused by a Breakdown, except no coverage applies to damage resulting from leakage of a sprinkler system or domestic water piping.

H. Consequential Loss:

The Pool will pay the reduction in the value of undamaged Stock parts of a product which becomes unmarketable. The reduction in value must be caused by a physical loss or damage to another part of the product.

I. Data & Media:

The Pool will pay the Member cost to research, replace or restore damaged Data or Media including the cost to reprogram instructions used in any Computer Equipment if the loss is caused by a Breakdown.

J. CFC Refrigerants:

The Pool will pay for the additional cost to repair or replace covered property because of the use or presence of a refrigerant containing CFC (chlorinated fluorocarbon) substances if the loss is caused by a Breakdown. This means the additional expense to do the least expensive of the following:

- 1) Repair the damaged property and replace any lost CFC refrigerant;
- 2) Repair the damaged property, retrofit the system to accept a non-CFC refrigerant and charge the system with a non-CFC refrigerant; or

3) Replace the system with one using a non-CFC refrigerant.

K. Computer Equipment:

The Pool will pay for direct damage to Computer Equipment that is damaged by a Breakdown to the equipment.

6. DEFINITIONS RELATING ONLY TO THIS SECTION

A. **Computer Equipment** means covered property that is electronic computer or other electronic Data processing equipment, including Media and peripherals used in conjunction with such equipment.

B. **Data** means

1) Programmed and recorded material stored on Media; and

2) Programming records used for electronic Data processing, or electronically controlled equipment.

C. **Hazardous Substance** means any substance other than ammonia that has been declared to be hazardous to health by a government agency.

D. **Media** means all forms of electronic, magnetic and optical tapes and discs for use in any electronic computer or electronic Data processing equipment.

E. **One Breakdown** means if an initial Breakdown causes other Breakdowns, all will be considered One Breakdown. All Breakdowns at any one premise that manifest themselves at the same time and are the direct result of the same cause will be considered One Breakdown.

F. **Stock** means merchandise held in storage or for sale, raw materials, property in process or finished products including supplies used in their packing or shipping.

**SECTION E
LOSS ADJUSTMENT AND SETTLEMENT**

1. LOSS ADJUSTMENT/PAYABLE

Loss, if any, will be adjusted with and payable to the Member or as may be directed by the Member. Additional covered interests will also be included in loss payment as their interests may appear when named as additional Member, lender, mortgagee and/or loss payee in the Certificates of Coverage on file with the Pool or named below.

2. CURRENCY FOR LOSS PAYMENT

Losses will be adjusted and paid in the currency of the United States of America.

3. VALUATION

Adjustment of the physical damage loss amount under this Coverage Document will be computed as of the date of loss at the location of the loss, and for no more than the interest of the Member, subject to the following:

- A. On stock in process, the value of raw materials and labor expended plus the proper proportion of overhead charges.
- B. On finished goods manufactured by the Member, the regular cash selling price at the Location where the loss happens, less all discounts and charges to which the finished goods would have been subject had no loss happened.
- C. On raw materials, supplies and other merchandise not manufactured by the Member:
 - 1) If repaired or replaced, the actual expenditure incurred in repairing or replacing the damaged or destroyed property; or
 - 2) If not repaired or replaced, the Actual Cash Value.
- D. On property covered under Deferred Payments, the lesser of the:
 - 1) Total amount of unpaid installments less finance charges;
 - 2) Actual Cash Value of the property at the time of loss; or
 - 3) Cost to repair or replace with material of like size, kind and quality.
- E. On Fine Arts articles, the lesser of:
 - 1) The reasonable and necessary cost to repair or restore such property to the physical condition that existed on the date of loss;
 - 2) Cost to replace the article; or
 - 3) The value, if any, stated on a schedule on file with the Pool.

In the event a Fine Arts article is part of a pair or set, and a physically damaged article cannot be replaced, or repaired or restored to the condition that existed immediately prior to the loss, the Pool will be liable for the lesser of the full value of the pair or set or the amount designated on the schedule. The Member agrees to surrender the pair or set to the Pool.

F. On VALUABLE PAPERS & RECORDS AND EDP DATA & MEDIA:

On data, programs or software stored on electronic, electro-mechanical, or electro-magnetic data processing or production equipment:

- 1) The cost to repair, replace or restore data, programs or software including the costs to recreate, research and engineer; or
- 2) If not repaired, replaced or restored within two years from the date of loss, the blank value of the media.

G. On all other Valuable Papers & Records and EDP Data & Media, the lesser of:

- 1) The cost to repair or restore, including the cost to recreate, research and engineer the item to the condition that existed immediately prior to the loss;
- 2) The cost to replace the item; or
- 3) The amount designated for the item on a schedule on file with the Pool.

H. On Mobile Equipment and watercraft (including trailer) less than 27 feet in length, the lesser of the following at the time of the loss:

- 1) The cost to repair;
- 2) The cost to replace the property with new equipment of like kind and quality at the time of loss, if less than or equal to two years of age;
 - a. The cost to repair or replace a trailer that is part of a covered watercraft will not exceed \$1,500.
- 3) The cost to replace the property with equipment of like kind and quality, with proper deduction for obsolescence and physical depreciation, if more than two years of age, but not more than the amount scheduled;
- 4) If not repaired or replaced, the actual cash value; or
- 5) The scheduled value.

I. On historical property, valuation will be based upon the following requirements:

- 1) The Member shall provide written notice to the Pool, which specifically identifies where the property is located, when it was built, its total square footage with an attached appraisal based upon reproduction value that was conducted within five years of the Effective Date of this Coverage Document.
- 2) At the time of loss, the basis of valuation for historical property, when the Member has not complied, will be replacement cost. Where the Member has

complied with the requirements, the basis of valuation will be Reproduction Cost or, if not replaced, at Actual Cash Value.

Reproduction Cost means the cost to repair, rebuild or replace with material of like, kind and quality compatible to those originally used, including the cost of skilled labor and authentic materials necessary to restore the property as nearly as possible to its original condition.

J. On property in transit:

- 1) Property shipped to or for the account of the Member will be valued at actual invoice to the Member, plus accrued costs and charges legally due and the Member commission as selling agent.
- 2) Property sold by the Member and shipped to or for the purchaser's account will be valued at the Member selling invoice amount plus Prepaid or advanced freight costs.
- 3) Property not under invoice will be valued:
 - a. For property of the Member, at the valuation provisions of this Coverage Document applying at the location from which the property is being transported; or
 - b. For other property, at the actual cash market value at the destination point on the date of occurrence;less any charges saved that would have become due and payable upon arrival at destination.

K. On all other property, the loss amount will not exceed the lesser of:

- 1) The cost to repair;
- 2) The cost to rebuild or replace on the same site with new materials of like size, kind and quality;
- 3) The cost in rebuilding, repairing or replacing on the same or another site, but not to exceed the size and operating capacity that existed on the date of loss;
- 4) The selling price of real property or machinery and equipment, other than stock, offered for sale on the date of loss;
- 5) The cost to replace unrepairable electrical or mechanical equipment, including computer equipment, with equipment that is the most functionally equivalent to that damaged or destroyed, even if such equipment has technological advantages or represents an improvement in function and/or forms part of a program of system enhancement;

- 6) The increased cost of demolition, if any, resulting from loss covered by this Coverage Document, if the property is scheduled for demolition;
- 7) The unamortized value of improvements and betterments, if the property is not repaired or replaced at the Member's expense; or
- 8) The Actual Cash Value if the property is:
 - a. Useless to the Member; or
 - b. Not repaired, replaced or rebuilt on the same or another site within two years from the date of loss.

