



New Mexico Public Schools Insurance Authority

Board of Directors Special Meeting

Board of Directors

Al Park, President, Governor Appointee
Chris Parrino, Vice President, NM Association of School Business Officials
Pauline Jaramillo, Secretary, NM School Boards Association
Denise Balderas, Governor Appointee
Sammy J. Quintana, Governor Appointee
Bethany Jarrell, National Education Association NM
David Martinez, Jr., National Education Association NM
Tim Crone, American Federation of Teachers NM
Daniel Benavidez, NM Superintendents Association
K. T. Manis, Public Education Commission
Trish Ruiz, Educational Entities at Large

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Thursday, August 19, 2021

3:30 p.m.

Draft

Agenda

- | | |
|---|-------------------|
| 1. Call to Order | A. Park |
| 2. Roll Call | P. Vigil |
| 3. Introduction of Guests | R. Valerio |
| 4. Citizens to Address the Board (Five-Minute Limit) | A. Park |
| 5. Approval of Agenda (Action Item) | A. Park |
| 6. Approval of July 29, 2021 Minutes (Action Item) | A. Park |

7. Administrative Matters

- | | |
|--|--------------------|
| A. Election of Officers (Action Item) | M. Esquivel |
| B. COVID-19 Update | R. Valerio |
| C. 2021-2022 MOCL024 General & Automobile Liability Memorandum of Coverage (Action Item) | R. Valerio |
| D. 2021-2022 MOCP024 Property, Automobile Physical Damage, Crime & Cyber Coverages Memorandum of Coverage (Action Item) | R. Valerio |

8. General Discussion **A. Park**

9. Next Meeting Date and Location **A. Park**

September Meeting – September 2, 2021

Location: CES, 10601 Research Rd SE, Albuquerque, NM 87123

10. Adjournment (Action Item) **A. Park**

**NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY
BOARD OF DIRECTORS IN PERSON/VIRTUAL MEETING MINUTES**

In Person:

**La Posada de Santa Fe
330 East Palace Avenue
Santa Fe, NM 87501
Montana Ballroom**

Virtual:

<https://global.gotomeeting.com/join/223942245>

**Dial in: + 1 (872) 240-3311
Access Code: 223-942-245**

Thursday, July 29, 2021

DRAFT

1. Call to Order

Mr. Al Park, President, called the NMPSIA Board Meeting to order at 9:08 a.m. on Thursday, July 29, 2021. Mr. Park thanked NMPSIA staff for all their hard work over the last year and a half during this tough pandemic.

Mr. Park welcomed Lieutenant Governor Howie Morales to the NMPSIA Board Meeting and thanked him for attending.

2. Roll Call

Ms. Pamela Vigil, called roll.

Alfred Park, President
Chris Parrino, Vice-President
Pauline Jaramillo, Secretary
Denise Balderas (**virtual attendee**)
Daniel Benavidez
Bethany Jarrell (**arrived after roll call**)
Sammy Quintana
K.T. Manis
David Martinez Jr.
Trish Ruiz

Absent:

Tim Crone

Staff Members Present:

Richard Valerio, Executive Director
Patrick Sandoval, Deputy Director
Martha Quintana, Chief Financial Officer
Melissa Rael, Human Resource/Finance Manager
Katherine Chavez, Benefits/Wellness Operations Manager
Pamela Vigil, Risk Program Coordinator
Jessica Brand, Benefits Program Coordinator
Dion Romero, Accountant **(virtual attendee)**
Claudette Roybal, Chief Procurement Officer
Andrew Arellano, Financial Specialist

Audience:

Howie Morales	Lieutenant Governor of New Mexico
Martina C de Baca	Guest of Lieutenant Governor
Kelley Riddle	BAC Member, Western NM University
Martin Esquivel	Esquivel & Howington
Aaron Hillebrandt	Pinnacle Actuarial Consultant
Ellen Clark	PFM (virtual attendee)
Joseph Simon	LESC
David Poms	Poms & Assoc.
Julie Garcia	Poms & Assoc.
Larry Vigil	Poms & Assoc.
Richard Cangioli	CCMSI
Louise Carpenter	CCMSI (virtual attendee)
Kim Trimble	CCMSI (virtual attendee)
Kevin Sovereign	CCMSI
Jerry Mayo	CCMSI
Steve Vanetsky	CCMSI
Dr. Nura Patani	Segal
Daniel Warner	Cigna
Harris Zeyae	ESI
Maureen Sergel	BCBS
Lisa Guevarra	BCBS
Lisa Sullivan	BCBS
Marlene Mier	BCBS (virtual attendee)
Sam Garcia	Davis Vision
Rich Bolstad	Delta Dental
JoLou Trujillo-Ottino	Delta Dental
Stephanie Anthony	United Concordia
Steve Valdez	Presbyterian
Cynthia Grajeda-James	Presbyterian (virtual attendee)
Lia Gainey	Presbyterian (virtual attendee)
Kathy Payanes	Erisa
Lourdes Rael	Erisa (virtual attendee)

Mike Barrios
Michelle Alarid
Greg Archuleta

Erisa (**virtual attendee**)
Erisa (**virtual attendee**)
The Standard

3. Introduction of Guests

Mr. Park asked the audience, virtual audience and NMPSIA Board to provide a brief introduction.

The audience and Board introduced themselves to one another and provided some background history.

Lt. Governor Morales thanked the NMPSIA Board for including him in the meeting. He stated he looks forward to collaborating with NMPSIA on the important work being done.

Ms. Martha Quintana, Chief Financial Officer, NMPSIA, relayed a brief introduction from Board Member Denise Balderas. Ms. Balderas was present virtually.

4. Citizens to Address the Board (five- minute time limit)

There were no citizens to address the Board.

5. Approval of the Agenda (Action Item)

Mr. Richard Valerio, Executive Director, NMPSIA, requested that item 10.D (HB128 School Personnel Background and Training) be placed after item 6 (Approval of the Minutes).

A motion was made to approve the agenda as amended.

MOTION: T. Ruiz

SECONDED: C. Parrino

All Board Members present both in-person and virtual voted in the affirmative.

Vote carried unanimously.

6. Approval of June 3, 2021, Virtual Board Minutes (Action Item)

A motion was made to approve the June 3, 2021 Virtual Board Minutes as presented.

MOTION: P. Jaramillo

SECONDED: T. Ruiz

All Board Members present both in-person and virtual voted in the affirmative.

Vote carried unanimously.

10.D HB128 School Personnel and Background Training

Lt. Governor Morales joined Ms. Julie Garcia, Poms & Associates at the table to discuss and review components of HB128 School Personnel and Background Training.

Ms. Garcia reviewed the following in detail:

- New Definition of Ethical Misconduct.
- New application Questions, a complete list of former employers and necessary waiver language.
- New list of mandatory reporters and new lines for reporting.
- New training requirements.
- Deletion of information sharing restrictions that can be shared with future employers.

Mr. Park thanked Ms. Garcia for all the hard work that has gone into HB128. He expressed his frustrations and disgust with paying settlements because of sexual molestation claims and sexual predators that prey upon children.

Lt. Governor Morales stated he continues to offer support to districts with this difficult subject. He stated it is a responsibility and duty to protect the children of New Mexico.

Mr. Parrino asked if the application requirement change would go into effect this year.

Ms. Garcia stated that the Board has been provided a draft for review. She is recommending the application requirement take effect next year.

There was further discussion with respect to HB128.

Mr. Park thanked Lt. Governor Morales for joining the discussion on HB128 and Ms. Garcia for all her hard work on this.

7. Administrative Matters

7. A Recognition of Ricky Williams for His Dedicated Service to the NMPSIA Board

Mr. Park stated Mr. Ricky Williams could not be present for this presentation and recognition of his dedicated service to the NMPSIA Board and thanked him for his service.

Mr. Valerio presented a plaque that will be given to Mr. Williams.

7. B Board Member Update

Mr. Park reported Mr. Daniel Benavidez, Superintendent, Central Consolidated Schools, will replace Mr. Williams on the NMPSIA Board.

Mr. Benavidez thanked the Board for welcoming him.

7. C Staff Update

Mr. Valerio reported the vacant Financial Specialist has been filled at NMPSIA. He stated the agency is now fully staffed.

7. D COVID-19 Update

Mr. Valerio reported through the end of May 2021 the COVID-19 costs were \$16.9 million dollars for testing, treatment, and vaccinations. Mr. Valerio stated he is still working with DFA and FEMA to possibly receive federal funding.

7. E COVID Telework and Return-to-Work Policies Update

Mr. Valerio presented the COVID Telework and Return-to-Work Policies for review. He stated these policies reflect the Telework and Return-to-Work Policies drafted by the New Mexico State Personnel Department.

7. F 2021-2022 Open Meetings Act Resolution

Mr. Valerio presented the 2021-2022 Open Meetings Act Resolution for review and approval.

A motion was made to approve the 2021-2022 Open Meetings Act Resolution as presented.

MOTION: T. Ruiz

SECONDED: P. Jaramillo

All Board Members present both in-person and virtual voted in the affirmative.

Vote carried unanimously.

8. Financial Matters

8. A Financial Reports for May 2021 (Action Item)

Mr. Patrick Sandoval, Deputy Director, NMPSIA, reviewed the statement of revenues and expenditures for the Employee Benefits Fund for the period 5/1/2021 through 5/31/2021. The Benefits Fund had revenues in the amount of \$27,144,161.75; expenditures in the amount of \$27,388,252.61; resulting in a loss of \$244,090.86. The Employee Benefits Fund year to date actuals were revenue of \$298,907,157.59; expenditures of \$292,166,613.88 resulting in a net gain of \$6,740,543.71.

Mr. Sandoval reviewed the statement of revenues and expenditures for the Risk Fund for the period 5/1/2021 through 5/31/2021. The Risk Fund had revenues in the amount of \$7,050,205.51; expenditures in the amount of \$3,263,351.43 resulting in a gain of \$3,786,854.08. The Risk Fund year to date actuals were

The Risk Fund Current Year Actuals were revenue of \$78,581,836.11; expenditures of \$84,384,095.04 resulting in a net loss of \$5,802,258.93.

Mr. Sandoval reviewed the statement of revenues and expenditures for the Program Support Fund for the period 5/1/2021 through 5/31/2021. The Program Support Fund had revenues in the amount of \$116,750.00; expenditures in the amount of \$103,024.67; resulting in a gain of \$13,725.33. The Program Support Fund year to date actuals were revenue of \$1,284,250.00; total expenditures of \$1,127,224.59 resulting in a net gain of \$157,025.41.

Mr. Sandoval reviewed the balance sheet for the period 5/1/2021 through 5/31/2021. Program Support had total assets of \$986,531.06, total liabilities of \$117,012.76, and fund equity of \$869,518.30. Employee Benefits had total assets of \$70,389,033.54, total liabilities of \$32,044,850.67, and fund equity of \$38,344,182.87. Risk had total assets of \$105,654,108.38, total liabilities of \$104,333,995.60, and a total fund equity gain of \$1,320,112.78. Total fund equity for the agency was \$40,533,813.95.

A motion was made to approve the Financial Reports for May 2021 as presented.

MOTION: T. Ruiz

SECONDED: S. Quintana

All Board Members present both in-person and virtual voted in the affirmative.

Vote carried unanimously.

8. B Fiscal Year 2023 Appropriation Request (Action Item)

Mr. Sandoval presented the Fiscal Year 2023 Appropriation Request. He stated for Program Support staff is requesting an increase of 3.64% in Personnel Services. In Contractual Services we are requesting a decrease of 1.65%. In Other Costs requesting a decrease of 1.75%. Overall, for Program Support, NMPSIA is requesting an increase of 2.58%.

Mr. Sandoval stated for Employee Benefits for Contractual Services, NMPSIA is requesting an increase of 10.13%, for Other Transfers requesting to increase by 2.57% for a total of 10.11%.

Mr. Sandoval stated for the Risk Fund for Contractual Services, NMPSIA is requesting an increase of 16.04%, for Other Transfers requesting to increase by 2.59% for a total of 15.92%

Overall for the agency under Personal Services & Employee Benefits an increase of 3.64%, Contractual Services an increase of 11.27%, Other Costs decrease of 1.75% and Other Transfers an increase of 2.58% for an overall agency total increase of 11.22%

Mr. Valerio stated this request sets NMPSIA's expenditure authority and is not a direct appropriation from the General Fund.

A motion was made to approve the Fiscal Year 2023 Appropriation Request as presented.

MOTION: C. Parrino

SECONDED: T. Ruiz

All Board Members present both in-person and virtual voted in the affirmative.

Vote carried unanimously.

8. C Investment Performance Review for The Quarter Ended June 30, 2021

Ms. Ellen Clark, PFM Asset Management, reported earlier in the month of July, PFM entered into an agreement with U.S. Bank Corp. Asset Management. She stated U.S. Bank Corp. Asset Management purchased PFM Asset Management LLC under its subsidiary, U.S. Bank Corp Asset Management. Ms. Clark stated PFM will continue to operate as a separate entity and will continue to provide services as provided in the past. The acquisition is expected to be completed by December 2021.

Ms. Clark reported on the Investment Performance Review for the Quarter Ended June 30, 2021. She reviewed the Markets and Economy in detail. The U.S. Stock Market has been strong and since the decline in March 2020, the Market has roared back. This can be attributed to people starting to travel and dine in again. Ms. Clark reported we are clearly out of the recession caused by the pandemic. She reviewed the Market Index Performance in Detail. U.S. Stocks are up 15%. International Stocks have not fared as well up approximately 9%.

Ms. Clark reported there have been negative returns in Fixed Income. Long-Term rates fell in the quarter despite the strong economic news and higher inflationary measures.

Ms. Clark reported the Benefits Fund as of June 30, 2021, has a value of \$26.6 million and very good performance across all periods. There has been a 26% return over the last 12 months versus the benchmark of 21%. The portfolio is overweight Domestic and International Equity and underweight Fixed Income. The SIC Portfolio has done very well over the last 12 months with a 4% return. Those numbers pale in comparison to what is being seen in Equity Markets with 44% Domestic, and 35% on the International Side.

Ms. Clark reviewed the Asset Allocation Graph. She stated the Portfolio is overweight with about 40% in US Stock versus the target of 36%, up 22% in International Stock versus a target of 19% and 38% in Fixed Income.

Ms. Clark reported the Risk Fund results are very similar to the Benefits Fund. She stated there is a 26% return over the last 12 months and about a 8.2% return since inception. Ms. Clark reported the Portfolio is overweight Domestic Equity, International Equity and underweight Fixed Income.

Ms. Clark stated staff is not recommending any rebalancing at this time. We remain overweight Domestic and International Equity and underweight Fixed Income.

Mr. Parrino asked if the inflation trend is anticipated to continue.

Ms. Clark reported PFM is calling this inflation rate temporary. She stated there has been an inflation rate of 1.5% over the last few years.

Mr. Park asked if inflation has affected the investment strategy.

Ms. Clarks stated it has affected the investment strategy. PFM will continue to look into other investment options.

9. Benefits Matters

9. A Temporary Waiver of Premium Payment Penalties and Interest (Action Item)

Mr. Sandoval reported beginning in April 2020 through July 2021, the Board granted an additional ten-day grace period for Benefit Premium Payments. He stated 16 entities took advantage of the waiver, and out of the 16 entities, four have been late more than once.

It is the recommendation of the BAC and Staff to extend the waiver for an additional three months and revisit in October 2021.

A motion was made to approve the Temporary Waiver of Premium Payment Penalties and Interest for three additional months.

MOTION: K.T. Manis

SECONDED: C. Parrino

All Board Members present both in-person and virtual voted in the affirmative.

Vote carried unanimously.

9. B Amendment to Professional Services Agreement for Benefits and Actuarial Consulting (Action Item)

Mr. Valerio presented an amendment to Professional Services Agreement for Benefits and Actuarial Consulting.

He reviewed the Transparency Rule and No Surprises Act Compliance Plan. Mr. Valerio stated the amendment will allow the contractor to review the applicable Agency Plan requirements and prepare a Compliance Plan to accomplish implementation on a timely basis.

Mr. Valerio stated it is the recommendation of the BAC to approve the amendment to Professional Services Agreement for Benefits and Actuarial Consulting.

A motion was made to approve the Amendment to Professional Services Agreement for Benefits and Actuarial Consulting

MOTION: T. Ruiz

SECONDED: S. Quintana

All Board Members present both in-person and virtual voted in the affirmative.

Vote carried unanimously.

9. C Approval to Issue RFP for Pharmaceutical Benefit Manager Services (Action Item)

Mr. Valerio requested approval to issue an RFP for Pharmaceutical Benefit Manager Services jointly with the Interagency Benefits Advisory Committee (IBAC).

He stated it is the recommendation of the BAC to approve the request to issue an RFP for Pharmaceutical Benefit Manager Services jointly with the Interagency Benefits Advisory Committee (IBAC).

A motion was made to approve the request to Issue an RFP for Pharmaceutical Benefit Manager Services.

MOTION: C. Parrino

SECONDED: T. Ruiz

All Board Members present both in-person and virtual voted in the affirmative.

Vote carried unanimously.

9. D 2021-2022 Part-Time Employee Resolutions (Action Item)

Mr. Valerio presented the following 2021-2022 Part-Time Employee Resolutions for review and approval:

- | | |
|-----------------------------------|--------------|
| • Bernalillo Public Schools | Standard |
| • Fort Sumner Municipal Schools | Standard |
| • Penasco Independent Schools | Standard |
| • Pojoaque Valley Public Schools | Standard |
| • Roswell Independent Schools | Non-Standard |
| • Santa Rosa Consolidated Schools | Standard |

Mr. Valerio stated it is the recommendation of the BAC to approve the 2021-2022 Part-Time Resolutions as presented.

Mr. Parrino stated this is a standard procedure.

A motion was made to approve the 2021-2022 Part-Time Resolutions as presented.

MOTION: K. T. Manis

SECONDED: D. Martinez Jr.

All Board Members present both in-person and virtual voted in the affirmative.

Vote carried unanimously.

9. E School Contractor Access to Online Benefits System (Action Item)

A motion was made to table this item.

MOTION: S. Quintana

SECONDED: T. Ruiz

All Board Members present both in-person and virtual voted in the affirmative.

Vote carried unanimously.

9. F Technology Leadership High School Domestic Partner Petition (Action Item)

Mr. Valerio presented a petition from Technology Leadership High School to add Domestic Partner Benefits.

Mr. Valerio stated it is the recommendation of the BAC to approve this request.

Mr. Parrino stated this is a standard procedure.

A motion was made to approve the request from Technology Leadership High School to add Domestic Partner Benefits.

MOTION: T. Ruiz

SECONDED: P. Jaramillo.

All Board Members present both in-person and virtual voted in the affirmative.

Vote carried unanimously.

9. G EVERFI Wellness Center – A BCBSNM Mental Health Initiative

Ms. Lisa Guevara, BCBSNM, provided a brief presentation on EVERFI Wellness Center – A new no-cost BCBSNM Mental Health Initiative. The Wellness Center is available to all NMPSIA members (staff and students 8th-12th grade) to help develop self-awareness and self-management skills for positive mental health. The program for employees is available as of July 2021.

9. H Catapult Health Update

Ms. Guevara also provided an update on Catapult Health - a virtual check-up and home preventive health screening tool for BCBSNM members starting August 2021.

9. I Delta Dental Network Update

Mr. Rich Bolstad, Delta Dental, reported on the Delta Dental Network. He reported Delta Dental of New Mexico has 3 networks:

PPO New Mexico (custom in-state network)

Delta Dental PPO (nationwide)
Delta Dental Premier (nationwide)

He reviewed the network differences in detail. NMPSIA will now have access to Delta Dental PPO and Delta Dental Premier in-network provider access which is an increase of 7.8% more providers in New Mexico.

9. J Interagency Benefits Advisory Committee Update

Mr. Valerio reported the IBAC is scheduled to meet on August 11, 2021. Mr. Valerio has been selected by the IBAC to serve as Chairman for the next year.

9. K Wellness Update

Ms. Katherine Chavez, Benefits and Wellness Operations Manager, NMPSIA, provided a brief wellness update to the NMPSIA Board. She reported on the NMPSIA Annual Training that was held July 13th through July 15th. Ms. Chavez reported there were between 110-138 attendees each day.

Ms. Chavez reported on the new no-cost behavioral health program powered by EVERFI.

Ms. Chavez reported on Working Well with Mindfulness Program. She reported these sessions will be led by Michell DuVal, Director of the Mindful Center.

Ms. Chavez reported on the monthly webinar topic- Financial Wellness.

Ms. Chavez reported on Livongo. She reported enrollment has steadily increased. 20% of all eligible members are enrolled, and 89% of enrolled members activated the program. Ms. Chavez stated there has been a decrease in HbA1c levels in participants enrolled in at least six months and 78% of members actively participated in one or more self-guided activities.

10. Risk Matters

10. A Temporary Waiver of Premium Payment Penalties and Interest and Installment Plan (Action Item)

Mr. Sandoval reported Risk Premiums are due July 31, 2021, with a ten-day grace period before entities incur a 1.5% interest charge for overdue premiums. Staff would like to request an additional ten-day grace period and the approval to grant installment plans for entities that request them. He explained in previous fiscal years NMPSIA has allowed schools to pay over a three-month period when necessary. There has been one charter school that has asked for an installment plan, and smaller schools are usually the ones that benefit the most. In FY21 four entities used the temporary waiver, of the four entities one paid over a three-month period.

It is the recommendation of the RAC and Staff to approve the temporary waiver of premium penalties and interest and allow for installment plans.

A motion was made to approve the Temporary Waiver of Premium Payment Penalties and Installment Plan.

MOTION: T. Ruiz

SECONDED: D. Martinez Jr.

All Board Members present both in-person and virtual voted in the affirmative.

Vote carried unanimously.

10. B Approval of Agreement for School Misconduct Training Videos (Action Item)

Mr. Sandoval presented a draft Agreement for School Misconduct Training Videos. Mr. Sandoval reported the RFP for School Misconduct Training Videos was issued on March 25, 2021. and proposals were due on April 21, 2021. He stated Mr. Esquivel, Mr. Valerio, Dr. Linda Paul, Ms. Sienna Flanigan and himself served on the Evaluation Committee. Ms. Claudette Roybal served as the Procurement Manager, Ms. Garcia served as a technical advisor and Ms. Vigil served as a technical advisor. Mr. Sandoval reported two proposals were received and the Evaluation Committee held Oral Presentations on May 20, 2021. After the Oral Presentations were conducted, the Evaluation Committee selected Vendor A and entered into contract negotiations. Mr. Sandoval stated the contract has been reviewed by Staff and NMPSIA General Council. He reported the amount of the contract is based on tiered pricing by the number of users and the anticipated price of contract will be about \$30,000.00 per year. He explained there is a \$2,000.00 fee for courses created by NMPSIA and made available for all entities. This fee is for distribution and hosting of the training material.

Mr. Sandoval stated staff recommends award to VENDOR A.

A motion was made to approve the Agreement for School Misconduct Training Videos and award the contract to Vendor A.

MOTION: C. Parrino

SECONDED: T. Ruiz

All Board Members present both in-person and virtual voted in the affirmative.

Vote carried unanimously.

Mr. Sandoval announced that VENDOR A is Vector Solutions.

10. C TPA Reports

10.C.1 Workers' Compensation Review

Mr. Richard Cangiolosi, CCMSI, reviewed workers' compensation statistics with respect to claims management. He reviewed new and closed claim date ranges from 2018 to 2021. He reported on the average cost for all claims in fiscal year and new claim in fiscal year by claim type.

10.C.2 Property & Liability Monthly Claims Report

Mr. Steve Vanetsky, CCMSI, reported on the Property & Liability Monthly Claims Report. He stated for the month of June 2021 there were 305 open claims, 33 new claims and 35 claims were closed. Mr. Vanetsky reported reserves were at \$57,967,234.93, payments were \$30,784,251.60 for a total of \$88,751,486.53.

10.C.3 Property & Liability Large Losses

Mr. Vanetsky reported on a large loss at Eastern University in Portales, 2 separate cases at Rio Rancho, 1 case at Los Lunas, 1 case in Las Cruces and 1 case that includes Rio Rancho, Aztec and Central schools.

Mr. Kevin Sovereign, CCMSI, reported on current pending litigation. He stated details would be provided during Executive Session.

10.C.4 Workers' Compensation Monthly Claims Report

Mr. Jerry Mayo, CCMSI, provided the Workers' Compensation Monthly Claims Report for Districts as of June 30, 2021. He reported during the month of June there were 836 open claims, 81 new claims, 18 claims were re-opened, and 110 claims were closed. Mr. Mayo reported reserves were at \$14,036,120.59, payments were \$49,426,557.96: for a total of \$63,462,678.55.

Mr. Mayo reported on the Workers' Compensation Monthly Claims Report for Charter Schools as of June 30, 2021. Mr. Mayo reported during the month of June, there were 30 open claims, 2 new claims, 2 claims were re-opened, and 3 claims were closed. Mr. Mayo reported reserves were at \$626,504.44; payments were \$1,375,203.90, for a total of \$2,001,708.34.

10.C.5 Workers' Compensation Large Losses

Mr. Mayo reported there have been some COVID-19 related claims, but they have been denied.

10. D HB128 School Personnel Background and Training

This item was moved after item 6.

10. E Loss Prevention Update

Mr. Larry Vigil, Poms & Associates, provided a brief loss control update. He reported there have been some findings because of school safety audits. Critical Hazard Letters were issued to Springer and Gadsden Schools.

11. Executive Session to Discuss Threatened or Pending Litigation Pursuant to §10-15-1 H (7) NMSA 1978

A motion was made to enter into Executive Session to Discuss Threatened or Pending Litigation Pursuant to §10-15-1 H (7) NMSA 1978 at 11:48 a.m.

11. A Espanola Public Schools

11. B Los Lunas Schools

11. C Pecos Independent School District

11. D Rio Rancho Public Schools

11. E Santa Fe Public Schools

11. F Southwest Learning Center

MOTION: D. Martinez Jr.

SECONDED: T. Ruiz

A roll call vote was taken:

Ms. Vigil called roll.

Denise Balderas (**virtual attendee**)

Daniel Benavidez

Pauline Jaramillo, Secretary

Bethany Jarrell

Sammy Quintana

K.T. Manis (**virtual attendee**)

David Martinez Jr.

Trish Ruiz

Chris Parrino, Vice-President

Alfred Park, President

Vote carried unanimously.

A motion was made to come out of Executive Session at 1:13 p.m. The following Threatened or Pending Litigation Pursuant to §10-15-1 H (7) NMSA 1978 was discussed, and no action was taken:

11. A Espanola Public Schools

11. B Los Lunas Schools

11. C Pecos Independent School District

11. D Rio Rancho Public Schools

11. E Santa Fe Public Schools

11. F Southwest Learning Center

MOTION: D. Martinez Jr.

SECONDED: T. Ruiz

A roll call vote was taken:

Ms. Vigil called roll.

Denise Balderas (**virtual attendee**)

Daniel Benavidez

Pauline Jaramillo, Secretary

Bethany Jarrell

Sammy Quintana

K.T. Manis (**virtual attendee**)

David Martinez Jr.

Trish Ruiz

Chris Parrino, Vice-President

Alfred Park, President

Vote carried unanimously.

12. General Discussion

There was no general discussion.

13. Next Meeting Date and Location

August Meeting – August 19, 2021, at 3:30 p.m., Location – GoToMeeting.

14. Adjournment (Action Item)

A motion was made to adjourn the meeting at 1:21 p.m.

MOTION: T. Ruiz

SECONDED: S. Quintana

All Board Members present both in-person and virtual voted in the affirmative.

Vote carried unanimously.

APPROVED:

Mr. Al Park, President

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

GENERAL AND AUTOMOBILE LIABILITY

MEMORANDUM OF COVERAGE – MOCL02~~24~~

July 1, 202~~01~~ to Junely 1~~30~~, 202~~12~~

ISSUED BY: New Mexico Public Schools Insurance Authority
410 Old Taos Highway
Santa Fe, New Mexico 87501

DECLARATION:

Pursuant to NMSA 1978, §22-29-1 TO 22-29-11 and New Mexico Administrative Code, Title 6, Chapter 50, Parts 1 through 18, this Memorandum of Coverage (“Memorandum”) is issued by the New Mexico Public Schools Insurance Authority (“Authority”) to its public school districts, other educational entities and charter schools (“Members”) from which the Authority has timely received the applicable premium for its risk-related coverages as listed in Schedule A attached hereto.

Term of Memorandum of Coverage:

This Memorandum of Coverage is effective from July 1, 202~~01~~ at 12:01 A.M. to Junely 1~~30~~, 202~~12~~ at 12:0~~01~~ ~~PA~~.M. Mountain Standard Time.

Territory:

Coverage under this Memorandum applies worldwide, but coverage does not extend to claims brought in courts outside Puerto Rico, the United States of America, its territories, possessions and Canada.

New Mexico Public Schools Insurance Authority

By: _____
Board of Directors, President Date

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SECTION I – COVERAGES

Within the Limit of Liability defined in Section V:

1. “We” will pay “**Damages Ultimate Net Loss**” on “Your” behalf:
 - A. imposed by the Tort Claims Act, [NMSA 1978 §41-4-1 through 41-4-29].
 - B. arising under and subject to the substantive law of any jurisdiction other than New Mexico, including other states, territories and possessions and the United States of America, and is not limited as provided in the Tort Claims Act [NMSA 1978 §41-4-1 through 41-4-29].
 - C. imposed by the Whistle Blower Protection Act [NMSA 1978 §10-16C-1 through 10-16C-6] subject to limits of liability for “**Back Pay**”, “**Front Pay**”, and multipliers
 - D. loss of “**Back Pay**”, subject to a deductible as set forth in Section VI-Liability Deductible Schedule and also subject to limits of liability as set forth below in Section V Limit of Liability.
 - E. loss of “**Front Pay**”, subject to a deductible as set forth in Section VI-Liability Deductible Schedule and also subject to limits of liability as set forth below in Section V Limit of Liability.
 - F. for “**Personal Injury**” or “**Bodily Injury**” or “**Property Damage**” caused by an “**Occurrence**” and resulting from the ownership, maintenance or use of any “**Automobile**” which “You” own or hired or borrowed or used. While any “**Automobile**” is away from the state where it is licensed, “We” will provide the Limits of Liability stated herein applicable to Coverage B or the minimum amounts and types of other coverages as required of out-of-state vehicles by the jurisdiction where any “Automobile” is being used, whichever is greater.
 - G. of others for “**Personal Injury**” or “**Bodily Injury**” or “**Property Damage**.”
 - H. as a result of a “**Wrongful Act**.”
 - I. of others assumed or retained, but only under an “**Insured Contract**.”
 - J. of an “**Additional Insured**”, but only under an “**Insured Contract**.”
 - K. any award for punitive or exemplary damages awarded against “You” under the substantive law of a jurisdiction other than New Mexico including

but not limited to other states, territories and possessions and the U.S.A., if **“You”** were acting within the scope of your duty.

- L. any award for interest on judgments against **“You”**
- M. any award for any violation of any rights, privileges or immunities secured by the constitution and laws of the United States or the constitution and laws of New Mexico when alleged to have been committed by **“You”** while acting within the scope of **“Your”** duties.
- N. arising under the New Mexico Inspection of Public Records Act [NMSA 1978 §14-2-1 through 14-2-12].
- O. arising under the New Mexico Fraud Against Taxpayers Act [NMSA 1978 §§ 44-9-1 through 44-4-19 and arising under the Federal False Claims Act [31 U.S.C. § 3729].

P. subject to all other policy limitations and exclusions, any coverage for claims arising from or having any connection to Covid 19, including injury or death as a consequence of Covid 19, will be limited to suits brought under the New Mexico Tort Claims Act and subject to limits provided in Section 41-4-19 therein or as amended.

Q. arising out of the New Mexico Civil Rights Act [Chapter 119, Section 1 to 14, Law 2021.] effective July 1, 2021

- 2, as a result of any one **“Occurrence”** for **“Personal Injury”** or **“Property Damage”** or **“Bodily Injury”** or **“Wrongful Act”** during the term of this Memorandum of Coverage subject to the Limits of Liability in this MOC.

“We” are under no obligation to **“You”** unless **“You”** have paid the applicable premium when due. Sections VI and VII describe stand-alone coverages and nothing in Sections I through V of this Memorandum of Coverage (except for the definitions of **“You,” “Your,” “We”** or **“Us”** in Section III) shall affect the intent or interpretation of these stand-alone coverages.

SECTION II – EXCLUSIONS

“We” shall not be required to perform any of the obligations specified in any of the sections of this Memorandum as respects the exclusions. The coverage does not apply:

- 1. To any claim, or suit seeking relief or redress in any forum other than for monetary damages, or for any costs, fees, or expenses which **“You”** shall be obligated to pay as a result of any adverse judgment for restitution,

injunction, an accounting, or declaratory relief. However, **“We”** will defend **“You”** for claims or suits in which a covered claim for monetary **“Damages”** is present as long as the covered claim for **“Damages”** remains.