The Member may elect not to repair or replace the Member's real or personal property lost, damaged or destroyed. The Member may elect loss settlement on the lesser of repair or replacement cost basis if the proceeds of the loss settlement are expended on other capital expenditures related to the Member's operations within two years from the date of loss. As a condition of collecting under this provision, expenditure must be unplanned as of the date of loss and be made at a Covered Location under this Coverage Document.

This provision does not extend to Demolition and Increased Cost of Construction.

4. LOSS CONDITIONS

A. REQUIREMENTS IN CASE OF LOSS

The Member must:

- 1) Give written notice to the Pool of any loss as soon as practicable;
- 2) Protect the property from further loss or damage;
- 3) Promptly separate the damaged and undamaged property; put it in the best possible order, and furnish a complete inventory of the lost, destroyed, damaged and undamaged property showing in detail the quantities, costs, Actual Cash Value, replacement value and amount of loss claimed;
- 4) Give a signed and sworn proof of loss to the Pool within 90 days after the loss, unless that time is extended in writing by the Pool, stating the knowledge and belief of the Member as to:
 - a. The time and origin of the loss;
 - b. The Member interest and that of all others in the property;

- c. The Actual Cash Value and replacement value of each item and the amount of loss to each item, all encumbrances, and all other contracts of coverage, whether valid or not, covering any of the property;
 - d. Any changes in the title, use, occupation, location, possession or exposures of the property since the effective date of this Coverage Document; and
 - e. By whom and for what purpose any location covered by this Coverage Document was occupied on the date of loss, and whether or not it then stood on leased ground;
- 5) Include a copy of all the descriptions and schedules in all policies and, if required, provide verified plans and specifications of any buildings, fixtures, machinery or equipment destroyed or damaged; and
- 6) As often as may be reasonably required by the Pool:
- a. Exhibit to any person designated by the Pool all that remains of any property;
 - b. Submit to examinations under oath by any person designated by the Pool and sign the written records of examinations; and
 - c. Produce for examination at the request of the Pool at such reasonable times and places that may be designated by the Pool or its representative and permit extracts and machine copies to be made:
 - i) All books of accounts, business records, bills, invoices and other vouchers; or
 - ii) Certified copies if originals are lost.

B. POOL OPTION

The Pool has the option to take all or any part of damaged property at the agreed or appraised value. The Pool must give notice to the Member of its intention to do so not later than 30 days after receipt of proof of loss.

C. ABANDONMENT

The Member may not abandon any property to the Pool.

D. SUBROGATION

The Member is required to cooperate in any subrogation proceedings. The Pool may require from the Member an assignment or other transfer of all rights of recovery against any party for loss to the extent of the Pool payment.

Any recovery from subrogation proceedings, less costs incurred by the Pool in such proceedings, will be payable to the Member in the proportion that the amount of the following bears to the entire provable loss amount:

- 1) Any applicable deductible; and
- 2) Any provable uncovered loss.

E. APPRAISAL

The appraisal process is available to determine the value of a covered loss, but is not available to determine whether a loss is covered. If the Member and the Pool fail to agree on the amount of loss, each will, on the written demand of either, select a competent and disinterested appraiser, but only after:

- 1) The Member has fully complied with all provisions of this Coverage Document, including Requirements In Case of Loss; and
- 2) The Pool has received a signed and sworn proof of loss from the Member.

Each will notify the other of the appraiser selected within 30 days of the demand.

The appraisers will first select a competent and disinterested umpire. If the appraisers fail to agree upon an umpire within 30 days after their selection, the Member and the Pool shall jointly move to have an umpire selected by a judge of a court of record in the jurisdiction in which the appraisal is pending. The appraisers will then identify each item of physical damage or loss and appraise the amount of loss. The appraisal shall include a detailed breakdown of the costs necessary to repair or replace the item, and will state separately the Actual Cash Value and replacement cost value as of the date of loss and the amount of loss, for each item of physical loss or damage or if, for Time Element loss, the amount of loss for each Time Element coverage of this Coverage Document.

If the appraisers fail to agree, they will submit their differences to the umpire. The umpire will review the appraisals prepared by the appraisers selected by the Member and the Pool and will inspect the property prior to preparing his appraisal. The appraisers for the Member and the Pool will be afforded the opportunity to attend the umpire's inspection of the property and provide sufficient input to allow the umpire to understand the nature and reasons for the differences between the appraisals. After inspecting the property and receiving input from the appraisers, the umpire will identify each item of physical loss or damage and shall appraise the amount of the loss for each item. The umpire's appraisal will include a detailed breakdown of the costs necessary to repair or replace the item and state separately the Actual Cash Value and replacement cost value as of the date of the loss. An award agreed to in writing by any two of the three appraisers will determine the amount of loss. The appraisal award is subject to all terms of the Coverage Document, and may be reduced by the

application of a deductible.

The Member and the Pool will each:

- 1) Pay its chosen appraiser; and
- 2) Bear equally the other expenses of the appraisal and umpire.

A demand for appraisal does not relieve the Member of its continuing obligation to comply with the terms and conditions of this Coverage Document, including the Requirements In Case of Loss.

The Pool does not waive any of its rights by any act relating to appraisal.

F. SUIT AGAINST THE POOL

No suit, action or proceeding for the recovery of any claim will be sustained in any court of law or equity unless the following adjudication procedures are satisfied:

- 1) As a condition precedent to filing suit, the Member has fully complied with all the provisions of this Coverage Document, including providing proof of loss;
- 2) As a condition precedent to filing suit, the Member must attend at least a one-day mediation before a mutually agreeable mediator, unless this provision is waived by both Member and the Pool in writing;
- 3) Any suit against the Pool arising from a claim or loss must be filed within 12 months of the date the Pool takes its final action with respect to the claim or loss. If under the coverage laws of the jurisdiction in which the property is located, such 12 months' limitation is invalid, then the legal action needs to be started within the shortest limit of time permitted by law.
- 4) Any suit, action or proceeding against the Pool must be brought in District Court in Travis County, Texas.

Nothing in this Coverage Document is intended to waive any immunity of either Member or the Pool.

5. SETTLEMENT OF CLAIMS

The amount of loss, except for Accounts Receivable coverage, for which the Pool may be liable will be paid after:

- A. Proof of loss is received by the Pool; and
- B. When a resolution of the amount of loss is made either by:

- 1) Written agreement between the Member and the Pool; or
- 2) The filing with the Pool of an award as provided in the Appraisal provisions of this Section.

6. COLLECTION FROM OTHERS

The Pool will not be liable for any loss to the extent that the Member has collected such loss from others.

7. PARTIAL PAYMENT OF LOSS SETTLEMENT

If a loss occurs that the Pool has determined is a covered loss or damage under this Coverage Document in excess of the applicable Coverage Document deductible, the Pool will advance mutually agreed upon partial payment on the Member loss or damage, subject to the Coverage Document's provisions. To obtain partial payments, the Member will submit a signed and sworn proof of loss with adequate supporting documentation.

8. JURISDICTION

This Coverage Document will be governed by United States of America Law. Any disputes arising hereunder will be exclusively subject to United States of America jurisdiction

SECTION F CRIME COVERAGE

Terms, conditions and definitions below may vary from the terms, conditions and definitions set forth in Sections A, B, C, D, E and G. To the extent terms and definitions between Sections A, B, C, D, E and G and this Section F, Crime Coverage, conflict, for purposes of a an act, event, or series of acts or events triggering Crime Coverage, the terms and definitions under Section F, Crime Coverage, control.

1. CRIME GENERAL PROVISIONS

A. GENERAL DEFINITIONS

- 1) **Employee** means:
 - a. An appointed or elected official of a Member;
 - b. Any natural person:
 - (i) While in the Member's service (and for 30 days after termination of service); and
 - (ii) Whom the Member compensates directly by salary, wages or commissions; and

- (iii) Whom the Member has the right to direct and control while performing services for the Member; or
- c. Any natural person employed by an employment contractor while that person is subject to the Member's direction and control and performing services for the Member excluding, however, any such person while having care and custody of property outside the premises.
- d. Volunteers, but only while performing duties related to the conduct of the Member's business.

But Employee does not mean any:

- a. Agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or
 - b. Trustee except while performing acts coming within the scope of the usual duties of an Employee.
- 2) **Employee Dishonesty** means only dishonest acts committed by an Employee, whether identified or not, acting alone or in collusion with other persons, with the manifest intent to:
- a. Cause the Member to sustain loss; and also
 - b. Obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other Employee benefits earned in the normal cause of employment) for the employee or any person or organization other than the employing political subdivisions, intended by the Employee to receive that benefit.
- 3) **Money** means:
- a. Currency, coins and bank notes in current use and having a face value; and
 - b. Travelers checks, register checks and Money orders held for sale to the public.
- 4) **Property Other Than Money and Securities** means any tangible property other than Money and Securities that has intrinsic value but does not include any property listed in any Coverage as Property Not Covered.

5. **Securities** means negotiable and non-negotiable instruments or contracts representing either Money or other property and includes:
- a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and
 - b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by the Member; but does not include Money.

B. GENERAL EXCLUSIONS

In addition to exclusions set forth in other Sections of this Coverage Document, the Pool will not pay for loss as specified below:

- 1) Indirect Loss: Loss that is an indirect result of any act or Occurrence covered by this Coverage Document including, but not limited to, loss resulting from:
 - a. The Member's inability to realize income that the Member would have realized had there been no loss of, or loss from damage to, Covered Property.
 - b. Payment of damages of any type for which the Member is legally liable. But, the Pool will pay compensatory damages arising directly from a loss covered hereunder.
 - c. Payment of costs, fees or other expenses the Member incurs in establishing either the existence or the amount of loss hereunder.
- 2) Legal Expenses: Expenses related to any legal action.

C. GENERAL CRIME CONDITIONS

- 1) Consolidation - Merger: If any additional persons become Employees after the inception date of this Coverage Document, any coverage afforded for Employees also applies to those additional Employees.
- 2) Discovery Period for Loss: The Pool will pay only for covered loss discovered no later than one year from the end of the policy period.
- 3) Joint Member
 - a. If more than one Member is named in the CCD, the first named Member will act for itself and for every other Member for all purposes of this coverage. If the first named Member ceases to be covered, then the next named Member will become the first named Member.

- b. If any Member or official of that Member has knowledge of any information relevant to this coverage, that knowledge is considered knowledge of every Member.
 - c. An Employee of any Member is considered to be an Employee of every Member.
 - d. If this Coverage Document or any of its coverages are cancelled or terminated as to any Member, loss sustained by that Member is covered only if discovered no later than one year from the date of that cancellation or termination.
 - e. The Pool will not pay more for loss sustained by more than one Member than the amount the Pool would pay if all the loss had been sustained by one Member.
- 4) Loss Covered Under More Than One Coverage of This Coverage Document:
- If two or more Coverages of this Coverage Document apply to the same loss, the Pool will pay the lesser of the actual amount of loss up to limit as stated on the CCD.
- 5) Loss Sustained During Prior Coverage or Insurance
- a. If the Member, or any predecessor in interest, sustained loss during the period of any prior coverage that the Member or any predecessor in interest could have recovered under that coverage or insurance except that the time within which to discover loss had expired, the Pool will pay for it under this coverage, provided;
 - (i) This coverage became effective at the time of cancellation or termination of the prior coverage; and
 - (ii) This loss would have been covered by this coverage had it been in effect when the acts or events causing the loss were committed or occurred.
 - b. The coverage under this Condition is part of, not in addition to, the Limits of Liability applying to this coverage and is limited to the lesser of the amount recoverable under:
 - (i) This coverage as of its effective date; or
 - (ii) The prior coverage or insurance had it remained in effect.

6) Loss Covered Under This Coverage and Prior Coverage or Insurance Issued by the Pool or any Affiliate

If any loss is covered:

- a. Partly by this coverage; and
- b. Partly by any prior cancelled or terminated coverage or insurance that the Pool or any affiliate had issued to the Member or any predecessor in interest;

the most the Pool will pay is the larger of the amount recoverable under this coverage or the prior coverage or insurance.

7) Non-Cumulation of Limits of Liability

Regardless of the number of years this coverage remains in force or the number of Contributions paid, no Limits of Liability cumulates from year to year or period to period.

8) Other Coverage, Bonds or Insurance

This coverage does not apply to loss recoverable or recovered under other coverage, bonds, insurance or indemnity. However, if the limit of the other coverage, bonds, insurance or indemnity is insufficient to cover the entire amount of the loss, this coverage will apply to that part of the loss, other than that falling within any deductible amount, not recoverable or recovered under the other coverage, bonds, insurance or indemnity, but not for more than the Limits of Liability.

9) Recoveries

- a. Any recoveries, less the cost of obtaining them, made after settlement of loss covered hereunder will be distributed as follows:
 - (i) To the Member, until the Member is reimbursed for any loss that the Member sustains that exceeds the Limits of Liability and the deductible amount, if any;
 - (ii) Then to the Pool, until the Pool is reimbursed for the settlement made;
 - (iii) Then to the Member, until the Member is reimbursed for that part of the loss equal to the deductible amount, if any.
- b. Recoveries do not include any recovery;
 - (i) From insurance, suretyship, reinsurance, security or indemnity taken

for the Pool's benefit; or

(ii) Of original Securities after duplicates of them have been issued.

10) Valuation – Settlement

a. Subject to the applicable Limits of Liability provision, the Pool will pay for:

(i) Loss of Money but only up to and including its face value. The Pool may, at the Pool's option, pay for loss of Money issued by any country other than the United States of America:

(a) At face value in the Money issued by that country; or

(b) In the United States of America dollar equivalent on the day the loss was discovered.

(ii) Loss of Securities but only up to and including their value at the close of business on the day the loss was discovered. The Pool may, at the Pool's option:

(a) Pay the value of such Securities or replace them in kind, in which event the Member must assign to the Pool all the Member's rights, title and interest in and to those Securities;

(b) Pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the Securities. However, the Pool will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:

1. Value of the Securities at the close of business on the day the loss was discovered; or

2. Limit of Liability.

2. COVERAGE PROVIDED

A. EMPLOYEE DISHONESTY COVERAGE

The Pool will pay for loss of and loss from damage to Covered Property resulting directly from the Covered Cause of Loss.

1) Covered Property: Money, Securities, and property other than Money and Securities.

2) Covered Cause of Loss:

- a. Employee Dishonesty
- b. Failure of any Employee to faithfully perform his or her duties as prescribed by law, when such failure has as its direct and immediate result a loss of the Member's Covered Property, including inability to faithfully perform those duties because of a criminal act committed by a person other than an Employee.

3) Coverage Extension and Limitation

Employees Temporarily Outside Coverage Territory: The Pool will pay for loss caused by any Employee while temporarily outside the territory specified in the Territory General Condition for a period not more than 90 days.

4) Additional Exclusions, Conditions, and Definitions:

In addition, this Employee Dishonesty Coverage is subject to the following:

- a. Additional Exclusions: The Pool will not pay for loss or damages as specified below:
 - (i) Employee Cancelled Under Prior Coverage or Insurance: loss caused by any Employee for whom similar prior coverage or insurance has been cancelled and not reinstated since the last such cancellation.
 - (ii) Inventory Shortages: loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:
 - (a) An inventory computation; or
 - (b) A profit and loss computation.
 - (iii) Damages: damages for which the Member is legally liable as a result of:
 - (a) The deprivation or violation of the civil rights of any person by an Employee; or
 - (b) The tortious conduct of an Employee, except conversion of property of other parties held by the Member in any capacity.
 - (iv) Depository Failure: Loss resulting from the failure of any entity acting as a depository for the Member's property or property for which the Member is responsible.

b. Additional Conditions:

- (i) The Member must give the Pool notice as soon as possible of any loss of the type covered under this Coverage even though it falls entirely within the deductible amount.
- (ii) Cancellation As To Any Employee:

This coverage is cancelled as to any Employee:

- (a) Immediately upon discovery by the Member or any official or Employee authorized to manage, govern or control the Member's Employees, of any act on the part of an Employee whether before or after becoming employed by the Member which would constitute a loss covered under the terms of this Coverage.
- (b) On the date specified in a notice mailed to the Member. That date will be at least 60 days after the date of mailing.