2. To any obligation for which **“You”** may be held liable under any workers’ compensation, disability benefits, unemployment compensation or any similar law, plan or agreement.
3. To **“Bodily Injury,”** or **“Personal Injury,”** sickness, disease or resulting death of **“You”** or **“Your”** employee arising out of or related to the course of employment by **“You”** or **“Your”** **“Employee,”** or to the spouse, child, parent, brother or sister of **“You”** or **“Your”** **“Employee”** as a consequence thereof or to any obligation to share or contribute to **“Damages”** with (or to repay) someone else because of such **“Bodily Injury,”** sickness, disease or resulting death; except liability assumed by **“You”** under an **“Insured Contract.”**
4. To **“Property Damage”** to (1) property owned by **“You”** or in the **“Your”** care, custody, or control; and (2) property rented to or leased to **“You”** where **“You”** have assumed liability under an **“Insured Contract”** for damage to or destruction of such property.
5. To loss or damage or any liability arising out of or in connection with the principles of eminent domain, condemnation or inverse condemnation, by whatever name called, regardless of whether such claims are made directly against **“You”** or by virtue of any contract entered into by or on **“Your”** behalf.
6. With respect to **“Pollutants”** (including hazardous properties of nuclear material), to any loss, cost, or expense arising out of any:
 - A. request, demand or order that **“You”** 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, suit or proceeding arising out of any governmental or quasi-governmental direction or request that **“You”** test for, monitor, clean up, remove, contain, treat, detoxify, neutralize, or in any way respond to, or assess the effects of **“Pollutants”**; or
 - C. monitoring, clean up, removal, containment, treatment, detoxification, neutralization or any other response to or assessment of the effects of **“Pollutants”** which **“You”** do voluntarily.
7. With respect to Asbestos:

The coverage afforded by the Memorandum does not apply to any cost, fine or penalty related to asbestos or for any expense or claim or suit seeking removal, replacement or cleanup of asbestos or asbestos related products including any of the above that **"You"** do voluntarily.

8. To any refund of taxes, fees or assessments or failure to collect and/or assess taxes, fees or assessments.
9. To any liability **"You"** incur arising, in whole or in part, out of **"Your"** obtaining remuneration or financial gain to which **"You"** are not legally entitled.
10. To any claim arising from **"Your"** activities performed for or on behalf of another private or public employer.
11. To any liability for failure to procure or maintain adequate types or amounts of insurance or bonds.
12. To all administrative costs **"You"** incur in hiring, firing, directing the work or dismissing any **"Employee"** including any claim arising out of the procedures set forth in NMSA 1978, §§22-10-1 through 27 [the School Personnel Act] or other comparable statute, rule or regulation. However, this exclusion does not apply to **"Our"** obligation to defend, adjust, settle and pay any lawsuit claims or judgments for damages for **"Wrongful Act"** or **"Personal Injury"** or **"Property Damage."**
13. As respects **"Uninsured, Underinsured, or Unknown Motor Vehicle"** coverage:
 - A. To any person who does not qualify as an insured under this memorandum while occupying or struck by any **"Motor Vehicle."**
 - B. To **"You"** in settling a **"Bodily Injury"** claim without **"Our"** consent.;
 - C. To any person who pays a charge or fee to occupy a covered **"Motor Vehicle,"** when such vehicle is being used for a purpose which is not a function of the school district, other educational entity or charter school;
 - D. To any person's use of a **"Motor Vehicle"** without having reasonable belief that the person is entitled to do so; and
 - E. To any of **"Your"** **"Employees,"** **"Your"** school bus **"Contractors"** or employees of **"Your"** school bus **"Contractors"** injured in the course of employment who are eligible for workers' compensation benefits as a result of the injury. If **"You"** and **"Your"** school bus **"Contractor"** have not bargained for or paid separate full **"Uninsured, Underinsured Motorist,"**

or Unknown Motor Vehicle” premium for each vehicle under this Memorandum of Coverage.

- F. Anti-Stacking. This Memorandum of Coverage does not include coverage for Stacking or **“Uninsured, Underinsured Motorist, or Unknown Motor Vehicle”** claims.
14. To automobile liability coverage or **“Uninsured, Underinsured or Unknown Motor Vehicle”** coverage of bus **“Contractor’s”** owned and operated buses when such buses are not operated for **“Your”** benefit.
 15. To loss or damage or any liability arising out of or in connection with an Individuals with Disabilities Education Act, 20 USC Chapter 33 and §504 of the Rehabilitation Act of 1973 (IDEA) claim or any action in Federal District Court subsequent to an IDEA proceeding covered under Section VII of this MOC unless you have properly and timely appealed any adverse administrative decision.
 16. To any counterclaim or third party claim in any lawsuit initiated by **“You,”** whether arising out of the facts in the lawsuit initiated by **“You”** or facts stated in the counterclaim or third party claim.
 17. To loss or damage or any liability for which **“You”** are obligated to pay damages by reason of **“Your”** assumption of liability in a contract or agreement. This exclusion does not apply to an **“Insured Contract,”** during the term of the **“Insured Contract”**.
 18. To any claim, other than an automobile liability or automobile physical damage claim, against employees or contractors of contract bus operators.
 19. To any cyber-attacks including breaches of protected information, vicarious liability for data entrusted to a third-party vendor, unencrypted data, bodily or property damages arising out of loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data. Furthermore, loss of, damage to, or loss of use of **“Your”** property, bodily injury, personal injury or property damage, and any loss or claim directly or indirectly caused by or arising out of:
 - (1) Loss, theft, loss of use of, corruption, or inability to access or manipulate tangible or intangible electronic data or paper data, whether owned by **“You”** or others and including but not limited to any handheld or portable device with user-generated content;
 - (2) Loss, theft, breach, publication, unauthorized access, disclosure or use, collection or disposal of any person's or organization's

tangible or intangible electronic data or paper data including but not limited to private, confidential or personal identifying information, medical, financial, employment, health and educational information which triggers any local, state or federal privacy regulations, as well as patents, trade secrets, processing methods or customer lists;

- (3) Any claim for return or reimbursement of any sums or monetary value of any electronic fund transfers or transactions which is lost or diminished during the transfer;
- (4) Any threat or series of threats to commit an intentional act against a computer network or system for purposes of demanding money or other tangible or intangible value from "You";
- (5) Cyberterrorism or any intrusive or disruptive activities against any computer system or network, or the explicit threat to use such activities with the intention to cause harm, by any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s), committed for political, religious or ideological purposes including the intention to influence any government and/or to put the public in fear for such purposes.

In no event will this agreement cover any breach notification, credit, identity and health monitoring and restoration costs; public relations costs, compliance audits, data requests, legal fees, and any local, state, federal or industry or professional organization's investigation, enforcement, remediation or monitoring costs and any fines, penalties, claims, proceedings or suits arising directly or indirectly from (1-5) above.

20. To any loss or damage caused directly or indirectly by a "certified act of terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. Act of Terrorism means any act that is certified by the Secretary of the Treasury, in consultation with the Secretary of Homeland Security, and the Attorney General of the United States.

SECTION III – DEFINITIONS

This Memorandum is subject to the following definitions:

1. **“Additional Insured”** means a party who is added as an insured when required by written contract under an **“Insured Contract”** for **“Bodily Injury”** or **“Personal Injury”** or **“Property Damage”** caused by (1) **“Your”** acts or omissions; or (2) the acts or omissions of those acting on **“Your”** behalf, however coverage granted or afforded to such an “Additional Insured” will not be broader than that which “You” are required by the written contract within the Limits of Liability in Section V;
2. **“Automobile,” “Vehicle” or “Motor Vehicle”** means any land vehicle, machine, forklifts, tractor, trailer or semi-trailer propelled or drawn by mechanical power for travel on or off public roads including any machinery or equipment permanently attached thereto.
3. **“Back Pay”** means the wages or salary and benefits that an employee would have been paid during the period between resignation from employment or termination from employment up to the time in which a claim has settled or is adjudicated.
4. **“Bodily Injury”** means any physical injury (or death) to any person, and any mental injury, emotional distress, shock, sickness, disease, disability, loss of service, "Sexual Molestation or Sexual Abuse" associated with or arising from that physical injury.
5. **“Claim”** means:
 - a. any written demand received by **“You”** alleging liability or responsibility on **“Your”** part for monetary damages or nonmonetary relief;
 - b. a lawsuit or other civil proceeding commenced by the service of a complaint or similar proceeding;
 - c. a criminal indictment commenced by the return of an indictment;
 - d. an arbitration proceeding in which **“Damages”** are claimed, and to which such proceeding the **“Member”** must submit, or does submit with **“Our”** prior written consent; or any other alternative dispute resolution proceeding in which **“Damages”** are claimed, and to which such proceeding **“You”** submit with **“Our”** consent.
 - e. A **“Claim”** does not include a circumstance that has been reported under a prior **“Memorandum of Coverage”**.
6. **“Contractor”** means a person or business entity which undertakes to do specific work for **“You”** using his own means and methods without submitting himself to **“Your”** control except as to the result of the work. **“Contractor”** does not include any persons who are on **“Your”** payroll subject to payroll withholding.

7. **“Crisis Event”** means an actual or threatened event or related series of events that has a harmful effect on a NMPSIA member’s staff, students, or reputation, including acts of an armed person or persons at a member’s location or during an activity organized by the member.
8. **“Crisis Management Services”** means the services of a team of qualified professionals providing public relations, media management, site security, and crisis counseling in response to a **Crisis Event**.
9. **“Damages”** means money **“You”** are legally obligated to pay as compensation for injury, death, pain and suffering, emotional distress, medical expenses, loss of income, necessary care and loss of services resulting from **“Personal Injury.” or “Bodily Injury” or “Wrongful Acts” or “Property Damage”**. **“Damages”** also means money **“You”** are legally obligated to pay as compensation for damage to property or loss of use of property other than property owned by **“You”**. Damages includes prejudgment interest, post judgment interest, punitive and exemplary damages, **Defense Costs**, and the cost of Crisis Management Services following a Crisis Event.

Regardless of the source of **“Your”** obligation, **“Damages”** shall not include the cost to **“You”** of providing educational and educationally related services, including but not limited to, clinical, diagnostic, or testing services or the cost to **“You”** of providing medical evaluations, independent educational services, education or special education services **“You”** are legally obligated to provide **“Your”** students, whether mainstream or special education.

10. **“Defense Costs”** means reasonable fees charged by a lawyer, or a lawyer’s representative, **designated by us or by you with our prior written consent**, and all other reasonable fees, costs and expenses, **if authorized by “Us”**, attributable to the adjustment, settlement, investigation, defense, litigation or appeal of claims and suits covered by this Memorandum. Other salaries paid to **“Your”** employees, **“Your”** office expenses and expenses paid to **“Your”** service company for handling claims are specifically excluded.
11. **“Employee”** means any person who is on **“Your”** payroll subject to pay roll withholding **and whose conduct is within the course and scope of employment**. **“Employee”** includes the **“Employee’s”** estate, heirs, personal representatives or executors.
12. **“Executive Director”** means the person appointed to be in charge of the staff of the Authority.

13. **“FATA Claim”** means any claim arising under the New Mexico Fraud Against Taxpayers Act [NMSA 1978 §§ 44-9-1 through 44-4-19] and/or arising under the Federal False Claims Act [31 U.S.C. § 3729].
14. **“Front Pay”** means future wages or salary and benefits equal to the estimated lost earnings that would have been paid had not the employee resigned or been terminated and the time when the employee can assume a new position, where such a claim has settled or is adjudicated.
15. **“Insured Contract”** means:
 - A. a contract between **“You”** and the owner or landlord of real property for use within the scope of **“Your”** duties; or
 - B. a contract between **“You”** and a railroad operator concerning railroad tracks, spurs or sidetracks or pedestrian or vehicle crossing; or
 - C. a contract for rental or lease of a **“Motor Vehicle”**, equipment, aircraft or watercraft for use by **“You”** while acting within the scope of **“Your”** duties; or
 - D. an easement or license agreement for **“Your”** use in the scope of **“Your”** duties; or
 - E. an elevator maintenance agreement for an elevator used by **“You”** in the scope of **“Your”** duties; or
 - F. a contract between **“You”** and a private user of **“Your”** **“School Facilities”** where the person or persons providing services, such as therapy or treatment are properly licensed and are providing services to students.
 - G. A contract between **“You”** and an Independent Bus Contractor for school related activities.
 - H. That portion of a contract between **“You”** and a health care provider requiring **“You”** to assume the providers liability for negligent acts of **“Your”** student interns currently enrolled in **“Your”** health care instructional programs.
 - I. A contract where **“You”** are leasing or renting a property for **“Your”** operations for **“Bodily Injury”** or **“Personal Injury”** or **“Property Damage”** caused by (1) **“Your”** acts or omissions; or (2) the acts or omissions of those acting on **“Your”** behalf.

- J. A contract where “**You**” are leasing or renting equipment for use on “**Your**” property for “**Bodily Injury**” or “**Personal Injury**” or “**Property Damage**” caused by (1) “**Your**” acts or omissions; or (2) the acts or omissions of those acting on “**Your**” behalf.
- 16. “**IPRA Claim**” means any claim under the New Mexico Inspection of Public Records Act [NMSA 1978 §14-2-1 through 14-2-12.
- 17. “**Occurrence**”
 - A. Includes continuous or repeated exposures to substantially the same general harmful conditions, or events and all such exposures to substantially the same general condition shall be considered as arising from one “**Occurrence**.”
 - B. All claims by any one or more claimants arising from substantially the same or similar acts, omissions, incidents or courses of conduct, shall be considered one “**Occurrence**,” regardless of the number of alleged perpetrators. All claims during the coverage term to which this Memorandum applies by one or more claimants against an alleged perpetrator or perpetrators or insureds shall be considered one “**Occurrence**” regardless of the number of acts, omissions, incidents or courses of conduct by the alleged perpetrator.
 - C. All claims with respect to “**Sexual Harassment**” or “**Sexual Molestation or Sexual Abuse**” shall mean all claims including “**Bodily Injury**” or “**Personal Injury**” arising from all acts committed by the same perpetrator, or two or more perpetrators acting in concert, without regard to the number of victims or incidents. The “**Occurrence**” shall be deemed to have occurred on the date of the initial incident or act.
- 18. “**Personal Injury**” means: an injury arising out of false arrest; false imprisonment; wrongful entry or eviction or interference with the right of occupancy; wrongful detention; malicious prosecution; humiliation; publication or utterance of a libel or slander or other defamatory or derogatory material, or an utterance in violation of an individual’s right to privacy; abuse of process; erroneous service of civil papers; discrimination or violation of civil rights;
- 19. “**Pollutants**” means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, mold and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- 20. “**Property Damage**” means physical injury to or destruction of tangible property including all resulting loss of use of that property

21. **"School Facilities"** means that part of a school district, charter school community college or university campuses or other educational entity in which instruction is offered by one or more teachers and is discernible as a building or group of buildings.
22. **"Sexual Harassment"** means actual or alleged unwelcome or offensive verbal or physical conduct of a sexual nature.
23. **"Sexual Molestation or Sexual Abuse"** means bodily injury resulting from any illegal, sexual, or wrongful conduct.
24. **"Ultimate Net Loss"** means the total sum which **"You"** become obligated to pay by reason of liability claims, either through adjudication or compromise, after making proper deduction for all recoveries and salvages, and shall also include **"Defense Costs."** Fees, charges and expenses for Third Party Claims Administrators are excluded from the **"Ultimate Net Loss."**
25. An **"Uninsured, Underinsured or Unknown Motor Vehicle"** means a **"Motor Vehicle"** of any type:
- A. for which no bond or liability insurance policy or Memorandum applies at the time of an accident, or
 - B. for which an insuring or bonding company denies coverage or is or becomes insolvent, or
 - C. for which there is a bond or liability insurance policy or Memorandum at the time of an accident but the amount paid under the bond or policy or Memorandum is not enough to pay for the full amount **"You"** and **"Your"** passengers are legally entitled to recover.
 - D. which is a hit-and-run **"Vehicle"** and hits **"You"** or an **"Automobile"** occupied by **"You"** or that hits a covered **"Automobile"** and neither the driver nor the owner can be identified.
26. **"We", "Us" or "Our"** means the New Mexico Public Schools Insurance Authority.
27. **"Wrongful Act"** means any actual or alleged: error, act, omission, misstatement or misleading statement, neglect, negligence or breach of duty by "You" including refusal to employ, termination of employment, wrongful demotion, wrongful failure to promote, hostile work environment, wrongful discipline, defamation, humiliation, false arrest, false imprisonment, coercion, libel, slander, retaliation, invasion of privacy, failure to grant tenure, "Sexual Harassment" or discrimination. This

includes coverage pertaining to errors or omissions for the administration of **"Employee"** pension and benefit plans.

28. **"You"** or **"Your"** means a school district, other educational entity, charter school or **"Employee"** as more fully defined in §41-4-3 NMSA 1978.

"You" includes educational entities as enumerated in Article 12, Section 11 of the constitution of New Mexico and other state diploma, degree-granting and certificate-granting post-secondary educational institutions, regional education cooperatives and nonprofit organizations dedicated to the improvement of public education and whose membership is composed exclusively of public school employees, public schools or school districts.

"You" includes Students participating in Career Technical Education (CTE) courses and activities, including nurses training or similar allied health courses.

"You" includes uncompensated Volunteers performing services on **"Your"** behalf and under **"Your"** express direction and authority.

"You" includes past, present and future employees and governing boards and governing councils including directors, regents, and trustees

"You" includes student teachers, teaching assistants, and students while serving in a supervised internship program or work study program in satisfaction of course requirements.

"You" also includes a bus **"Contractor,"** but only as relates to motor vehicle liability **"You"** have agreed to cover under Sections 41-4-5 and 41-4-23B(7), NMSA 1978 from whom or on behalf of whom **"We"** have received the applicable premium.