The mailing of notice to the Member at the last mailing address known to the Pool will be sufficient proof of notice. Delivery of notice is the same as mailing.

- (iii) Sole Benefit: This coverage is for the Member's sole benefit. No legal proceeding of any kind to recover on account of loss under this coverage may be brought by anyone other than the Member.
- (iv) Indemnification: The Pool will indemnify any of the Member's officials who are required by law to give bonds for the faithful performance of their service against loss through the failure of any Employee under the supervision of that official to faithfully perform his or her duties as prescribed by law, when such failure has as its direct and immediate result a loss of the Member's Covered Property, including inability to faithfully perform those duties because of a criminal act committed by a person other than an Employee.

c. Additional Definitions

- (i) **Occurrence** means all loss caused by, or involving, one or more Employees, whether the result of a single act or series of acts.

B. FORGERY OR ALTERATION COVERAGE

The Pool will pay for loss involving Covered Instruments resulting directly from the Covered Causes of Loss.

- 1) Covered Instruments: Checks, drafts, promissory notes, or similar written promises, orders or directions to pay a sum certain in Money that are:
 - a. Made or drawn by or drawn upon the Member;
 - b. Made or drawn by one acting as the Member's agent; or
 - c. That are purported to have been so made or drawn.

- 2) Covered Causes of Loss: Forgery or alteration of, on or in any covered Instrument.

- 3) Coverage Extension

Legal Expenses: If the Member is sued for refusing to pay any Covered Instrument on the basis that it has been forged or altered, and the Member has the Pool's written consent to defend against the suit, the Pool will pay for any reasonable legal expenses that the Member incurs and pay in that defense. The amount the Pool will pay under this extension is in addition to the Limits of Liability applicable to this coverage.

- 4) Deductible

The Pool will not pay for loss in any one Occurrence unless the amount of loss exceeds the deductible amount shown in the CCD. The Pool will then pay the amount of loss in excess of the deductible amount, up to the Limits of Liability. This provision does not apply to legal expenses paid under the Coverage Extension.

- 5) Additional Exclusions, Conditions and Definitions

In addition to the provisions in the Crime General Provisions, this Coverage is also subject to the following:

- a. Additional Exclusion

Acts of Employees, Directors, Trustees or Representatives: Loss resulting from any dishonest or criminal act committed by any of the Member's Employees, directors, trustees or authorized representatives

(i) Whether acting alone or in collusion with other persons; or

(ii) Whether while performing services for the Member or otherwise.

b. Additional Conditions

- (i) Facsimile Signatures: The Pool will treat mechanically reproduced facsimile signatures the same as handwritten signatures.
- (ii) General Amendment: As respects this Coverage, the words Covered Property in the Crime General Provisions mean Covered Instruments.
- (iii) Proof of Loss: The Member must include with the Member's proof of loss any instrument involved in that loss, or, if that is not possible, an affidavit setting forth the amount and cause of loss.
- (iv) Territory: The Pool will cover loss the Member sustains anywhere in the world. The Territory General Condition does not apply to this Forgery or Alteration Coverage.

c. Additional Definition

Occurrence means all loss caused by any person or in which that person is involved, whether the loss involves one or more instruments.

C. THEFT, DISAPPEARANCE AND DESTRUCTION COVERAGE

The Pool will pay for loss of Covered Property resulting directly from the Coverage Causes of Loss.

1) Inside the Premises

- a. Covered Property: Money and Securities inside the Premises or a Banking Premises
- b. Covered Causes of Loss: Theft, Disappearance, Destruction
- c. Coverage Extensions
 - (i) Containers of Covered Property: The Pool will pay for loss of, and loss from damage to, a locked safe, vault, cash register, cash box or cash drawer located in the Premises resulting directly from an actual or attempted theft of or unlawful entry into those containers.
 - (ii) Premises Damage: The Pool will pay for loss from damage to the Premises or its exterior resulting directly from an actual or attempted Theft of Covered Property if the Member is the owner of the Premises or is liable for damage to it.

2) Outside the Premises

- a. Covered Property: Money and Securities outside the Premises in the care and custody of a Messenger.
- b. Covered Causes of Loss: Theft, Disappearance, and Destruction

3) Coverage Extension

Conveyance of Property by Armored Motor Vehicle Company: The Pool will pay for loss of Covered Property resulting directly from the Covered Causes of Loss while outside the Premises in the care and custody of an armored motor vehicle company.

But, the Pool will pay only for the amount of loss that the Member cannot recover:

- a. Under the Member's contract with the armored motor vehicle company; and
- b. From any insurance or indemnity carried by, or for the benefit of customers of, the armored motor vehicle company.

4) Additional Exclusions, Conditions and Definitions

In addition to the provisions in the Crime General Provisions, this Theft, Disappearance and Destruction Coverage is subject to the following:

- a. Additional Exclusions: The Pool will not pay for loss as specified below:
 - (i) Loss resulting from accounting or arithmetical errors or omissions.
 - (ii) Acts of Employees, Directors, Trustees or Representatives: Loss resulting from any dishonest or criminal act committed by any of the Member's Employees, directors, trustees or authorized representatives
 - (a) Acting alone or in collusion with other persons; or
 - (b) While performing services for the Member or otherwise.
 - (iii) Loss resulting from the giving or surrendering of property in any exchange or purchase.
 - (iv) Loss from damage to the Premises resulting from fire, however caused.
 - (v) Loss of property contained in any Money Operated Device unless the amount of Money deposited in it is recorded by a continuous

recording instrument in the device.

- (vi) Loss of property after it has been transferred or surrendered to a person or place outside the Premises or Banking premises:

- (a) On the basis of unauthorized instructions; or

- (b) As a result of a threat to do bodily harm to any person or damage to any property

But, this exclusion does not apply to loss of Covered Property while outside the Premises or Banking Premises in the care and custody of a Messenger if the Member had no knowledge of any threat at the time the conveyance began; or had knowledge of a threat at the time the conveyance began, but the loss was not related to the threat.

- (vii) Loss from damage to the Premises or its exterior or to containers of Covered Property by vandalism or malicious mischief.

- (viii) Loss resulting from the Member, or anyone acting on the Member's express or implied authority, being induced by any dishonest act to voluntarily part with title to or possession of any property.

b. Additional Condition

Duties in the Event of Loss: If the Member has reason to believe that any loss of, or loss from damage to, Covered Property involves a violation of law, the Member must notify law enforcement.

c. Additional Definitions

- (i) **Banking Premises** means the interior of that portion of any building occupied by a banking institution or similar safe depository.

- (ii) **Messenger** means the Member or any Employee while having care and custody of the property outside the Premises.

- (iii) **Occurrence** means an act or series of related acts involving one or more persons; or, an act, event, or a series of related acts or events not involving any person.

- (iv) **Premises** means the interior of that portion of any building the Member occupies in conducting the Member's business.

- (v) **Theft** means any act of stealing.

D. ROBBERY AND SAFE BURGLARY COVERAGE

The Pool will pay for loss of, and loss from damage to, Covered Property resulting directly from the Covered Causes of Loss.

1) Inside the Premises

a. Robbery of a Custodian

- (i) Covered Property: Property other than Money and Securities inside the Premises in the care and custody of a Custodian.
- (ii) Property not Covered: Motor vehicles, trailers, or semi-trailers or equipment and accessories attached to them.

But, the Pool will pay only for the amount of loss the Member cannot recover:

- (i) Under the Member's contract with an armored motor vehicle company or other commercial carrier; and
- (ii) From any insurance or indemnity carried by, or for the benefit of customers of the armored motor vehicle company.

2) Additional Exclusions, Conditions and Definitions: In addition, this Robbery and Safe Burglary Coverage is subject to the following:

a. Additional Exclusions: The Pool will not pay for loss as specified below:

- (i) Loss resulting from any dishonest or criminal act committed by any of the Member's Employees, directors, trustees or authorized representatives, whether acting alone or in collusion with other persons, or while performing services for the Member or otherwise.
- (ii) Loss resulting from fire, however caused, except loss from damage to a safe or a vault.
- (iii) Loss of, or loss from damage to, property after it has been transferred or surrendered to a person or place outside the Premises on the basis of unauthorized instructions or as a result of threat to do bodily harm to any person or damage to any property.

But, this exclusion does not apply to loss of Covered Property while outside the Premises in the care and custody of a Messenger if the Member had no knowledge of any threat at the time the conveyance began; or, had knowledge of a threat at the time the conveyance began, but the loss was not related to the threat.

(iv) Loss from damage to any property by vandalism or malicious mischief.

b. Additional Conditions

(i) **Duties in the Events of Loss:** If the Member has reason to believe that any loss of, or loss from damage to, Covered Property involves a violation of law, the Member must notify law enforcement.

(ii) **Special Limit of Coverage for Specified Property:** The Pool will only pay up to \$1,000 for any one Occurrence of loss of, and loss from damage to:

(a) Precious metals, precious or semi-precious stones, pearls, furs, or completed or partially completed articles made of or containing such materials that constitute the principal value of such articles; or

(b) Manuscripts, drawings, or records of any kind or the cost of reconstructing them or reproducing any information contained in them.

c. Additional Definitions

(i) **Custodian** means the Member or any Employee while having care and custody of the property inside the Premises, excluding any person while acting as a Watchperson or janitor.

(ii) **Messenger** means the Member or any Employee while having care and custody of the property outside the Premises.

(iii) **Occurrence** means an act or series of related acts involving one or more persons or an act or event, or a series of related acts or events not involving any person.

(iv) **Premises** mean the interior of that portion of any building the Member occupies in conducting the Member's business.

(v) **Robbery** means the taking of property from the care and custody of a person by one who has:

(a) Caused or threatened to cause that person bodily harm; or

(b) Committed an obviously unlawful act witnessed by that person.

(vi) **Safe Burglary** means the taking of:

(a) Property from within a locked safe or vault by a person unlawfully entering the safe or vault as evidenced by marks of forcible entry upon its exterior, and

(b) A safe or vault from inside the Premises.

(vii) **Watchperson** means any person the Member retains specifically to have care and custody of property inside the Premises and who has no other duties.

E. COMPUTER FRAUD AND FUNDS TRANSFER FRAUD COVERAGE

1) Computer Fraud

The Pool will pay for loss of or damage to Money, Securities and other property resulting directly from the use of any computer to fraudulently cause a transfer of that property from inside the premises or Banking Premises

- a. to a person (other than a Messenger) outside those premises; or
- b. to a place outside those premises.

2) Exclusions: This Computer and Funds Transfer Fraud Coverage, does not apply to:

- a. Credit Card Transactions. Loss resulting from the use or purported use of credit, debit, charge, access, convenience, identification, stored-value, or other cards or the information contained on the cards.
- b. Inventory Shortages. Loss, or that part of any loss, the proof of which as to its existence or amount is dependent upon:
 - (i) An inventory computation; or
 - (ii) A profit and loss computation

3) Funds Transfer Fraud

The Pool will pay for loss of Funds resulting directly from a Fraudulent Instruction directing a financial institution to transfer, pay or deliver Funds from the Member's Transfer Account.

4) Additional Definitions:

- a. **Fraudulent Instruction** means:
 - (i) An electronic, telegraphic, cable, teletype, telefacsimile or telephone instruction which purports to have been transmitted by the Member, but which was in fact fraudulently transmitted by someone else without the Member's knowledge or consent;
 - (ii) A written instruction (other than those described in Coverage B,

Forgery or Alteration Coverage, Section A) issued by the Member, which was forged or altered by someone other than the Member without the Member's knowledge or consent, or which purports to have been issued by the Member, but was in fact fraudulently issued without the Member's knowledge or consent; or

- (iii) An electronic, telegraphic, cable, teletype, telefacsimile, telephone or written instruction initially received by the Member which purports to have been transmitted by an Employee but which was in fact fraudulently transmitted by someone else without the Member's or the Employee's knowledge or consent.

b. **Funds** means Money and Securities.

c. **Transfer Account** means an account maintained by the Member at a financial institution from which the Member can initiate the transfer, payment or delivery of Funds:

- (i) By means of electronic, telegraphic, cable, teletype, telefacsimile or telephone instructions communicated directly through an electronic Funds transfer system; or
- (ii) By means of written instructions (other than those described in Coverage B, Forgery or Alteration Coverage, Section A) establishing the conditions under which such transfers are to be initiated by such financial institution through an electronic Funds transfer system.

d. **Occurrence** means:

- (i) An individual act or event;
- (ii) The combined total of all separate acts or events whether or not related;
or
- (iii) A series of acts or events whether or not related;

Committed by a person acting alone or in collusion with the other persons, or not committed by any person during the Current Agreement Period in the Coverage Document and CCD, before such Current Agreement Period or both.

F. MONEY ORDERS AND COUNTERFEIT PAPER CURRENCY COVERAGE

1) Coverage

The Pool will pay for loss due to the acquisition of Covered Property resulting directly from the Covered Cause of Loss.

a. Covered Property:

- (i) Money orders, including counterfeit Money orders, of any United States or Canadian post office, express company or national or state (or Canadian) chartered bank; and
- (ii) Counterfeit United States or Canadian paper currency.

b. Covered Cause of Loss

Acceptance in good faith, in exchange for merchandise, Money or services, of:

- (i) Any money order that is not paid upon presentation; and
 - (ii) Counterfeit United States or Canadian paper currency;
- that is acquired during the regular course of business.

2) Additional Exclusions, Conditions and Definitions

In addition to the provision in the Crime General Provisions, this Coverage is subject to the following:

a. Additional Exclusions: The Pool will not pay for loss as specified below:

(i) Acts of Employees, Directors, Trustees or Representatives

Loss resulting from any dishonest or criminal act committed by any of your Employees, directors, trustees or authorized representatives:

- (a) Acting alone or in collusion with other persons; or
- (b) While performing services for you or otherwise.

(ii) Exchanges or Purchases

Loss resulting from the giving or surrendering of property in any exchange or purchase.

(iii) Voluntary Parting of Title or Possession Of Property

Loss resulting from your, or anyone acting on your express or implied authority, being induced by any dishonest act to voluntarily part with title to or possession of any property.

b. Additional Condition

Duties In The Event of Loss: If you have any reason to believe that any loss of, or loss from damage to, Covered Property involves a violation of law, you must notify the law enforcement

c. Additional Definition

Occurrence means an:

- (i) Act or series of related acts involving one or more persons: or
- (ii) Act or event, or series of related acts or events not involving any person.

SECTION G GENERAL PROVISIONS

1. CANCELLATION

This Coverage Document may be:

- A. Cancelled at any time at the request of the Member by surrendering this Coverage Document to the Pool or by giving written notice to the Pool stating when the cancellation will take effect; or
- B. Cancelled by the Pool by giving the Member not less than:
 - 1) Sixty days written notice of cancellation; or
 - 2) Ten days written notice of cancellation if the Member fails to remit, when due, contribution for this Coverage Document.