SECTION IV – CONDITIONS

1. **Contribution Payment:**

The annual premium shall be due and payable upon inception of coverage and renewal thereafter. The amount of the annual premium will be based on rates in effect at the inception of the Memorandum and on each subsequent anniversary. **"We"** shall not be required to perform any obligations under the Memorandum if all premiums are not paid in accordance with terms outlined in **"Our"** rules as set forth in New Mexico Administrative Code, Title 6, Chapter 50, Parts 1 through 18.

2. **Inspection and Audit:**

“We” shall be permitted but not obligated to inspect **“Your”** property and operations at any time. Neither our right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking, on behalf of or for the benefit of **“You”** or others, to determine or warrant that such property or operations are safe. **“You”** shall maintain records of such information as is necessary for premium computation.

3. **“Your” Duties in the Event of an Accident, Claim or Suit:**

- A. In the event of an Accident reasonably likely to be covered by this Memorandum, **“You”** shall provide **“Us”** with written notice containing particulars sufficient to identify any injured persons and also all reasonably obtainable information with respect to the time, place and circumstances of the Accident, **“Your”** contact information and the names and contact information of all available witnesses as soon as practicable.
- B. If a claim is made or suit is brought against **“You for “Wrongful Act”,** **“You”** shall promptly forward to **“Us”** within 45 days every demand, notice of a **“Claim” or circumstances which may give rise to a “Claim”**, summons or other process received by **“You”** or **“Your”** representatives.
- C. **“You”** or **“Your”** authorized representative shall cooperate with **“Us”** and upon our request, assist in making settlements, conducting our defense and investigation of the suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to **“You”** because of all **“Damages”** with respect to which coverage is afforded under this Memorandum. **“You”** also shall answer requests for discovery, attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of the witnesses. **“You”** or **“Your”** authorized representative shall not, except at **“Your”** own cost, and without any right or recourse or reimbursement under this Memorandum, voluntarily undertake investigation, retain defense counsel, make any payment, assume any obligation, or incur any expense, admit any liability, settle any claim, or assume any obligation on a claim or suit.
- D. Should **“You”** fail to timely report a claim or fail to act with reasonable diligence with respect to **“Your”** duty to cooperate fully with adjusters, investigators or attorneys assigned by **“Us”** to a claim or notice of claim against **“You,”** ~~**“We”** reserve the right to add up to a 25% increase to **“Your”** premium otherwise due for the subsequent year.~~ **“We”** reserve the right to determine that we will not be liable for any settlement, defense costs, Assumed Obligation, or Stipulated judgement to which **“We”** have not been timely notified.

4. Defense and Settlement:

“We” shall have the right and duty to defend any claim or suit against **“You”** seeking **“Damages”** on account of claims or suits covered under this Memorandum, but:

- A. **“We”** may investigate and settle any claim or suit at **“Our”** discretion;
- B. upon reasonable notice to **“You,”** **“Our”** right and duty to defend is terminated when the applicable limits of liability are exhausted in the payment of legal fees, **“Defense Costs,”** charges, expenses, judgments or settlements under this Memorandum;
- C. such defense shall be provided even if the allegations of the claim or suit are groundless, false or fraudulent;

5. Our Right to Appoint and Designate Defense Counsel

“We” shall have the right to appoint and designate counsel to represent **“You”** and any counsel **“You”** may employ is at **“Your”** expense.

6. Cross Suits:

In the event ~~of~~ that **“You”** allege a claim for **“Damages”** against another insured under this Memorandum, **“We”** will provide coverage, subject to the limits of liability, conditions, and exclusions of this Memorandum, in the same manner as if separate Memorandums had been issued to **“You”** and the other insured. **“We”** agree to waive all rights of subrogation against all or any of **“You”** in such a case.

7. Bankruptcy and Insolvency:

“We” shall not be relieved of the payment of any claims under this Memorandum because of **“Your”** bankruptcy or insolvency.

8. Other Coverage:

- A. Notwithstanding the terms and conditions of any other insurance clause or clauses in any policy or policies, where coverage is available to **“You,”** the coverage afforded under this Memorandum is intended to be and shall be excess coverage. Under no circumstances shall the coverage afforded by this Memorandum be considered pro rata, concurring or coexistent.
- B. If any other coverage is available to **“You,”** whether such coverage is called excess over, contingent basis or pro rata with other valid and collectible coverage or not, the coverage afforded under this Memorandum

shall not apply until such other coverage has been exhausted. This clause does not apply with respect to excess coverage purchased specifically to be in excess of this Memorandum.

9. Subrogation:

In the event of any payment under this Memorandum, **“We”** shall be subrogated and otherwise entitled to all rights of recovery against any person or organization. **“You”** shall execute and deliver all instruments and papers and do whatever else is necessary to transfer and secure such rights. **“You”** shall do nothing after loss to prejudice such rights. **“You” may waive any right of recovery “We” may have against the person or organizations because of payments “We” make for injury or damage arising out of “Your” ongoing operations of “Your” work done under contract with that person or organization and included in the products-completed operations hazards, but this condition only applies to the extent that subrogation is waived prior to the loss under a written contract with the person or organization.** In case any reimbursement is obtained or recovery is made by **“You”** or by **“Us”** on account of any loss covered by this Memorandum, the net amount of such reimbursement or recovery, after deducting the actual cost of obtaining or making the same off the top of any recovery, (a reasonable and necessary attorneys’ fee may be deducted) shall be applied in the following order:

- A. First, to the amount of loss which exceeds the applicable limit of liability;
- B. Second, to reduce our loss until **“We”** are fully reimbursed;
- C. Third, to reduce **“Your”** loss because of the application of any deductible.

10. Assignment:

Assignment of an interest under this Memorandum shall not bind **“Us”** unless **“We”** give our written consent. If, however, **“You”** shall die, such coverage as is afforded by this Memorandum shall apply:

- A. to **“Your”** legal representative, acting as **“You,”** but only while acting within the scope of his duties as such; and
- B. with respect to **“Your”** property to the person having proper temporary custody thereof, but only until the appointment and qualification of the legal representative.

11. Termination:

This Memorandum and coverage may be terminated by “**You**” or by “**Us**” according to the terms of New Mexico Administrative Code, Title 6, Chapter 50, Parts 1 through 18.

12. Statutory Provisions:

Terms of this Memorandum which are in conflict with the statutes of the State of New Mexico are amended to conform to such statutes.

13. Administrative Appeal:

If “**You**” make a claim for coverage and “**We**” do not agree that the claim is a covered claim under the Memorandum or “**We**” decide to apply the Memorandum to “**Your**” claim in a manner “**You**” disagree with, then, upon written demand of either, the matter or matters upon which we do not agree shall be adjudicated pursuant to Title 6, Chapter 50, Part 16 of the New Mexico Administrative Code (Administrative Appeal of Authority Coverage Determinations).

14. If “**We**” have expended funds to settle claims against “**You**” and it is later determined that there is no coverage under this Memorandum for one or more of those claims, “**We**” reserve the right to seek reimbursement for those funds.

15. Fraudulent Claims:

If “**You**” shall make or cause to be made any claim knowing the claim to be false or fraudulent in any material manner, this coverage shall become void and all “**Your**” rights hereunder shall be forfeited.

16. Changes:

Notice to any of “**Our**” agents or knowledge possessed by any of “**Our**” agents or by any other person shall not effect a waiver or a change in any part of this coverage or prevent “**Us**” from asserting any rights under the terms of this coverage, nor shall the terms of this coverage be waived or changed, except by endorsement issued to form a part of this coverage.

17. Action Against “**Us**”:

Not until “We” determine the amount of the “Ultimate Net loss” shall any administrative appeal with regards to a coverage disagreement be made.

SECTION V – LIMIT OF LIABILITY

Refer to separate self-insured limits applicable to Section VI and VII

Coverage Parts	Limit	Terms
State Tort Claims Act Limits Section 41-4-19 or as amended	\$ 200,000	Property Damage per property address
	\$ 300,000	Medical Expenses
	\$ 400,000	Bodily Injury, Personal Injury Per Person
	\$ 750,000	Per Occurrence
<u>New Mexico Civil Rights Act Section [Chapter 119, Section 1 to 14, Law 2021.] effective July 1, 2021.</u>	<u>\$2,000,000 Per Claimant, inclusive of the claimants' costs of action and reasonable attorney fees</u>	<u>"Personal Injury", "Bodily Injury", Property Damage" and, "Wrongful Acts"</u>
Coverage Parts	Limit	Terms
Back Pay including multipliers under any statute including the New Mexico Whistleblower Protection Act	\$ 500,000	Per Occurrence. Member Deductible Applies. See Section VI Member Deductible Schedule
Front Pay including multipliers under any statute including the New Mexico Whistleblower Protection Act	\$ 500,000	Per Occurrence. Member Deductible Applies. See Section VI Member Deductible Schedule

Out of State and Federal Coverage	\$35,000,000 except with regard to auto liability which will be limited to the caps in the New Mexico Tort Claims Act Limits Section 41-4-1 et seq as amended	<u>Per Occurrence, Per Member, Annual Aggregate Per Member, for Personal Injury, Bodily Injury, Property Damage and Wrongful Act</u>
Insured Contract with an Independent Bus Contractor for school related activities.	State Tort Claims Act Limits Section 41-4-19 plus Reinsurance: \$35,000,000 \$34,000,000 excess of \$1,000,000 maximum liability under the Tort Claims Act	<u>Per Occurrence, for Bodily Injury, Personal Injury and Property Damage</u>
Sexual Molestation or Sexual Abuse	\$35,000,000 \$35,000,000	<u>Per Occurrence, Per Member, Per Member Annual Aggregate Per Member</u> <u>Pool Annual Aggregate</u>

Coverage Parts	Limit	Terms
Any claims under the New Mexico Fraud Against Taxpayers Act [NMSA 1978 §§ 44-9-1 through 44-4-19 or any claims under the Federal False Claims Act [31 U.S.C. § 3729].	\$1,000,000	Per Occurrence
Any claims under the New Mexico Inspection of Public Records Act [NMSA 1978 §14-2-1 through 14-2-12	\$500,000	Per Occurrence

SECTION VI – LIABILITY DEDUCTIBLE SCHEDULE

NMPSIA's Self-Insured Retention for Liability

Coverage	Member Deductible	Terms
Deductible applies to State Tort Claims Act Limits Section 41-4-19 or as amended, <u>New Mexico Civil Rights Act</u> , Out of State, Federal and Sovereign Nations Coverage, and Sexual Molestation or Sexual Abuse	\$ 0	<p>\$200,000 Property Damage per property address</p> <p>\$300,000 Medical Expenses</p> <p>\$400,000 Bodily Injury, Personal Injury Per Person</p> <p>\$750,000 Per Occurrence</p>
Coverage	Member Deductible	Terms
Back Pay Deductible Each Member is assigned a deductible based on your Full Time Employee (FTE) Count	\$ 2,500 \$ 5,000 \$ 30,000 \$ 50,000	0 to 25 026 to 250 251 to 500 501 and Up
Front Pay Deductible Each Member is assigned a deductible based on your Full Time Employee (FTE) Count	\$ 2,500 \$ 5,000 \$ 30,000 \$ 50,000	0 to 25 026 to 250 251 to 500 501 and Up

SECTION VII – LIMITED CRIMINAL DEFENSE COVERAGE

(This coverage is self-insured.)

1. Reimbursement Only With Respect to Coverages B and C:

With regard to coverages B and C, this is reimbursement coverage only. No liability for payment of a claim shall occur unless “**You**” present to “**Us**” proof of loss and “**Your**” exoneration or dismissal of all charges.

2. Covered Events:

- A. Reasonable attorney fees and costs incurred by “**You**” in defending a “**Criminal Proceeding**” arising out of acts authorized by the formal student corporal punishment policy of “**Your**” employer.
- B. Reasonable attorney fees and costs incurred by “**You**” in defending a “**Criminal Proceeding**” alleging “**Sexual Abuse**” or “**Molestation**” of a student if “**You**” are fully exonerated by a court or if all charges are dismissed with prejudice or, if without prejudice, then all of the requirements of Section 6 (E) are met.
- C. Reasonable attorney fees and costs incurred by “**You**” in defending a “**Criminal Proceeding**” alleging “**Assault**” or “**Battery**” if “**You**” are fully exonerated by a court or, if all charges are dismissed with prejudice or, if without prejudice, then all of the requirements of Section 6 (E) are met.

3. Limitation of Liability (maximum amounts of coverage):

“**We**” shall not be obligated to pay attorney fees in excess of \$100 per hour, plus reasonable court costs incurred by “**Your**” defense, including costs of experts subject to the following maximum amounts:

A. “Corporal Punishment”

\$5,000 when all charges are misdemeanors, or
\$15,000 when one or more felony charges are brought;

for each and all “**Criminal Proceedings**” brought against “**You**” arising from the occurrence.

B. “Sexual Abuse” or “Molestation”

\$30,000 for each and all “**Criminal Proceedings**” brought against “**You**” arising from the occurrence.

C. **“Assault” or “Battery”**

\$5,000 when all charges are misdemeanors, or
\$15,000 when one or more felony charges are brought;

for each and all **“Criminal Proceedings”** brought against **“You”** arising from the occurrence.

4. Determination of Coverage:

The determination of whether a **“Criminal Proceeding”** which alleges **“Corporal Punishment,” “Sexual Abuse,” “Molestation,” “Assault” or “Battery”** arises from an occurrence in the course and scope of **“Your”** employment or arises out of **“Your”** educational employment activities shall in the first instance be based on **“Your”** response or the response of **“Your”** attorney, to the allegations made against **“You”**. If evidence obtained as a result of investigation, litigation or otherwise demonstrates that **“Your”** responses with regard to scope of employment are not credible, **“We”** may at any time thereafter determine that the incidents did not occur in the course and scope of **“Your”** employment. In the event **“We”** determine that **“Your”** initial claim that such was within the course and scope of **“Your”** employment was false, **“We”** shall be entitled to reimbursement of the attorneys fees, costs and other expenses incurred by **“Us”** in investigating the question of whether the incidents occurred in the course and scope of **“Your”** employment and any attorneys fees or costs paid by **“Us”** in **“Your”** defense.

5. Definitions:

A. **“Assault” or “Battery”:**

Means **“You”** are charged with any of the following offenses:

- 1) Assault, §30-3-1, NMSA 1978;
- 2) Aggravated Assault, §30-3-2, NMSA 1978;
- 3) Assault with the Intent to Commit a Violent Felony, §30-3-3, NMSA 1978;
- 4) Battery, §30-3-4, NMSA 1978;
- 5) Aggravated Battery, §30-3-5, NMSA 1978;
- 6) Abandonment or abuse of a child, §30-6-1, NMSA 1978.

B. “Sexual Abuse” or “Molestation”:

Means **“You”** are charged with any of the following offenses:

- 1) Contributing to Delinquency of a Minor, §30-6-3, NMSA 1978;
- 2) Criminal Sexual Penetration, §30-9-11, NMSA 1978;
- 3) Criminal Sexual Contact, §30-9-12, NMSA 1978;
- 4) Criminal Sexual Contact of a Minor, §30-9-13, NMSA 1978;
- 5) Sexual Exploitation of Children, §30-6A-3, NMSA 1978.

C. “Corporal Punishment”:

Means **“You”** are charged with any of the following offenses:

- 1) Battery as defined in §30-3-4, NMSA 1978;
- 2) Aggravated Battery as defined in §30-3-5(B) where you were acting as authorized by the formal corporal punishment policy of your employer.

D. “Criminal Proceeding”:

Means the prosecution of **“You”** commenced by the filing, in a Municipal Court or State of New Mexico, Magistrate, Metropolitan or District Court, of any information, complaint, or indictment, alleging that **“You”** had committed one or more crimes within the Coverages. Any such prosecution shall be considered a single criminal proceeding, notwithstanding the fact that the prosecution may involve multiple incidents, multiple counts or charges, and/or multiple trial and/or appellate proceedings. A subsequent or different prosecution based on the same incidents, acts, or events that provided the basis for the original prosecution shall not constitute a separate criminal proceeding.

6. Restrictions:

- A. Method of Payment: **“Corporal Punishment”** defense shall be on a “pay-on-behalf of” basis; **“Sexual Abuse,” “Sexual Molestation”** and **“Assault and Battery”** defense shall be on reimbursement basis upon exoneration.

- B. No coverage is provided for fees or costs incurred prior to at least one of the following events: (1) a target notice is sent to **"You"**; (2) a criminal complaint is filed against **"You"**; or (3) **"You"** are arrested.
- C. If, after investigation, the claim is determined not to fall within **"Your"** scope of employment or the terms of coverage, **"We"** shall be entitled to reimbursement of payments made previously.
- D. Notice of occurrence which may give rise to a claim must be given to **"Us"** as soon as practicable.
- E. In the event **"You"** rely for reimbursement on the charges being dismissed against **"You"** without prejudice, a copy of a notice of dismissal or no true bill must be provided to **"Us"** in order to receive reimbursement and:
 - 1) all of the offenses charged in the complaint, indictment or information are dismissed with prejudice or if dismissed without prejudice are not again filed within the statute of limitations: or
 - 2) there is a hung jury on the rest of the charges or a combination of an acquittal on a charge or charges and a hung jury on the rest of the charges and the right to retry **"You"** is not preserved: or
 - 3) **"You"** received a target notice and the grand jury to which the case was presented issued a no true bill.