Return of any unearned contribution will be calculated on the customary short rate basis if the Member cancels and on a pro-rata basis if the Pool cancels this Coverage Document. Return of any unearned contribution will be made by the Pool as soon as practicable.

2. INSPECTIONS

The Pool, at all reasonable times, will be permitted, but will not have the duty, to inspect covered property. The Pool's:

- A. Right to make inspections;
- B. Making of inspections; or

C. Analysis, advice or inspection report;

will not constitute an undertaking, on behalf of or for the benefit of the Member or others, to determine or warrant that the Member's property is safe or healthful. This Pool will have no liability to the Member or any other person because of any inspection or failure to inspect.

The Member is responsible for assuring that jurisdictional inspections are performed as required, and to assure that required jurisdictional Operating Certificates are current for their pressure equipment.

3. PROVISIONS APPLICABLE TO SPECIFIC JURISDICTIONS

- A. If the provisions of this Coverage Document conflict with the laws of any jurisdiction in which this Coverage Document applies, and if certain provisions are required by law to be stated in this Coverage Document, this Coverage Document will be read so as to eliminate the conflict or deemed to include the provisions for Covered Locations within the jurisdiction.
- B. The Pool will provide to the Member copies of endorsements mandated for use by the laws of states in the United States of America. The endorsements may modify this Coverage Document with respect to any covered property located in the state in which the endorsement applies.

4. MISREPRESENTATION AND FRAUD

This Coverage Document will be void in entirety if, whether before or after a loss, a Member has:

- A. Willfully concealed or misrepresented any material fact or circumstance concerning this coverage, covered property, any coverage claim, or the interest of a Member;
- B. Made any attempt to defraud the Pool; or
- C. Made any false swearing.

5. LENDERS LOSS PAYEE AND MORTGAGEE INTERESTS AND OBLIGATIONS

- A. The Pool will pay for loss to specified property covered under this Coverage Document to each specified Lender Loss Payee (Lender) as its interest may appear, and to each specified Mortgagee as its interest may appear, under all present or future mortgages upon covered property, in order of precedence of the mortgages.
- B. The interest of the Lender or Mortgagee (as the case may be. in property covered under this Coverage Document will not be invalidated by:

- 1) Any act or neglect of the debtor, mortgagor, or owner (as the case may be. of the property;
- 2) Foreclosure, notice of sale, or similar proceedings with respect to the property;
- 3) Change in the title or ownership of the property; or
- 4) Change to a more hazardous occupancy.

The Lender or Mortgagee will notify the Pool of any known change in ownership, occupancy, or hazard and, within 10 days of written request by the Pool, may pay the additional contributions associated with the known change. If the Lender or Mortgagee fails to pay the increased contribution, all coverage under this Coverage Document will cease.

- C. If this Coverage is cancelled at the request of the Member, the coverage for the interest of the Lender or Mortgagee will terminate 10 days after the Pool sends to the Lender or Mortgagee written notice of cancellation, unless:
 - 1) Sooner terminated by authorization, consent, approval, acceptance, or ratification of the Member's action by the Lender or Mortgagee, or its agent.
 - 2) This Coverage is replaced by the Member, with a coverage document or policy providing coverage for the interest of the Lender or Mortgagee, in which event coverage under this Coverage Document with respect to such interest will terminate as of the effective date of the replacement coverage document or policy, notwithstanding any other provision of this Coverage Document.
- D. The Pool may cancel this Coverage and the interest of the Lender or Mortgagee under this Coverage Document, by giving the Lender or Mortgagee written notice 60 days prior to the effective date of cancellation, if cancellation is for any reason other than non-payment. If the Member has failed to pay any contribution due under this Coverage Document, the Pool may cancel this Coverage Document for non-payment, but will give the Lender or Mortgagee written notice 10 days prior to the effective date of cancellation. If the Lender or Mortgagee fails to pay the contribution due by the specified cancellation date, all coverage under this Coverage Document will cease.
- E. The Pool has the right to invoke this Coverage Document's Suspension provision. The suspension of coverage will apply to the interest of the Lender or Mortgagee in any machine, vessel, or part of any machine or vessel, subject to the suspension. The Pool will provide the Lender or Mortgagee at the last known address a copy of the suspension notice.
- F. If the Pool pays the Lender or Mortgagee for any loss, and denies payment to the Member, the Pool will, to the extent of the payment made to the Lender or

Mortgagee, be subrogated to the rights of the Lender or Mortgagee under all securities held as collateral to the debt or mortgage. No subrogation will impair the right of the Lender or Mortgagee to sue or recover the full amount of its claim. At its option, the Pool may pay to the Lender or Mortgagee the whole principal due on the debt or mortgage plus any accrued interest. In this event, all rights and securities will be assigned and transferred from the Lender or Mortgagee to the Pool, and the remaining debt or mortgage will be paid to the Pool.

- G. If the Member fails to render proof of loss, the Lender or Mortgagee, upon notice of the Member's failure to do so, will render proof of loss within 60 days of notice and will be subject to the provisions of this Coverage Document relating to Appraisal, Settlement of Claims, and Suit Against the Pool.
- H. Other provisions relating to the interests and obligations of the Lender or Mortgagee may be added to this Coverage Document by agreement in writing.

6. OTHER COVERAGE

- A. If there is any other coverage that would apply in the absence of this Coverage Document, this Coverage Document will apply only after such coverage whether collectible or not. However, such coverage is allowed to act as a deductible buyback including National Flood Insurance Program coverage for Flood.
- B. The Member is permitted to have other coverage over any limits or sublimits of liability specified elsewhere in this Document without prejudice to this Coverage Document. The existence of any other coverage will not reduce any limit or sublimit of liability in this Coverage Document. Any other coverage that would have provided primary coverage in the absence of this Coverage Document will not be considered excess.
- C. The Member is permitted to have other coverage for all, or any part, of any deductible in this Coverage Document. The existence of other coverage will not prejudice recovery under this Coverage Document. If the limits of liability of other coverage are greater than this Coverage Document applicable deductible, this Coverage Document coverage will apply only after the other coverage has been exhausted.
- D. If this Coverage Document is deemed to contribute with other coverage, the limit of liability applicable at each Location, for purposes of the contribution with other insurers, will be the latest amount described in this Coverage Document or the latest Location value on file with the Pool.

7. COVERAGE MODIFICATION

This Coverage Document contains all of the agreements between the Member and the Pool concerning this coverage. The Member and the Pool may request changes to this Coverage Document. This Coverage Document can be changed only by endorsements issued by the Pool and made a part of this Coverage Document. The

Member is also bound by the terms of the Interlocal Participation Agreement with the Pool.

Notice to any agent or knowledge possessed by any agent or by any other person will not:

- A. Create a waiver, or change any part of this Coverage Document; or
- B. Prevent the Pool from asserting any rights under the provisions of this Coverage Document.

8. REDUCTION BY LOSS

Claims paid under this Coverage Document will not reduce its limit of liability, except claims paid will reduce any Coverage Period Aggregate Limit of Liability.

9. SUSPENSION

On discovery of a dangerous condition, this Pool may immediately suspend Equipment Breakdown coverage on any machine, vessel or part by giving written notice to the Member. The suspended coverage may be reinstated by the Pool. Any unearned contribution resulting from a suspension will be returned by the Pool.

10. TITLES

The titles in this Coverage Document are only for reference. The titles do not in any way affect the provisions of this Coverage Document.

MOLD/FUNGUS EXCLUSION ENDORSEMENT

COVERAGE AGREEMENT – Subject to the limits in this Coverage Document, the Coverage Document is amended to exclude coverage for Mold and Fungus loss, as described in this section.

The Pool is not liable for any loss or damage in the form of, caused by, arising out of, contributed to, or resulting from Fungus, Mold, bacteria, mildew or yeast, or any spores or toxins created or produced by or emanating from Fungus, Mold, mildew or yeast regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

Definitions applicable to this endorsement:

1. **Fungus** includes any of the plants or organisms belonging to the major group fungi, lacking chlorophyll, and including Mold, rusts, mildews, smuts and mushrooms.
2. **Mold** includes any superficial growth produced on damp or decaying organic matter or on living organisms, and fungi that produce Mold.
3. **Spores** means any dormant or reproductive body produced by or arising or emanating out of any Fungus, Mold, mildew, plants, organisms or microorganisms.

This exclusion does not apply to any loss or damage in the form of, caused by, contributed to or resulting from Fungus, Mold, mildew or yeast, or any spores or toxins created or produced by or emanating from Fungus, Mold, bacteria, mildew or yeast which the Member establishes is a direct result of a Flood, Earthquake, fire, Named Storm, wind driven water, lightning, explosion, tornado, vehicle impact, falling aircraft, or hail, provided that the Fungus, Mold, mildew or yeast loss or damage is reported to the Pool within 12 months from the date of the loss.

A \$1,000,000 per occurrence and annual aggregate limit of liability applies to coverage provided by this endorsement.

This exclusion does not apply to Valuable Papers & Records and EDP Media.

ASBESTOS EXCLUSION ENDORSEMENT

COVERAGE AGREEMENT – Subject to the limits in this Coverage Document, the Coverage Document is amended to exclude Asbestos loss coverage, as described in this section.

This Coverage Document excludes:

1. Asbestos material defects, treatment, abatements or removal, unless the asbestos itself is damaged by a covered peril and then only as to the physical portion of asbestos material damaged by that peril;
2. Regardless of cause, any sum relating to:
 - A. Health hazard from asbestos;
 - B. Treatment, abatement or repair of asbestos material that has become friable; or
 - C. Demolition, increased cost of reconstruction, removal or any type of cost or loss arising from the enforcement of or compliance with any law or ordinance regulating asbestos material; or
3. Any governmental requirement relating to asbestos material present in or part of any portion of Member Property that was not damaged by a covered peril during the Coverage Period and can no longer be used where installed.

CHEMICAL, BIOLOGICAL & RADIOLOGICAL EXPOSURES EXCLUSION ENDORSEMENT

COVERAGE AGREEMENT – Subject to the limits in this Coverage Document, the Coverage Document is amended to exclude Chemical, Biological & Radiological Exposures loss coverage, as described in this section.

1. This Coverage Document does not cover any loss, damage, cost or expense caused by or resulting from any of the following, regardless of any other cause or event contributing concurrently or in any other sequence:
 - A. The unlawful possession, use, release, discharge, dispersal or disposal of any chemical, bacteriological, viral, radioactive or similar agents or matter regardless of who is responsible for the act and whether war has been declared or not, and regardless of any other cause or event contributing concurrently or in any other sequence; or
 - B. The unlawful possession, use, release, discharge, detonation, dispersal or disposal of any device or material capable of producing a nuclear reaction or the spread of radioactivity, regardless of who is responsible for the act and whether war has been declared or not, and regardless of any other cause or event contributing concurrently or in any other sequence.
2. In any action, suit or other proceeding where the Pool alleges that, by reason of either of the provisions above, some or all loss or damage is not covered by this Coverage Document, the Member has the burden of proving that the loss or damage is not excluded.

GREEN ENDORSEMENT

COVERAGE AGREEMENT – Subject to the limits in this Coverage Document, the Coverage Document is amended to extend coverage related to LEED Certification, as described in this section.

The coverage and valuation provision provided by this endorsement only apply if direct physical loss or damage to covered real or personal property is caused by any of the perils covered by the Coverage Document and replacement cost valuation applies.

This coverage does not apply to: (1) personal property of others in the Member's care, custody, and control; (2) leased personal property; or (3) finished or unfinished stock.

This endorsement does not increase or change the per Occurrence Limit of Liability shown in the CCD or the annual aggregate for specified perils.

1. Notwithstanding the Valuation provision of this Coverage Document or Limits of Liability applicable to specific locations or perils, if replacement cost valuation applies to real and personal property, then the Pool's liability for loss applicable to this endorsement is the cost to repair or replace the covered damaged property, subject to the applicable Limit of Liability, plus the lesser of the following amounts:
 - A. The reasonable and necessary amount to upgrade to green the covered damaged property as described in Coverage Section A - Non-LEED® Certified Coverage or as described in Coverage Section B - LEED® Certified Coverage below, whichever is applicable; or
 - B. An additional 25% of the applicable limit of liability for the building and business personal property shown in the property schedule or appraisal to upgrade to green; or
 - C. \$1,000,000 to upgrade to green.

At the Member's sole discretion, the Member may elect not to upgrade to green any or all property for which upgrade to green coverage is provided under this endorsement. In such case, the Pool will adjust the claim in accordance with the standard provisions of the Coverage Document, as modified by all other applicable endorsements.

Subject to the lesser of A., B., or C. above, if necessary, the period of recovery shall be increased to allow for additional time to upgrade to green the damaged property plus up to an additional two week period to meet the requirements set forth in 4.B.

2. COVERAGE SECTION A: NON-LEED CERTIFIED COVERAGE

If direct physical loss or damage by any of the perils covered by the Coverage Document to a building that is not LEED certified at the time of the loss, or to the personal property within the building, the Pool will pay to repair or replace damaged or destroyed:

A. Loss Settlement for Personal Property

- 1) Appliances or Office Equipment with products of like kind and quality that have been identified as ENERGY STAR® or equivalent products of energy efficiency. If there are no products available at the time of the loss, this upgrade to green coverage does not apply.
- 2) Systems Furniture or Seating, with products of like kind and quality that are certified as GREENGUARD Indoor Air Quality Certified® or products with similar emissions characteristics. If there are no products available at the time of the loss, this upgrade to green coverage does not apply.

B. Loss Settlement for a Building

1) Interior Finish Materials Upgrade

- a. Lower Emissions Products Upgrade Coverage
Defined Building Materials with products of like kind and quality that have Lower Emissions. If there are no products available at the time of the loss, this upgrade to green coverage does not apply.
- b. Environmentally Preferable Products Upgrade Coverage
Interior wood, carpeting and flooring with products of like kind and quality that have Lower Emissions, are Sustainably Produced, are Rapidly Renewable or include Recycled Content. If there are no products available at the time of the loss, this upgrade to green coverage does not apply.

2) Interior Plumbing Systems Upgrade Coverage

Interior plumbing fixtures including, but not limited to, toilets, shower heads and lavatory faucets with products of like kind and quality that are more Water Efficient. If there are no products available at the time of the loss, this upgrade to green coverage does not apply. For damaged or destroyed faucets, the Pool will also pay to install occupant sensors to reduce the potable water demand.

3) Lighting Systems Upgrade Coverage

Lighting systems, with products of like kind and quality that have been identified as ENERGY STAR or equivalent products of such energy efficiency. If there are no products available at the time of the loss, this upgrade to green coverage does not apply. The Pool will also pay to repair or replace damaged light bulbs with light bulbs which have low mercury content.

4) Efficient Heating and Cooling Equipment Upgrade Coverage

Heating and cooling equipment with products of like kind and quality that have

been identified as ENERGY STAR or equivalent products of such energy efficiency. If there are no products available at the time of the loss, this upgrade to green coverage does not apply.