87. Method of Payment of Coverage A Claims:

With regard to Coverage A, if **"We"** determine from our investigation that the acts were done in the course and scope of **"Your"** employment and were authorized by **"Your"** employer's corporal punishment policy, **"We"** will assume the reasonable cost of **"Your"** defense and pay as such costs accrue within the limits above, subject to further investigation.

98. Action Against "Us":

No action shall lie against **"Us"** and no claim with regard to a coverage issue shall be made with respect to defense costs for a **"Criminal Proceeding,"** unless as a condition precedent thereto, **"You"** have fully complied with all the terms of this coverage, nor until the amount of the obligation to pay by **"Us"** shall have been finally determined either by final verdict or judgment after actual trial or by written agreement between **"You"** and **"Us."**

10. Multiple Counts or Charges Under Coverages B and C:

For purposes of these coverages, a series of alleged continuous actions by “**You**” shall constitute a single occurrence and the limitation of liability herein shall apply to criminal proceedings arising out of a series of alleged continuous actions by “**You**”.

11. Cancellation:

There has been no additional premium charged by “**Us**” for this limited criminal defense coverage and therefore, no consideration for this coverage has been paid by “**You**” or “**Your**” employer and therefore this coverage may be cancelled by “**Us**” by mailing to “**Your**” employer at the addresses shown in our records, written notice stating when, not less than sixty (60) days thereafter, such cancellation shall be effective. On receipt of such notice “**Your**” employer shall provide similar mailed or delivered notice to “**You**” and such notice shall be provided no less than fifteen (15) days after receipt of notice of cancellation from “**Us**” by “**Your**” employer.

The mailing of notice shall be sufficient proof of notice. The date and time stated in the notice shall become the end of the period of coverage.

12. This Coverage is Excess:

This coverage is excess over any other applicable collectible coverage “**You**” may have.

SECTION VIII – LIMITED IDEA COVERAGE

(This coverage is self-insured)

1. Covered Events:

- A. Reasonable attorney's fees and costs incurred by **"You"** in defending an Individuals with Disabilities Education Act, 20 U.S.C. Chapter 33 (IDEA) and §504 of the Rehabilitation Act of 1973 complaint arising out of rights asserted pursuant to IDEA or Section 504.
- B. Reasonable due process hearing officer's fees and costs incurred by **"You"** in processing a proceeding alleging violation of rights pursuant to IDEA.
- C. Reasonable IDEA attorney's fees and costs which **"You"** agree to pay or are ordered to pay in an IDEA proceeding or in a Federal District Court action arising out of or in connection with an IDEA proceeding.
- D. A and C above in the administrative appeal process plus reasonable costs incurred by **"You"** therein.

2. With regard to coverages A, B, C, and D, this is reimbursement coverage only. There shall be no liability for payment of a claim unless **"You" present to **"Us"** proof of loss and good faith efforts by **"You"** to:**

- A. Negotiate an individual education plan and reasonable accommodations with the parent, custodian or guardian of the student; and
- B. Follow the negotiated plan and provide the reasonable accommodations; and
- C. If good-faith efforts to negotiate a plan fail, engage in good-faith mediation; and
- D. If a plan is negotiated or mediation results in settlement, comply in good faith with the plan or settlement.

3. Limitation of Liability:

"Our" obligation shall not exceed \$100 per hour for hearing officer or attorney time and \$40 per hour for necessary travel plus reasonable costs. A claim for reimbursement shall be presented in a format which separates out the following:

Coverage A) Defending an IDEA claim:

Coverage B) Due Process Hearing:

Coverage C) Complainant's Attorney:

Coverage D) Administrative Appeal Costs:

4. Determination of Coverage/Definition of Proceedings:

The determination of whether a complaint alleges an IDEA claim shall in the first instance be based on allegations of the claim. This is a reimbursement policy and the final decision with respect to coverage shall be made after the claim is processed to a final conclusion. IDEA Proceeding means a written appeal by a parent or guardian of one or more of **"Your"** students which is within the definition of Section VII 1.A of this MOC and is processed to a point where there is a final, binding and non-appealable IDEA determination or settlement entered.

5. Claim Submission/Notice of Claim:

A claim by **"You"** may be filed with **"Us"** after a final, binding, non-appealable IDEA determination or settlement is entered. **"You"** shall submit the information in support of the claim as may be required by **"Us"** in a format as may be required by **"Us."** The information requested will be for the purpose of allowing **"Us"** to make a determination with respect to reimbursement and the levels of reimbursement.

The information submitted by **"You"** in support of the claim shall not contain any personally identifiable information which includes but is not limited to:

- A. The student's name; or
- B. The name of the student's parent or other family member; or
- C. The address of the student or student's family; or
- D. A personal identifier, such as the student's social security number or student number; or
- E. A list of personal characteristics that would make the student's identity easily traceable; or
- F. Other information that would make the student's identity easily traceable.

Where the information required to be submitted to **"Us"** in its raw form contains such references, **"You"** have a duty under 34 CFR Part 99 to edit

or blot out such personally identifiable information prior to copying and submission to **“Us.”**

6. Due Process Reimbursement:

“We” will include due process reimbursement in **“Our”** self-insured retention risk pool. Each year, the legislature shall authorize the board to collect the due process reimbursement premium from **“You”** to cover the cost of due process reimbursement. To the extent **“We”** are authorized to collect the premium from **“You,”** **“We”** will do so based on claims experience and other criteria determined by the board.

Prior to the beginning of each fiscal year, **“We”** shall determine the amount of money available in the fund for special education due process reimbursements. The process by which **“Your”** claims for reimbursement must be made by the end of the fiscal year is established in this Memorandum.

7. Reimbursement Method:

The method for distributing money available for claims payment is on a pro rata basis if the available money is not sufficient to cover all claims. Prior to the end of June, 2009 and prior to the end of June of each year thereafter, **“We”** will determine, based on the premiums collected by **“Us,”** the amount of money available in our self-insured retention risk pool for due process reimbursement. **“Our”** total obligation to all our members for all IDEA due process reimbursements of allowable fees and costs during the term of this Memorandum will be established by **“Us”** prior to the beginning of the term of the successor Memorandum. **“We”** will then, on or before June 30, distribute the money **“We”** determine available on a pro rata basis (for example, if **“Your”** approved claim is 10% of the total of all approved claims for the year, then **“You”** will receive 10% of the total money available that year) in reimbursement for all the eligible claims received by **“Us”** from **“You”** during the term of this MOC. **“We”** will have no further obligation for IDEA reimbursements to **“You”** for IDEA fees or costs incurred by **“You”** that year. In no event shall the reimbursement to **“You”** exceed one hundred thousand dollars (\$100,000) per year for each IDEA proceeding and **“You”** are not entitled to reimbursement beyond the amount determined as **“Your”** pro rata share merely because it was incurred by **“You.”**

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

GENERAL AND AUTOMOBILE LIABILITY COVERAGES

The schedule of covered “Members” is as follows including any other Educational Entities or Charter Schools added during the Term of this Memorandum of Coverage not named in Schedule A:

SCHEDULE A

1. 21st Century Charter School dba 21st Century Public Academy
2. ABQ Charter Academy
3. ABQ Collegiate Charter School
4. Academy for Technology and the Classics
5. ACE Leadership High School
6. ACES Technical Charter School
7. Alamogordo Public Schools
8. Albuquerque Bilingual Academy
9. Albuquerque Institute of Math and Science (AIMS@UNM)
10. Albuquerque School of Excellence
11. Albuquerque Talent Development Academy
12. Aldo Leopold Charter School
13. Alice King Community School
14. Alma D’ Arte Charter High School
15. Altura Preparatory Academy
16. Amy Biehl Charter School
17. Anansi Charter School
18. Animas Charter School
19. Artesia Public Schools
20. Aztec Municipal Schools
21. Belen Consolidated Schools
22. Bernalillo Public Schools
23. Bloomfield School District
24. Capitan Municipal Schools
25. Carlsbad Municipal Schools
26. Carrizozo Municipal Schools
27. Central Consolidated School District #22
28. Cesar Chavez Community School
29. Chama Valley Independent Schools
30. Christine Duncan Heritage Academy
31. Cien Aguas International School
32. Cimarron Municipal Schools
33. Clayton Municipal Schools

34. Cloudcroft Municipal School
35. Clovis Municipal Schools
36. Cobre Consolidated Schools
37. Cooperative Educational Services
38. Coral Community Charter School
39. Corona Public Schools
40. Corrales International Charter School
41. Cottonwood Valley Charter School
42. Cottonwood Classical Preparatory School
43. Cuba Independent Schools
44. DATA Charter School (Digital Arts & Technology Academy)
45. Deming Cesar Chavez High School
46. Deming Public Schools
47. Des Moines Municipal Schools
48. Dexter Consolidated Schools
49. Dora Consolidated Schools
50. Dream Dine' Charter School
51. Dulce Independent Schools
52. DZIL DIT L'OOI School of Empowerment, Action & Perseverance (DEAP)
53. East Mountain Charter School
54. Eastern New Mexico University
55. El Camino Real Academy
56. Elida Municipal Schools
57. Espanola Municipal Schools
58. Estancia Municipal Schools
59. Estancia Valley Classical Academy
60. Eunice Public Schools
61. Explore Academy
62. [Explore Academy – Las Cruces](#)
63. Farmington Municipal Schools
64. Floyd Municipal Schools
65. Fort Sumner Municipal Schools
66. Gadsden Independent Schools
67. Gallup-McKinley County Public Schools
68. Gilbert L. Sena Charter High School DBA: CEPI #2
69. Gordon Bernell Charter School
70. Grady Municipal Schools
71. Grants Cibola County Schools
72. Hagerman Municipal Schools
73. Hatch Valley Municipal Schools
74. Health Leadership High School
75. Hobbs Municipal Schools
76. Hondo Valley Public Schools
77. Horizon Academy West
78. Hozho Academy
79. House Municipal Schools

80. J. Paul Taylor Academy
81. Jal Public Schools
82. Jefferson Montessori Academy
83. Jemez Mountain Public Schools
84. Jemez Valley Public Schools
85. La Academia de Esperanza
86. La Academia de Idiomas Y Cultura
dba La Academia Dolores Huerta Middle School
87. Albuquerque Bilingual Academy
88. La Tierra Montessori School of the Arts & Science
89. Lake Arthur Municipal Schools
90. Las Cruces Public Schools
91. Las Montañas Charter High School
92. Las Vegas City Public Schools
93. Logan Municipal Schools
94. Lordsburg Municipal Schools
95. Los Alamos Public Schools
96. Los Lunas Public Schools
97. Los Puentes Charter School
98. Loving Municipal Schools
99. Lovington Municipal Schools
100. Luna Community College
101. Magdalena Municipal Schools
102. Mark Armijo Academy
103. Maxwell Municipal Schools
104. McCurdy Charter School
105. Media Arts Collaborative Charter School
106. Melrose Municipal Schools
107. Mesa Vista Consolidated Schools
108. Mesalands Community College
109. Middle College High School
110. Mission Achievement and Success Charter School
111. Monte Del Sol Charter School
112. Montessori of the Rio Grande
113. Mora Independent Schools
114. Moreno Valley Charter High School
115. Moriarty Municipal Schools
116. Mosaic Academy
117. Mosquero Municipal Schools
118. Mountain Mahogany Community School
119. Mountainair Public Schools
120. Native American Community Academy
121. New Mexico Activities Association

122. New Mexico Association of School Business Officials
 123. New Mexico Coalition for Educational Leaders
 124. New Mexico Connections Academy
 125. New Mexico Highlands University
 126. New Mexico International School
 127. New Mexico Public Schools Insurance Authority
~~128.~~ New Mexico School for the Arts
~~128.~~~~129.~~ New Mexico School for the Arts – Art Institute
~~129.~~~~130.~~ New Mexico School for the Blind and Visually Impaired
~~130.~~~~131.~~ North Valley Academy
~~131.~~~~132.~~ Pecos Connections Academy
~~132.~~~~133.~~ Pecos Independent Schools
~~133.~~~~134.~~ Penasco Independent Schools
~~134.~~~~135.~~ Pojoaque Valley Public Schools
~~135.~~~~136.~~ Portales Municipal Schools
~~136.~~~~137.~~ Public Academy for Performing Arts
~~137.~~~~138.~~ Quemado Independent Schools
~~138.~~~~139.~~ Questa Independent Schools
~~139.~~~~140.~~ Raices del Saber Xinachtli Community School Charter
~~140.~~~~141.~~ Raton Public Schools
~~141.~~~~142.~~ Red River Valley Charter
~~142.~~~~143.~~ Regional Education Cooperative # 2
~~143.~~~~144.~~ Regional Education Cooperative #6
~~144.~~~~145.~~ Regional Education Cooperative # 7
~~145.~~~~146.~~ Regional Education Cooperative #8
~~146.~~~~147.~~ Reserve Independent Schools
~~147.~~~~148.~~ Rio Gallinas Charter School
~~148.~~~~149.~~ Rio Rancho Public Schools
~~149.~~~~150.~~ Robert F. Kennedy Charter School
~~150.~~~~151.~~ Roots and Wings Community School
~~151.~~~~152.~~ Roswell Independent Schools
~~152.~~~~153.~~ Roy Municipal Schools
~~153.~~~~154.~~ Ruidoso Municipal Schools
~~154.~~~~155.~~ San Diego Riverside Charter School
~~155.~~~~156.~~ San Jon Municipal Schools
~~156.~~~~157.~~ Sandoval Academy of Bilingual Education
~~157.~~~~158.~~ Santa Fe Community College
~~158.~~~~159.~~ Santa Fe Public Schools
~~159.~~~~160.~~ Santa Rosa Consolidated Schools
~~160.~~~~161.~~ School of Dreams Academy (SODA)
~~161.~~~~162.~~ Sidney Gutierrez Middle Schools
~~162.~~~~163.~~ Siembra Leadership High School
~~163.~~~~164.~~ Silver Consolidated Schools
~~164.~~~~165.~~ Six Directions Indigenous School
~~165.~~~~166.~~ Socorro Consolidated Schools
~~166.~~~~167.~~ Solare Collegiate Charter School

~~167.168.~~ South Valley Academy
~~168.169.~~ South Valley Preparatory School
~~169.170.~~ Southwest Aeronautics, Mathematics and Science Academy
~~170.171.~~ Southwest Preparatory Learning Center
~~171.172.~~ Southwest Secondary Learning Center
~~172.173.~~ Springer Municipal Schools
~~173.174.~~ Taos Academy
~~174.175.~~ Taos Charter School
~~175.176.~~ Taos Integrated School of the Arts
~~176.177.~~ Taos International School
~~177.178.~~ Taos Municipal Schools
~~178.179.~~ Tatum Municipal Schools
~~179.180.~~ Technology Leadership High School
~~180.181.~~ Texico Municipal Schools
~~181.182.~~ The Albuquerque Sign Language Academy
~~182.183.~~ The ASK Academy
~~183.184.~~ The Great Academy
~~184.185.~~ The International School at Mesa Del Sol
~~185.186.~~ The MASTERS Program
~~186.187.~~ The Montessori Elementary Schools
~~187.188.~~ The New America School, Las Cruces
~~188.189.~~ The New America School, New Mexico (Albuquerque)
~~189.190.~~ Tierra Adentro Charter School
~~190.191.~~ Tierra Encantada Charter High School
~~191.192.~~ Truth or Consequences Municipal Schools
~~192.193.~~ Tucumcari Public Schools
~~193.194.~~ Tularosa Municipal Schools
~~194.195.~~ Turquoise Trail Charter School
~~195.196.~~ Vaughn Municipal Schools
~~197.~~ Vista Grande High School
~~196.198.~~ Voz Collegiate Preparatory Charter School
~~197.199.~~ Wagon Mound Public School
~~198.200.~~ Walatowa High Charter School
~~199.201.~~ West Las Vegas Public Schools
~~200.202.~~ Western New Mexico University
~~201.203.~~ William W. & Josephine Dorn Charter School
~~202.204.~~ Zuni Public Schools

ENDORSEMENT NO. 1

SPECIFIED MEMBERS - LIMITED PARTICIPATION COVERAGE
ENDORSEMENT

Pursuant to NMSA 1978, §22-29-1 et seq. and New Mexico Administrative Code, Title 6, Chapter 50, Parts 1-18, this Memorandum of Coverage (“**Memorandum**”) is an agreement by the New Mexico Public School Insurance Authority (the “**Authority**”) and its “**Members**,” as listed in Schedule A attached hereto, to provide or obtain insurance protection for all covered losses subject to the limits and other terms and conditions of this “**Memorandum**” and any endorsements attached.