5) Building Reconstruction Following Total Loss

- a. Solely with respect to a Total Loss to a building, the Pool will pay to replace the building on its existing foundation using the most cost effective techniques, products and materials that should satisfy the prerequisites and earn the minimum number of points required to qualify for LEED Silver certification using the LEED New Construction (LEED NC®) Rating System.
- b. Certification Expenses
 - (i) The Pool will pay the reasonable and necessary registration and certification fees charged by the United States Green Building Council (USGBC) that the Insured incurs should the Insured decide to seek LEED Silver certification. However, the Pool will not pay to modify the reconstructed structure if it is not certified.
 - (ii) The sublimit for this coverage is \$25,000.

3. COVERAGE SECTION B: LEED CERTIFIED COVERAGE

In addition to all Coverage provided in Coverage Section A of this endorsement (with the exception of 2.B. (5) Building Reconstruction Following a Total Loss) and if direct physical loss or damage by any of the perils covered by the Coverage Document to a building that is LEED certified at the time of the loss, or to the personal property in such building, the Pool will pay to repair or replace damaged or destroyed:

A. Loss Settlement for Trees, Shrubs, and Vegetative Roofs

- 1) Trees and shrubs planted specifically to secure the Heat Island Effect: Non-Roof point as described in LEED NC. For the purposes of this coverage only, notwithstanding any other provision of the Coverage Document to the contrary, trees and shrubs are Covered Property. The sublimit for this coverage is \$3,000 per tree or \$3,000 per shrub up to a maximum of \$25,000.
- 2) Vegetative roofs on LEED certified buildings. Notwithstanding any other provision of the Coverage Document to the contrary, vegetative roofs are Covered Property.

B. Loss Settlement for a Building

- 1) Recertification Expenses
 - a. In the event of direct physical loss or damage by any of the perils covered

by the Coverage Document that necessitates recertification of the damaged building, the Pool will pay the reasonable and necessary registration and certification fees charged by the USGBC that the Member incurs as a result of the recertification process.

b. The sublimit for this coverage is \$25,000.

2) Building Reconstruction Following Total Loss

a. Solely with respect to a Total Loss to a building that is LEED certified at the time of the loss, the Pool will pay to replace the building on its existing foundation using the most cost effective techniques, products and materials that would satisfy the prerequisites and should earn the minimum number of points required to qualify for LEED certification at one level above the certification in effect at the time of the loss using the LEED NC Rating System.

b. Certification Expenses

(i) The Pool will pay the reasonable and necessary registration and certification fees charged by the USGBC that the Member incurs should the Member decide to seek LEED certification. However, the Pool will not pay to modify the reconstructed structure if it is not certified.

(ii) The sublimit for this coverage is \$25,000.

4. COVERAGES INCLUDED WITHIN COVERAGE SECTIONS A OR B AND APPLICABLE TO LEED® AND NON-LEED® CERTIFIED BUILDINGS

In the event of direct physical loss or damage by any of the perils covered by the Coverage Document to a LEED or Non-LEED certified building:

A. Recycling Expenses

- 1) The Pool will pay the Member's expenses to clean-up, sort, segregate, and transport debris from the Member's damaged building to recycling facilities, if such debris can be recycled.
- 2) The sublimit for this coverage is \$25,000 and is in addition to the debris removal expense sublimit provided by the Coverage Document, if any.
- 3) Any income or remuneration derived from this recycling shall be used to reduce the loss.

B. Air Testing and Outdoor Air Ventilation of the Reconstructed Space

- 1) In accordance with the requirements for the Construction IAQ Management Plan: Before Occupancy Credit as described in the LEED NC rating system

- (Construction IAQ), the Pool will pay to conduct air testing and a building flush-out (if required because of a failure to meet air quality standards set forth in the Construction IAQ) and follow-up air testing for a total period of time not to exceed two weeks.
- 2) After the two week period of increased outdoor air ventilation of the reconstructed space, the Pool will pay to replace the filtration media with new media.
 - 3) The sublimit for this coverage is \$25,000.

C. Professional Services

The Pool will pay reasonable and necessary expenses to hire a LEED Accredited architect or engineer to participate in the design and construction administration of the damaged portion of the building or the entire building, whichever is applicable.

The sublimit for this coverage is \$50,000.

D. Building Commissioning Expenses

- 1) In the event of direct physical loss or damage to mechanical, electrical, or electronic building systems, by any of the perils covered by the Coverage Document which necessitates the commissioning or re-commissioning of those systems, the Pool will pay reasonable and necessary expenses of a Professional Engineer to commission or re-commission those damaged systems in accordance with LEED protocols.
- 2) The sublimit for this coverage is \$25,000.

5. Additional Definitions

- A. **Appliances** mean products including dishwashers, refrigerators, freezers, ovens, microwave ovens, room air conditioners, room air cleaners and water heaters.
- B. **Defined Building Materials** means: (1) all carpet and floor coverings, including adhesives to affix them to the floor; (2) all interior paints, architectural coatings, primers, undercoatings, adhesives, and sealants; and (3) permanently installed composite wood fixtures, including, counters, cabinets, and partitions.
- C. **ENERGY STAR** means any product that has been identified by the United States Government Department of Energy, Environmental Protection Agency as ENERGY STAR qualified at the time of the loss.
- D. **Heating and Cooling Equipment** means products including heat pumps, boilers, central air conditioning, ceiling fans, dehumidifiers, exhaust fans, furnaces, thermostats, and ventilating fans.

E. **Lower emissions** means:

- 1) With respect to adhesive and sealant products, such as, general construction adhesives, flooring adhesives, fire-stopping sealants, caulking, duct sealants, plumbing adhesives, and cove base adhesives, products that meet the requirements of South Coast Air Quality Management District (SCAQMD) Rule # 1168; with respect to aerosol adhesives, products that meet Green Seal Standard GS-36 requirements;
- 2) With respect to architectural paints, coatings, and primers, products that do not exceed the volatile organic compound (VOC) content limits established in Green Seal Standard GS-11, with respect to anti-corrosive and anti-rust paints, products that do not exceed the VOC content limits established in Green Seal Standard GS-03; and with respect to clear wood finishes, floor coatings, stains, and shellacs, products that do not exceed the VOC content limits established by SCAQMD Rule #1113;
- 3) With respect to carpet and carpet cushion, products that meet the requirements of the Carpet and Rug Institute's Green Label Plus Program; and
- 4) With respect to composite wood and agrifiber products such as particleboard, medium density fiberboard (MDF, plywood, wheatboard, strawboard, panel substrates and door cores as well as laminating adhesives used to fabricate on-site and shop-applied composite wood and agrifiber assemblies, products that contain no added urea- formaldehyde resins.

F. **Office Equipment** means electronic products including desktop computers, laptop computers, monitors, printers, fax machines, scanners, copiers, and telephones.

G. **Recycled Content** means those products that contain at least 20% post-consumer recycled content.

H. **Rapidly Renewable** means products that are made from plant resources that are harvested within a ten-year cycle or shorter, including bamboo, eucalyptus, wheat straw, sunflower hulls, cork oak, wheatboard, linoleum, and sorghum.

I. **Seating** means task and guest chairs used with System Furniture.

J. **Sustainably Produced** means those products certified by the Forest Stewardship Council (FSC).

K. **System Furniture** means either a panel-based workstation comprised of modular interconnecting panels, hang-on components and drawer/filing components of a freestanding grouping of furniture items and their components that have been designed to work in concert.

L. **Total Loss** means:

- 1) The covered building is completely destroyed regardless of whether any damage is done to the foundation or slab; or
- 2) The covered building is in such condition after the loss that the standard method of rebuilding or repairing the covered building is to raze the structure except for the foundation or slab or including all or part of the foundation or slab and rebuild the entire structure, whether such structure is actually rebuilt or not.

M. **Water Efficient** means dry fixtures such as composting toilet systems and non-water using urinals, flush toilets using no more than 1.6 gallons of water per flush, and shower heads and faucets with a flow rate of no more than 2.2 gallons per minute.

SAMPLE