This endorsement modifies insurance of this “**Memorandum**” provided under:

SECTION I – COVERAGES

SCHEDULE A: MEMBERS (As listed)

129. New Mexico School for the Blind and Visually Impaired

<u>Schedule</u>		
<u>Coverage</u>	<u>Covered</u>	<u>Not Covered</u>
<u>General Liability</u>		<u>X</u>
<u>Automobile Liability</u>	<u>X</u>	

It is hereby understood and agreed that the insurance under this “**Memorandum**” shall only apply to the “**Member**” as listed in Schedule A and coverage as designated and described in the Schedule of this endorsement.

1. For purposes of this endorsement, SECTION III - DEFINITIONS, Item 2., is amended with the following:

The word “**Automobile**”, “**Vehicle**” or “**Motor Vehicle**” means a land motor vehicle of a commercial type used solely for the bus transportation of passengers including any machinery or equipment permanently attached thereto. An “**Automobile**” “**Vehicle**” or “**Motor Vehicle**” does not include any land vehicle, machine, forklifts, tractor, trailer or semi-trailer propelled or drawn by mechanical power for travel on or off public roads.

All other terms, conditions, provisions, and exclusions of this “**Memorandum**” remain the same.

NEW MEXICO PUBLIC SCHOOL INSURANCE AUTHORITY

PROPERTY, AUTOMOBILE PHYSICAL DAMAGE, CRIME & CYBER
COVERAGES

MEMORANDUM OF COVERAGE – MOC024

July 1, 2021 to July 1, 2022

ISSUED BY: New Mexico Public School Insurance Authority
410 Old Taos Highway
Santa Fe, New Mexico 87501

DECLARATION:

Pursuant to NMSA 1978, §22-29-1 et seq. and New Mexico Administrative Code, Title 6, Chapter 50, Parts 1-18, this Memorandum of Coverage (“**Memorandum**”) is an agreement by the New Mexico Public School Insurance Authority (the “**Authority**”) and its “**Members**,” as listed in Schedule A attached hereto, to provide or obtain insurance protection for all covered losses subject to the limits and other terms and conditions of this “**Memorandum**” and any endorsements attached. This “**Memorandum**” is intended to describe the terms and conditions of coverage which the “**Authority**” provides as well as the terms and conditions of coverage provided by APIP for claims in amounts excess of what the “**Authority**” provides. In consideration of the contributions paid by the “**Members**” this “**Memorandum**” provides the coverages as set forth in this below.

Throughout this “**Memorandum**,” words and phrases that appear in bold type and quotation marks have special meaning. They are defined in the DEFINITION section and the definitions are controlling as to the meaning of those words and phrases unless modified by definitions in specific coverages.

Term of Memorandum of Coverage:

This “**Memorandum**” is effective from July 1, 2021 to July 1, 2022, 12:01 A.M. local Standard Time at the address shown above. However, as respects **Coverage C only**, this “**Memorandum**” is effective after 12:01A.M. local Standard Time, July 1, 1986.

Territory:

Coverage under this “**Memorandum**” applies to “**Covered Property:**” 1) Real Property located within the United States of America , Personal Property and Personal Property of the “**Member**” or Property held by the “**Member**” in trust or on commission or on consignment for which the “**Member**” may be held legally liable while in due course of transit is extended to Worldwide Coverage; 2) to such other locations as are specified in this “**Memorandum.**”

New Mexico Public Schools Insurance Authority

By: _____
Board of Directors, President Date

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This “**Memorandum**” consists of the following coverage parts:

COVERAGE A:	PROPERTY COVERAGE
COVERAGE B:	AUTOMOBILE PHYSICAL DAMAGE
COVERAGE C:	CRIME COVERAGE
COVERAGE D:	CYBER COVERAGE

COVERAGE A: PROPERTY COVERAGE

Subject to the terms, conditions and exclusions hereinafter contained, this “**Memorandum**” insures all property of every description both Real and Personal Property (including improvements, betterments and remodeling), of the “**Member**”, or property of others in the care, custody or control of the “**Member**”, for which the “**Member**” is liable, or under the obligation to insure

A. EXTENSIONS OF COVERAGE

All coverage extensions are subject to the terms, conditions and exclusion of the “**Memorandum**” except insofar as they are explicitly providing additional coverage.

1. PERSONAL EFFECTS

This “**Memorandum**” is extended to cover only such personal effects and wearing apparel of any of the officials, employees, students and personal effects of the “**Member**” for which the “**Member’s**” governing body maintains a written policy effective prior to the “**Date of Loss**” stating that “**You**” are willing to cover loss or damage to such personal effects while located in accordance with the coverage hereof. The loss, if any, on such property shall be adjusted with and payable to the “**Member**” subject to a \$750 per occurrence deductible. The absence of a written policy by “**Your**” governing body prior to the “**Date of Loss**” will result in no personal effects coverage provided by this “**Memorandum**”.

2. PROPERTY IN COURSE OF CONSTRUCTION AND ADDITIONS

It is understood and agreed that as respects course of construction projects and additions, this “**Memorandum**” will provide automatic coverage subject to the following conditions:

- a. Project involves only real property on new or existing locations (excluding dams, roads, and bridges).
- b. Value of the project at the location does not exceed the Limits of Liability stated in Section II , Item F. Projects that exceed this amount are subject to underwriting approval, prior to binding. However, inadvertent failure to report

projects shall not void coverage of said Project.

Additional Expenses – Soft Costs: This extension applies to new buildings or structures in the course of construction up to the time that the new building(s) or structures(s) is initially occupied or put to its intended use whichever occurs first.

This **“Memorandum”** will cover the additional expenses (soft costs) of the **“Member”** as defined below for up to 25% of the estimated completed value of the project which results from a delay in the completion of the project beyond the date it would have been completed had no loss or damage occurred. The delay must be due to direct physical loss or damage to property insured and be caused by or result from a peril not excluded by this **“Memorandum.”** **“We”** will pay covered expenses when they are incurred.

- a. **Additional Interest Coverage** – **“We”** will pay the additional interest on money the **“Member”** borrows to finance construction or repair.
- b. **Rent or Rental Value Coverage** – **“We”** will pay the actual loss of net rental income that results from delay beyond the projected completion date. But **“We”** will not pay more than the reduction in rental income less charges and expenses that do not necessarily continue.
- c. **Additional Real Estate Taxes or Other Assessments** – **“We”** will pay the additional real estate taxes or other assessments the **“Member”** incurs for the period of time that construction is extended beyond the completion date.
- d. **Additional Advertising and Promotional Expenses** – **“We”** will pay the additional advertising and promotional expense that becomes necessary as a result of a delay in the completion of the project.
- e. **Additional Commissions Expense** – **“We”** will pay the additional expenses, which result from the renegotiating of leases following an interruption in the project.
- f. **Additional Architectural and Engineering Fees** – **“We”** will pay the additional architectural and engineering fees that become necessary as a result of a delay in the completion of the project.
- g. **Additional License and Permit Fees** – **“We”** will pay the additional license and permit fees that become necessary as a delay in the completion of the project.
- h. **Legal and Accounting Fees** – **“We”** will pay the additional legal and accounting fees the **“Member”** incurs as a result of a delay in the completion of the project.

3. FIRE FIGHTING EXPENSES

It is understood and agreed that **“We”** shall be liable for the actual charges of firefighting expenses including but not limited to those charged by municipal or private fire departments responding to and fighting fire in/on and/or protecting property included in this **“Memorandum.”**

4. OFF PREMISES SERVICES INTERRUPTION

It is understood and agreed that coverage under this **“Memorandum”** is extended to include physical damage, business interruption loss and/or extra expense incurred and/or sustained by **“You”** as a result of physical damage to or destruction of property, by **“Covered Perils”** insured against occurring during the **“Memorandum Period”** of any suppliers furnishing heat, light, power, gas, water, telephone or similar services to **“Your”** premises.

5. ARCHITECTS AND ENGINEERS FEES AND LOS ADJUSTMENT EXPENSES

This “**Memorandum**” also insures as a direct result of physical loss or damage insured hereunder, any of the following;

- a) Architects and engineer’s fees
- b) Loss adjustment expenses including, but not limited to, auditors, consultants and accountants. However, the expenses of public adjusters are specially excluded.

6. EXPEDITING EXPENSES

In the event of physical loss or damage insured hereunder, it is understood and agreed that coverage under this “**Memorandum**” includes the reasonable extra cost of temporary repair and of expediting the repair of “**Your**” damaged property, including overtime and the extra costs of express or other rapid means of transportation.

7. DEBRIS REMOVAL:

“**We**” will cover expenses incurred in the removal of debris of the “**Covered Property**” hereunder from “**Your**” premises that may be destroyed or damaged by “**Covered Peril(s)**.” The debris removal coverage does not apply to the cost to extract pollutants from land or water, or to remove, restore or replace polluted land or water

8. BUILDING LAWS

- a. This “**Memorandum**” is extended to include physical damage, business interruption loss, loss of interest and/or extra expense incurred and/or sustained by “**You**” as a result of physical damage to or destruction of property, by “**Covered Perils**” against occurring during the “**Memorandum Period**” and occasioned by the enforcement of any local or state ordinance or law regulating the construction, repair or demolition of buildings or structures, which is in force at the time such a loss occurs, which necessitates the demolition of any portion of the covered building not damaged by the “**Covered Peril(s)**.”
- b. This “**Memorandum**” shall also be liable for loss due to the additional period of time required for repair or reconstruction in conformity with the minimum standards of such ordinance or law of the building(s) damaged by a “**Covered Peril**.”
- c. This extension of coverage shall not increase the “**Limits of Liability**” as set forth elsewhere in this “**Memorandum**.”

9. DEMOLITION COST

In the event of physical damage to **“Covered Property”** insured by a **“Covered Peril,”** this **“Memorandum”** is extended to cover the cost of demolishing any undamaged portion of the **“Covered Property”** including the cost of clearing the site thereof, caused by loss from any **“Covered Peril”** under this **“Memorandum”** and resulting from enforcement of any local or state ordinance or law regulating the construction, repair or demolition of buildings or structures and in force at the time of loss which necessitates such demolition.

10. INCREASED COST OF CONSTRUCTION

In the event of physical damage to **“Covered Property”** insured by a **“Covered Peril,”** this **“Memorandum”** is extended to cover the increased cost of repair or replacement occasioned by the enforcement of any local or state ordinance or law in any state regulating the construction, repair or demolition of buildings or structures, which is in force at the time such a loss occurs or which comes into force within six (6) months after such a loss occurs, which necessitates in repairing or replacing the building covered hereunder which has suffered damage or destruction by the **“Covered Peril”** or which has undergone demolition, limited, however, to the minimum requirements of such ordinance or law.

11. ERRORS AND OMISSIONS

No unintentional errors or unintentional omissions in description, location of property or valuation of property will prejudice **“Your”** right of recovery but will be reported to **“Us”** as soon as practicable when discovered. The coverage provided by this clause is within the sub-limit provided. This extension does not increase any more specific limit stated elsewhere in this **“Memorandum.”**

12. ANIMALS

This **“Memorandum”** is extended to cover retraining expenses associated with the loss of specially trained animals. Retraining expenses are included within the sub-limit provided, unless otherwise scheduled. This **“Memorandum”** is also extended to cover physical loss or damage to animals used for research subject to applicable exclusions under Section II (General Conditions), Item E. Exclusions.

13. VALUABLE PAPERS & RECORDS

This **“Memorandum”** is extended to cover Valuable Papers or the cost to reconstruct valuable paper (including but not limited to research, redrawing or duplicating) physically lost or damaged by a peril insured against during the term of this **“Memorandum.”**

Valuable Papers and Records means all inscribed, printed, or written documents, manuscripts or records; including but not limited to abstracts, books, deeds, drawing, films, maps, or mortgages. Valuable Papers are not money, securities, stamps or converted data program or instructions used in the **“Member’s”** data processing operations including the materials on which data is recorded.

14. TRANSIT

This “**Memorandum**” is extended to cover “**Your**” “**Personal Property**” or property held by “**You**” in trust or on commission or on consignment for which “**You**” may be held legally liable while in due course of transit, worldwide, against all risks of Direct Physical Loss or Damage not excluded by this “**Memorandum**” to the property insured occurring during the period of this “**Memorandum**.”

15. ASBESTOS CLEAN UP AND REMOVAL

This “**Memorandum**” specifically excludes asbestos materials clean up or removal, unless asbestos is itself damaged by a peril covered by this “**Memorandum**,” then asbestos cleanup or removal within the damaged area, and applicable time element coverages, will be covered by this “**Memorandum**.”

In no event will coverage be extended to cover undamaged asbestos, including undamaged asbestos in any portion of the building mandated by any governmental direction or request declaring that asbestos material present in any undamaged portion of “**Your**” property must be removed or modified, or;

any loss or expense including investigation or defense costs, caused by, resulting from, or arising out of asbestos, exposure to asbestos, or any product containing asbestos, or;

any loss or expense normally provided by demolition, increased cost or building ordinance.

“**You**” must report to “**Us**” the existence of the damage as soon as practicable after the loss. However, this “**Memorandum**” does not insure any such damage first reported to “**Us**” more than thirty-six (36) months after the expiration, or termination, of this “**Memorandum**.”

16. PROTECTION AND PRESERVATION OF PROPERTY

In the event of loss likely to be covered by this “**Memorandum**,” “**You**” shall endeavor to protect covered property from further damage and shall separate the damaged and undamaged personal property and store in the best possible order, and shall furnish a complete inventory of the destroyed, damaged and undamaged property to “**Us**.”

In case of actual or imminent physical loss or damage of the type insured against by this “**Memorandum**,” the expenses incurred by “**You**” in taking reasonable and necessary actions for the temporary protection and preservation of property insured hereunder shall be added to the total physical loss or damage otherwise recoverable under this “**Memorandum**” and be subject to the applicable deductible and without increase in the limit provisions contained in this “**Memorandum**.”

Due to the unique nature of Health Care Facilities where it is deemed necessary to evacuate patients from the premises in order to reduce the physical loss potential from an actual or imminent loss or damage by a peril not excluded herein, all terms and conditions of this clause will apply to the expenses incurred as a result of the evacuation.

17. LEASEHOLD INTEREST

In the event of physical loss or damage of the type insured against by this **“Memorandum”** to real property of the type insured by this **“Memorandum,”** which is leased by **“You,”** this **“Memorandum”** is extended to cover:

- (1) If as a result of such loss or damage the property becomes wholly un-tenable or unusable and the lease agreement requires continuation of the rent, **“We”** shall indemnify **“You”** for the actual rent payable for the unexpired term of the lease; or
- (2) If as a result of such loss or damage the property becomes partially un-tenable or unusable and the lease agreement requires continuation of the rent, **“We”** shall indemnify **“You”** proportion of the rent applicable thereto: or
- (3) If as a result of such loss or damage the lease is cancelled by the lessor pursuant to the lease agreement or by operation of law, **“We”** shall indemnify **“You”** for its Lease Interest for the first three months following such loss or damage and for its Net Lease Interest for the remaining unexpired term of the lease:
- (4) provided, however, that **“We”** shall not be liable for any increase in the amount recoverable hereunder resulting from the suspension, lapse or cancellation of any license, or from the **“You”** exercising an option to cancel the lease; or from any act or omission by **“You”** which constitutes a default under the lease, and provided further that **“You”** shall use any suitable property or service owned or controlled by **“You”** or controlled by **“You”** or obtainable from another source to reduce the loss hereunder.

The following definitions shall apply to this coverage:

- (a) Lease Interest means the excess rent for the same or similar replacement property over actual rent payable plus cash bonuses or advance rent paid (including any maintenance or operating charges) for each month during the unexpired term of **“Your”** lease.
- (b) Net Lease Interest means that sum which placed at 8% interest compounded annually would equal the Lease Interest (less any amounts otherwise payable hereunder).

18. AUTOMATIC ACQUISITION AND REPORTING CONDITIONS

This “**Memorandum**” is automatically extended to insure additional property and/or its interests as described in this “**Memorandum**” which may be acquired or otherwise become at the risk of “**You**”, during the “**Memorandum Period**”, within the United States of America, subject to the values of such additional property and/or interests not exceeding \$25,000,000 or the “**Memorandum**” Limit of Liability if less than \$25,000,000 any one acquisition excluding “**Covered Automobiles,**” for which a limit of \$10,000,000 applies or the “**Memorandum**” Limit of Liability if less than \$10,000,000.

As respects Flood coverage, this extension will extend to include Flood coverage for any location not situated in Flood Zones A or V. In the event that coverage for Flood for any location situated in Flood Zones A or V is required, it is to be agreed by “**Us**” prior to attachment hereunder.

In the event of coverage being required for additional property and/or interest where the value exceeds \$25,000,000 or the Policy Limit of Liability if less than \$25,000,000 any one acquisition details of said property and/or interest are to be provided to “**Us**” for its agreement not later than one hundred and twenty (120) days from the date of said additional property and/or interest have become at the risk of “**You,**” this “**Memorandum**” providing coverage automatically for such period of time up to a maximum limit of \$100,000,000 or the “**Memorandum**” Limit of Liability if less than \$100,000,000.

“**We**” retain the right to determine the acceptability of all such property(ies). Additional premium will be calculated from the date of acquisition.

In the event that “**You**” fail to comply with above reporting provision, then coverage hereunder is sub-limited to \$25,000,000 or “**Our**” “**Memorandum**” Limit of Liability if less than \$25,000,000 any one occurrence.

Additional, or return premium due for endorsements issued during the “**Memorandum Term**”, such as those for additions or deletions of values within or greater than as that which is provided in any “Automatic Acquisition sub-limit” will be processed on an annual basis.

20. MISCELLANEOUS UNNAMED LOCATIONS

Coverage is extended to include property at locations (including buildings or structures, owned, occupied or which “**You**” are obligated to maintain insurance) located within the territorial limitations set by this “**Memorandum.**” Coverage provided by this clause is limited to any sub-limit noted in the Limit of Liability, and by terms and conditions of this “**Memorandum.**” As respects Flood coverage, this extension will extend to include Flood coverage for any location not situated in Flood Zones A or V.

21. ACCIDENTAL CONTAMINATION

This **“Memorandum”** is hereby extended to cover Business Interruption and Property Damage loss as a result of accidental contamination, discharge or dispersal from any source to **“Covered Property,”** including expenses necessarily incurred to clean up, remove and dispose of contaminated substances so as to restore the **“Covered Property”** to the same conditions as existed prior to loss. The coverage provided is sub-limited in the Limits of Liability section.

If such contaminated or dispersal is itself caused by fire, lightning, impact from aircraft, explosion, riot, civil commotion, smoke, collapse, vehicles or automobiles, windstorm, hail, vandalism, malicious mischief or leakage and accidental discharge from automatic fire protective systems whereupon this extension shall provide coverage up to full limit of liability provided by this **“Memorandum.”**

For the purposes of this Accidental Contamination clause only, the term **“Covered Property”** as covered by this **“Memorandum,”** is held to include Land (and Land Values) on which **“Covered Property”** is located whether or not the same are excluded by this **“Memorandum.”**

It is further understood and agreed that this coverage shall not override anything contained in Asbestos Clean Up and Removal in this **“Memorandum.”**

B. PROPERTY NOT COVERED

Except as for that which may be provided as an Extension of Coverage, this **“Memorandum”** does not cover:

Aircraft, Watercraft over 27 feet in length (other than watercraft held for sale by **“You”**), and rolling stock, except scheduled watercraft, and rolling stock, light rail vehicles, subway trains and related track maintenance vehicles for light rail and subway lines.

1. Standing timber, bodies of water, growing crops.
2. Land (including land on which covered property is located), and land values (except athletic fields, landscaping, artificial turf, sand traps, trees and greens).
3. Property in due course of ocean marine transit.
4. Shipment by mail after delivery into the custody of the United States Post Office.
5. Power transmission lines and feeder lines more than 1,000 feet from the **“Your”** premises unless scheduled and specifically approved by **“Us.”**
6. Underground pipes more than 1,000 feet from the **“Your”** premises unless scheduled and specifically approved by **“Us.”**

7. Unscheduled tunnels, bridges, dams, catwalks (except those not for public use), roadways, highways, streets, sidewalks, culverts, streetlights, and traffic signals, excess of the sub-limit terms provided in this **“Memorandum.”**
8. Offshore property, oilrigs, underground mines, caverns and their contents. Railroad track is excluded unless values have been reported by **“You.”**

C. LOSS PAYMENT BASIS/VALUATION

In case of loss to **“Your”** property covered hereunder, the basis of adjustment shall be as of the time and place of loss as follows:

- 1) On all real and personal property, including property of others in the care or control by **“You”** at the replacement cost (as defined below) at the time of the loss without deduction for depreciation. If property is not replaced within a reasonable period of time, then the actual cash value shall apply.
- 2) On improvements and betterments at the replacement cost at time of loss without deduction for depreciation. If property is not repaired or replaced within a reasonable period of time, then the actual cash value shall apply. If replaced or repaired by others for **“Your”** use, there shall be no liability hereunder. **“We”** agree to accept and consider the **“Member”** as sole and unconditional owner of all improvements and betterments, any contract or lease **“You”** may have made to the contrary notwithstanding.
- 3) On manuscripts, mechanical drawings, patterns, electronic data processing media, books of accounting and other valuable papers, the full replacement cost of the property at the time of loss (including expenses incurred to recreate the information lost, damaged or destroyed, except as may be limited by any separate **“Memorandum”** provision) or what it would then cost to repair, replace or reconstruct the property with other of like kind and quality. If not repaired, replace or reconstructed within a reasonable period of time, then not to exceed the cost of blank or unexposed material.
- 4) On antique, restored or historical buildings, the cost of acquisition, relocation to the site and renovation or reconstruction. In the event of a partial loss, replacement cost for antique, restored or historical buildings shall mean the cost of repairing, replacing, constructing or reconstructing (whichever is less) the property on the same site using material of like kind and quality necessary to preserve or maintain a buildings’ historical significance without deduction for depreciation.
- 5) On property of others for which **“You”** are liable under contract or lease agreement **“Our”** liability in the event of loss is limited to **“Your”** obligation as defined in said contract or lease agreement but not to exceed the replacement cost.

- 6) On library contents, at replacement cost, or as follows, whichever is greater:

Category	Value (per item)	
Juvenile Materials	USD	49.62
Pamphlets	USD	6.38
Magazines	USD	12.87
Fiction	USD	24.00
Non-Fiction	USD	86.40
Dictionary	USD	125.75
Encyclopedia	USD	300.96
Thesaurus	USD	46.42
Reference (other)	USD	120.77
Abstracts	USD	295.74
Textbook	USD	109.54
Artbooks	USD	65.16
Film	USD	290.15
Book/Diskette	USD	109.54
Vinyl Records	USD	87.05
DVD/VHS	USD	58.03
Audio Cassette	USD	31.91
Compact Discs	USD	25.47
CD ROM	USD	41.21
Books/Audio	USD	78.05
Medical Atlas	USD	186.47
Technical Law	USD	158.24
Nanotechnology	USD	182.73
Biotechnology	USD	172.90

The above valuation is predicated on the values provided by the Library of Congress Dewey Decimal system and adjusted for inflation

The figures above do not include the “shelving cost” of each book. Therefore, the formula for adjusting a library contents loss is:

“Number of items in a category that are replaced multiplied by the valuation figure plus associated shelving costs”.

The actual cost per item in the final adjustment is to be computed as of the time and place of loss or damage.

- 7) On Vehicles, on or off premises, where Replacement Cost (New) values are specified, loss or damage shall be based on the 100% of the Replacement Cost (New) at the time of loss. Partial losses shall be based on the cost of repairing or replacing the damaged portion, up to the fair market value of the Vehicle and/or Equipment. However, should these costs exceed the fair market value then recovery shall be based upon the Replacement Cost (New).

If the values, provided by “You”, provides a valuation based on Replacement Cost (New), then recovery will be on the same basis, if replaced. If not replaced, the basis of recovery shall be Actual Cash Value.

- 8) Animals: The stated value as per schedule on file with “Us”.

Notwithstanding the foregoing it is hereby understood and agreed that solely as respects Universities, hospitals or other institutions of learning the following shall apply:

The stated value as per on file with “Us” except Research Animals shall be valued at the cost to replace with like kind and quality; including the increased value as a result of prior research or experiments performed on the animal(s), accumulated cost of care and maintenance, and the value of labor expended by research assistants and/or laboratory technicians.

- 9) Landscaping, artificial turf, sand traps, tees, putting greens and athletic fields, the actual replacement cost of sod, shrubs, sand, plants and trees; however, “Our” liability for replacement of trees, plants and shrubs will be limited to the actual size of the destroyed plant, tree or shrub at the time of the loss up to a maximum size of 25 gallons per item but not to exceed \$25,000 per item.

The aforementioned valuations shall also be used for the purpose of any minimum earned premium and/or quarterly adjustments incurred.

Wherever the term “Actual Cash Value” is used as respects real property or improvements and betterment’s in this clause, or elsewhere herein, it shall mean replacement cost less depreciation.

“Replacement Cost” shall mean the cost of repairing, replacing, constructing or reconstructing (whichever is the least) the property on the same site, using new material of like kind and quality and for like occupancy without deduction for depreciation, subject to the following:

- (i) Until the property is actually repaired, replaced or reconstructed, the maximum amount recoverable shall be the actual cash value of the lost or damaged property;
- (ii) Replacement shall be affected by “You” with due diligence and dispatch;
- (iii) Replacement need not be on same site, or of same or similar construction or occupancy provided that “We” shall not be liable for any additional costs that are directly attributable to the inclusion of this provision.
- (iv) For historical buildings as more specifically defined in this Section.
- (v) In no event shall “Our” liability exceed the amount actually and necessarily expended in repairing or replacing (whichever is less) “Covered Property” or any part thereof

It is understood and agreed that as respects replacement cost, “You” shall have the option of replacement with electrical and mechanical equipment having technological advantages and/or representing an improvement in function and/or forming part of a program of system enhancement provided that such replacement can be accomplished without increasing “Our” liability. “We” shall be allowed to dispose of, as salvage, any non-proprietary property deemed unusable by “You”.

In the event “**You**” should fail to comply with any of the foregoing provisions settlement shall be made as if this Replacement Cost provision had not been in effect.

SECTION I

BUSINESS INTERRUPTION, EXTRA EXPENSE, RENTAL INCOME TAX INTERRUPTION AND TUITION INCOME

Subject to the terms, conditions an exclusion stated elsewhere herein, this “**Memorandum**” provides coverage for:

A-1. COVERAGE

1. BUSINESS INTERRUPTION

Against loss resulting directly from interruption of business, services or rental income caused by direct physical loss or damage, as covered by this “**Memorandum**” to real and/or personal property insured by this “**Memorandum**,” occurring during the term of this “**Memorandum**.”

In the event of such loss or damage “**We**” shall be liable for the actual loss sustained by “**You**” for gross earnings as defined herein and rental value as defined herein resulting from such interruption of business, services, or rental value; less all charges and expense which do not necessarily continue during the period of restoration.

Due consideration shall be given to the continuation of normal charges and expense including payroll expenses to the extent necessary to resume operations by “**You**” with the same quality of services which existed immediately preceding the loss.

With respect to business interruption for power generation facilities, the coverage provided hereunder is sub-limited as stated in the Limits of Liability section.

Notwithstanding the foregoing it is hereby understood and agreed that solely as respects Universities, hospitals or other institution of learning the following shall apply:

In determining the amount of tuition income and related fees covered hereunder for the purpose of ascertaining the amount of loss sustained, due consideration shall be given to:

- (i) Tuition income and related fees which are prevented from being earned or received.
- (ii) Other income derived from:
 - a. routine and special services;
 - b. Other operating and non-operating revenues, including but not limited to:
 - i. research grants
 - ii. income under research contracts all dependent on continued operations.
- (iii) Donations and funded raising proceeds:
 - a. If a regularly scheduled fundraising drive for the sole benefit of “**You**” occurs during the

period of interruption of operations, the revenue produced by such drive shall be considered as follows in determining the amount of loss:

- (1) If the drive fails to produce an amount at least equal to the same drive in the most recent prior solicitation, the shortage, to the extent that it can be attributed to the interruption of **“Your”** operations, shall be considered as loss of income;
- (2) If the drive produces an amount equal to the same drive in the most recent prior solicitation, there shall be considered no loss of income from this source of revenue;
- (3) If the drive produces an amount larger than the drive in the most recent prior solicitation, the excess shall be applied to reduce the loss from other sources of revenue;
- (4) If the drive is cancelled or postponed, such loss of revenue shall not be considered as loss of income.

b. The following shall be disregarded in determining the amount of loss:

- (1) Donations and contributions which are a direct result of the interruption of **“Your”** Operations and are received by **“You”** during the period of interruption.
- (2) Proceeds for fund raising drives or solicitations which are for the sole benefit of **“You”** and occur as a result of interruption of **“Your”** operations.

2. EXTRA EXPENSE

This **“Memorandum”** is extended to cover the necessary and reasonable extra expenses occurring during the term of the **“Memorandum”** at any location as hereunder defined, incurred by **“You”** in order to continue as nearly as practicable the normal operation of **“Your”** business following damage to or destruction of **“Covered Property”** by a **“Covered Peril”** which is on premises owned, leased or occupied by **“You.”** In the event of such damage or destruction, **“We”** shall be liable for such necessary extra expense incurred for only such length of time as would be required with the exercise of due diligence and dispatch to rebuild, repair or replace such part of the property as has been damaged or destroyed commencing with the date of damage or destruction and not limited by the date of expiration of this **“Memorandum”** (hereinafter referred to as period of restoration).

B-1. EXTENSIONS OF COVERAGE

1. INGRESS / EGRESS

This **“Memorandum”** is extended to insure the actual loss sustained during the period of time not exceeding thirty (30) days when, as a result of physical loss or damage caused by a **“Covered Peril(s)”** specified by this **“Memorandum”** and occurring at property located within a twenty (20) mile radius of

“Covered Property,” ingress to or egress from the **“Covered Property”** covered by this **“Memorandum”** is prevented. Coverage under this extension is subject to a 24-hour waiting period.

2. INTERRUPTION BY CIVIL AUTHORITY

This **“Memorandum”** is extended to insure the actual loss sustained by **“You”** as covered hereunder during the length of time, not exceeding 30 days, when as a direct result of damage to or destruction of property by **“Covered Peril(s)”** occurring at property located within a 20 mile radius of **“Covered Property”**, access to the **“Covered Property”** is specifically prohibited by order of a civil authority. Coverage under this extension is subject to a 24-hour waiting period.

3. DEMOLITION AND INCREASED TIME TO REBUILD

“We” shall, in the case of loss covered by this **“Memorandum”**, be liable also for loss to the interest covered by this **“Memorandum”**, occasioned by the enforcement of any local or state ordinance or law regulating the construction, repair or demolition of buildings or structures and in force at the time such loss occurs, which necessitates the demolition of any portion of the described building(s) not damaged by the **“Covered Peril(s)”**. **“We”** shall also be liable for loss due to the additional period of time required for repair or reconstruction in conformity with the minimum standards of such ordinance or law of the building(s) described in the **“Memorandum”** damaged by a **“Covered Peril.”**

THE **“AUTHORITY”** SHALL NOT BE LIABLE UNDER THIS CLAUSE FOR:

- a. More than the limit of liability as shown elsewhere in this **“Memorandum”**.
- b. Any greater proportion of any loss to the interest covered by this **“Memorandum”** than the amount covered under this **“Memorandum”** on said interest bears to the total insurance and coverage on said interest, whether all such insurance contains this clause or not.

1. CONTINGENT TIME ELEMENT COVERAGE

Business interruption, rental income, tuition income and extra expense coverage provided by this **“Memorandum”** is extended to cover loss directly resulting from physical damage to property of the type not otherwise excluded by this **“Memorandum”** at direct supplier or direct customer locations that prevents a supplier of goods and/or services to the **“Member”** from supplying such goods and/or services, or that prevents a recipient of goods and/or services from the **“Member”** from accepting such goods and/or services.

2. TAX REVENUE INTERRUPTION

Except as hereinafter or heretofore excluded, this **“Memorandum”** insures against loss resulting directly from necessary interruption of sales, property or other tax revenue including, but not limited to Tribal Incremental Municipal Services Payments collected by or due the **“Member”** caused by damage or destruction 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”**.

The **“Authority”** shall be liable for the actual loss sustained for only the length of time as would be required with exercise of due diligence and dispatch to rebuild, replace or repair the contributing property commencing with the date of damage to the contributing property, but not limited by the expiration date of this **“Memorandum”**.

Loss recovery after deductible shall be limited to whichever is the least of:

1. The actual loss sustained;
2. \$1,000,000 per occurrence

3. EXTENDED PERIOD OF INDEMNITY

Business interruption including rental income, tax interruption, tuition income and extra expense coverage provided by this **“Memorandum”** is extended for the additional length of time required to restore the business of the **“Member”** to the condition that would have existed had no loss occurred commencing on either;

- a. the date on which the **“Authority’s”** liability would otherwise terminate or;
- b. the date on which rebuilding, repairing or replacement of such property as has been lost, damaged or destroyed is actually completed, whichever is later.

“Our” liability under this extension shall terminate no later than the number of days indicated in the Declaration Page for this item:

4. EXPENSES TO REDUCE LOSS

This **“Memorandum”** also covers such expenses as are necessarily incurred for the purpose of reducing loss under this section (except incurred to extinguish a fire); but in no event to exceed the amount by which loss is thereby reduced.

C-1. EXCLUSIONS

1. **“We”** shall not be liable for any increase of loss which may be occasioned by the suspension, lapse, or cancellation of any lease or license, contract or order, unless such suspension, lapse, or cancellation results directly from the interruption of business caused by direct physical loss or damage covered by this **“Memorandum”** and, then the **“We”** shall only be liable for such loss as affects the **“Your”** earnings during and limited to, the period of indemnity covered under this **“Memorandum”**.

2. With respect to loss resulting from damage to or destruction of media for, or programming records pertaining to, electronic data processing or electronically controlled equipment, including data thereon, by the perils insured against, the length of time for which “We” shall be liable hereunder shall not exceed:
 - i. Thirty (30) consecutive calendar days or the time required with exercise of due diligence and dispatch to reproduce the data thereon from duplicates or from originals of the previous generation, whichever is less; or,
 - ii. the length of time that would be required to rebuild, repair or replace such other property herein described as has been damaged or destroyed, but not exceeding eighteen (18) calendar months, whichever is the greater length of time.

D-1. CONDITIONS APPLICABLE TO THIS SECTION

If the “**Member**” could reduce the loss resulting from the interruption of business:

- a. by complete or partial resumption of operation of the property whether or not ~~the~~ property be lost or damaged, or;
- b. by making use of merchandise or other property at the “**Member’s**” location or elsewhere;

such reduction shall be taken into account in arriving at the amount of the loss hereunder.

E-1. DEFINITIONS

c. GROSS EARNINGS

"Gross Earnings" is defined as the sum of:

- a. total net sales and;
- b. other earnings derived from the operation of the business
less the cost of;
- c. merchandise sold including packaging materials and;
- d. materials and supplies consumed directly in supplying the service(s) sold by the “**Member**”, and;
- e. service(s) purchased from outside (not employees of the “**Member**”) for resale that does not continue under contract.

No other cost shall be deducted in determining gross earnings.

In determining gross earnings, due consideration shall be given to the experience of the business before the date of loss or damage and the probable experience, thereafter, had no loss occurred.

In the event that Real and/or Personal Property that does not normally produce an income, sustains damage covered under this “**Memorandum**”, the actual recovery under this “**Memorandum**” shall be the continuing fixed charges and expenses directly attributable to such non-productive property.

d. MERCHANDISE

Shall be understood to mean, goods kept for sale by the “**Member**”, which are not the products of manufacturing operations conducted by the “**Member**”.

e. EXTRA EXPENSE

The term "extra expense", whenever used in this “**Memorandum**”, is defined as the excess (if any) of the total cost incurred during the period of restoration chargeable to the operation of the “**Member’s**” business over and above the total cost that would normally have been incurred to conduct the business during the same period had no damage or destruction occurred. Any salvage value of property obtained for temporary use during the period of restoration, which remains after the resumption of normal operations, shall be taken into consideration in the adjustment of any loss hereunder.

f. RENTAL VALUE

The term "rental value" is defined as the sum of:

- a. the total anticipated gross rental income from tenant occupancy as furnished and equipped by the “**Member**”, and;
- b. the amount of all charges which are the legal obligation of the tenant(s) and which would otherwise be obligations of the “**Member**”, and;
- c. the fair rental value of any portion of said property which is occupied by the “**Member**”, and;
- d. any amount in excess of a., b. and c. (above) which is an obligation due under the terms and conditions of any revenue bond, certificate of participation or other financial instrument.

In determining rental value, due consideration shall be given to the experience before the date of loss or damage and the probable experience thereafter had no loss occurred.

g. PERIOD OF RESTORATION

The period during which business interruption and or rental interruption applies will begin on the date direct physical loss occurs and interrupts normal business operations and ends on the date that the damaged property should have been repaired, rebuilt or replaced with due diligence and dispatch, but not limited by the expiration of this **“Memorandum”**.

SECTION II

GENERAL CONDITIONS

D. COVERED PERILS

Subject to the terms, conditions and exclusions stated elsewhere herein, this **“Memorandum”** provides insurance against all risk of direct physical loss or damage occurring during the period of this **“Memorandum”**.

E. EXCLUSIONS

This **“Memorandum”** does not insure against any of the following:

1. Loss or damage caused by or resulting from moths, vermin, termites, or other insects, inherent vice, latent defect, faulty materials, error in design, faulty workmanship, wear, tear or gradual deterioration, rust, corrosion, wet or dry rot, unless physical loss or damage not otherwise excluded herein ensues and then only for such ensuing loss or damage.
2. Physical loss or damage by normal settling, shrinkage or expansion in building or foundation.
3. Delay or loss of markets (this exclusion shall be inapplicable to the extent inconsistent with any time element coverage provided elsewhere herein).
4. **“Breakdown”** to equipment owned, operated or controlled by **“You”** unless loss or damage results from a **“Covered Peril”** and then **“We”** will pay only for the ensuing loss or damage;

Notwithstanding the foregoing exclusion, **“We”** will pay for damage to **“Covered Property”** as follows:

1. Cracking of any part of an internal combustion gas turbine exposed to the products of combustion;
2. Damage to any structure or foundation supporting the equipment owned, operated or controlled by **"You;"**
3. Damage to any vacuum tube, gas tube or brush;
4. Leakage at any valve, fitting, shaft seal, gland packing, joint or connection
5. An explosion unless the direct loss or damage is caused by an explosion of a steam boiler; electric steam generator; steam piping; steam turbine; steam engine; or gas turbine or any other moving or rotating machinery when such explosion is caused by centrifugal force or mechanical breakdown;
6. Explosion within the furnace of a chemical recovery type boiler or within the gas passages from the furnace to the atmosphere;
7. Fire or combustion explosion, including those that result in a **"Breakdown"** of equipment owned, operated or controlled by **"You"**; occur at the same time as a **"Breakdown"** of equipment owned, operated or controlled by **"You,"** or ensue from a **"Breakdown"** of equipment owned, operated or controlled by **"You;"**

so long as such damage is not caused by or as a result of wear or tear, gradual deterioration, depletion, erosion, corrosion, inherent vice, latent defect, insects, moths or vermin, unless direct physical damage or loss not otherwise excluded in this **"Memorandum"** results, and then only for the resulting damage; delay, loss of market or loss of use, interruption of business or any other consequential or indirect loss except as otherwise specifically covered under this **"Memorandum;"**

8. dampness or dryness of atmosphere, extremes or changes of temperature, shrinkage, evaporation, decay or other spoilage, loss of weight, rust, contamination, and change of flavor, color, texture or finish unless resulting from direct physical loss or damage to facilities owned by a public utility or other company contracted to supply natural gas, telecommunications, water electricity, or refrigeration to the **"Covered Location;"** However **"We"** will pay no more than the maximum of \$150,000 per **"Occurrence"** for **"Damages"** from a **"Breakdown"** of equipment owned, operated or controlled by **"You"** for extremes or changes of temperatures including heat, cold waves and freezing due to cold weather if direct physical damage is the result of a **"Covered Peril"**.

5. Loss or damage caused by or resulting from misappropriation, conversion, inventory shortage, unexplained disappearance, infidelity or any dishonest act on the part of the **"Member"**, its employees or agents or others to whom the property may be entrusted (bailees and carriers for hire excepted) or other party of interest.

6. Loss or damage caused by or resulting from electrical injury or disturbance from artificial causes to electrical appliances, devices of any kind or wiring, unless physical loss or damage not otherwise excluded herein ensues and then only for such ensuing loss. This exclusion does not apply to dataprocessing equipment or media.
7. Loss or damage to personal property resulting from shrinkage, evaporation, loss of weight, leakage, breakage of fragile articles, marring, scratching, exposure to light or change in color, texture or flavor, unless such loss is caused directly by fire or the combating thereof, lightning, windstorm, hail, explosion, strike, riot, or civil commotion, aircraft, vehicles, breakage of pipes or apparatus, sprinkler leakage, vandalism and malicious mischief, theft, attempted theft, flood or earthquake shock.
8. Loss or damage caused by rain, sleet or snow to personal property in the open (except in the custody of carriers or bailees for hire).
9. Loss caused directly or indirectly, by:
 - a. War, hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack
 1. by any government or sovereign power (de jure or de facto), or by any Authority maintaining or using military, naval or air forces; or
 - ii. by military, naval or air forces; or
 - iii. by an agent of any such government, power, authority or forces;
 - b. any weapon of war employing atomic fission or radioactive force whether in time of peace or war;
 - c. insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental Authority in hindering, combating or defending against such an occurrence, seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade.
10. Nuclear reaction or nuclear radiation or radioactive contamination from any cause, all whether direct or indirect, controlled or uncontrolled, proximate or remote, or is contributed to or aggravated by a Covered Cause of Loss. However:
 - a. If fire not otherwise excluded results, the “**Authority**” shall be liable for the direct physical loss or damage by such resulting fire, but not including, any loss or damage due to nuclear reaction, nuclear radiation, or radioactive contamination, and
 - b. This “**Memorandum**” does insure against physical loss or damage caused by sudden and accidental radioactive contamination, including resultant radiation damage, from material used or stored or from processes conducted on the Named Insured premises, provided that, at the time of such loss or damage, there is neither a nuclear reactor nor

any new or used nuclear fuel on the “**Member**” premises.

11. As respects course of construction, the following exclusions shall apply:
 - a. The cost of making good: faulty or defective workmanship, materials, construction and/or design, but this exclusion shall not apply to damage by a peril not excluded resulting from such faulty or defective workmanship, materials, construction and/or design, but this exclusion shall not apply to damage by a peril not excluded resulting from such faulty or defective workmanship, materials, construction and/or design.
 - b. The cost of non-compliance of, or delay in completion of contract.
 - c. The cost of non-compliance with contract conditions.
 - d. Contractors' equipment or tools not a part of or destined to become a part of the installation.
12. Loss or damage caused by Earthquake Shock unless a limit is shown in this “**Memorandum**”.
13. Loss or damage caused by Flood unless a limit is shown in this “**Memorandum**”.
14. Loss, damage, cost, claim or expense, whether preventative, remedial or otherwise, directly or indirectly arising out of or relating to:
 - a. the recognition, interpretation, calculation, comparison, differentiation, sequencing or processing of data involving one or more dates or times, by any computer system, hardware, program or software, or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the “**Member**” or not; or
 - b. any change, alteration, correction or modification involving one or more dates or times, to any such computer system, hardware, program or software, or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the “**Member**” or not.

Except as provided in the next paragraph, this Electronic Date Recognition Clause shall apply regardless of any other cause or event that contributes concurrently or in any sequence to the loss, damage, cost, claim or expense.

If direct physical loss or damage not otherwise excluded by this “**Memorandum**” results, then subject to all its terms and conditions, this “**Memorandum**” shall be liable only for such resulting loss or damage. Such resulting loss or damage shall not include physical loss or damage to data resulting directly from a) or b) above, nor the cost, claim or expense, whether preventative, remedial, or otherwise, arising out of or relating to any change, alteration,

correction or modification relating to the ability of any damaged computer system, hardware, program or software, or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment to recognize, interpret, calculate, compare, differentiate sequence or process any data involving one or more dates or times.

15. Loss or damage in the form of, caused by, arising out of, contributed to, or resulting from fungus, mold(s), mildew or yeast; or any spores or toxins created or produced by or emanating from such fungus, mold(s), mildew or yeast;
 - n. fungus includes, but is not limited to, any of the plants or organisms belonging to the major group fungi, lacking chlorophyll, and including mold(s), rusts, mildews, smuts and mushrooms;
 - b. mold(s) includes, but is not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and fungi that produce mold(s); unless directly resulting from other direct physical loss or damage to **“Covered Property”** not excluded during the term of this **“Memorandum”**
 - c. spores mean any dormant or reproductive body produced by or arising or emanating out of any fungus, mold(s), mildew, plants, organisms or microorganisms,

regardless of any other cause or event that contributes concurrently or in any sequence to such loss.

This exclusion shall not apply to any loss or damage in the form of, caused by, contributed to or resulting from fungus, mold(s), mildew or yeast, or any spores or toxins created or produced by or emanating from such fungus, mold(s), mildew or yeast which the **“Member”** establishes is a direct result of a **“Covered Loss”** not otherwise excluded by the **“Memorandum”**, provided that such fungus, mold(s), mildew or yeast loss or damage is reported to the **“Authority”** within twelve months from the expiration date of the **“Memorandum”**. Notwithstanding Section II, Item I., Other Insurance, coverage provided under this paragraph shall apply as primary. Nothing herein contained shall be held to waive, vary, alter or extend any condition or provision of the **“Memorandum”** other than as above stated.

16. Loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence thereto.
17. The following additional exclusions apply to animals covered under this **“Memorandum”**:
 - a. Death of any animal(s) from natural causes.
 - b. Death of any animal(s) that dies from an unknown cause unless:
 - i. upon the death of such animal a post-mortem examination conducted on the animal by a licensed veterinarian, and if
 - ii. the veterinarian's post-mortem report shows the cause of death to clearly fall within the

coverages of this **“Memorandum”**.

- c. Death of any animal(s) as a result of surgical operation, including inoculation, unless the necessity for same arises from a loss otherwise covered by this **“Memorandum”**.
 - d. The death or destruction of any animal(s) caused by, resulting from, or made necessary by physical injury caused by or resulting from the activities of the injured animal or other animals unless such death or destruction is the result of a loss otherwise covered by this **“Memorandum”**.
 - e. The death of any animal(s) caused directly or indirectly by the neglect or abuse of the **“Member”**, his agent, employees or bailees (carriers for hire excepted) unless such death is a result of a loss otherwise covered by this **“Memorandum”**.
 - f. The loss by death of any animal(s) as a result of parturition or abortion.
 - g. Loss resulting from depreciation in value caused by any animal(s) covered hereunder becoming unfit for or incapable of filling the function or duties for which it is kept, employed or intended unless such depreciation is a result of a loss otherwise covered by this **“Memorandum”**.
 - h. Loss by destruction of any animal(s) on the order of the federal or any state government, or otherwise as a result of having contracted or been exposed to any contagious or communicable disease.
 - i. The removal or disposal of the remains of any animal(s) or the expense thereof unless such removal or disposal is the result of a loss otherwise covered by this **“Memorandum”**.
 - j. The loss of any animal(s) that has been unnerved (the term "unnerved" to be considered as meaning the operation of neurotomy for lameness).
 - k. Any claim consequent upon delay, deterioration, or loss of use or loss of market arising from an event covered by this **“Memorandum”**.
18. Loss, damage, costs or expenses in connection with any kind or description of seepage and/or pollution and/or contamination, direct or indirect, arising from any cause whatsoever. Except as provided in Coverage A: Property Coverage, A. Extension of Coverage, 21. Accidental Contamination.

Nevertheless, if fire is not excluded from this Policy and a fire arises directly or Indirectly from seepage and/or pollution and/or contamination, any loss or damage covered under this Policy arising directly from that fire shall (subject to the terms, conditions and limitations of the **“Memorandum”**) be covered.

However, if the covered property is the subject of direct physical loss or damage for which the **“Authority”** has paid or agreed to pay, then this **“Memorandum”** (subject to its terms, conditions and limitations) insures against direct physical loss or damage to the property covered hereunder caused by resulting seepage and/or pollution and/or contamination.

The **“Member”** shall give notice to the **“Authority”** of intent to claim NO LATER THAN TWELVE (12) MONTHS AFTER THE DATE OF THE ORIGINAL PHYSICAL LOSS OR DAMAGE.

Notwithstanding the provisions of the preceding exclusions or any provision respecting seepage and/or pollution and/or contamination, and/or debris removal and/or cost of cleanup in the **“Memorandum”** in the event of direct physical loss or damage to the property covered hereunder, this **“Memorandum”** (subject otherwise to its terms, conditions and limitations, including but not limited to any applicable deductible) also insures, within the sum covered:

- (a) expenses reasonably incurred in removal of debris of the property hereunder destroyed or damaged from the premises of the **“Member”**; and/or;
- (b) cost of clean up at the premises of the **“Member”** made necessary as a result of such direct physical loss or damage;

PROVIDED that this **“Memorandum”** does not insure against the costs of decontamination or removal of water, soil or any other substance on or under such premises.

19. **Authorities Exclusion:**

Fines, penalties or cost incurred or sustained by the **“Member”** or imposed on the **“Member”** at the order of any Government Agency, Court or other Authority, in connection with any kind or description of environmental impairment including seepage or pollution or contamination from any cause.

20. **The following exclusion applies to Terrorism:**

Any act of terrorism. An act of terrorism means an act, including but not limited to the use of the force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organization(s) or government(s), committed for political, religious, ideological or similar purpose including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This **“Memorandum”** also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to the paragraph above.

If the **“Authority”** allege that by reason of this exclusion, any loss, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the **“Member”**.

In the event any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect. All other terms and conditions remain unaltered.

C-1. STATUTES

If any of the articles of this **“Memorandum”** conflict with the laws or statutes of any jurisdictions in which this **“Memorandum”** applies this **“Memorandum”** is amended to conform to such laws or statutes.

D-1. TERRITORIAL LIMITS

This **“Memorandum”** insures Real and Personal Property within the United States of America. Personal Property is extended to Worldwide coverage. The coverage provided by this clause for Personal Property is sub-limited to \$100,000 USDS.

E-1. REINSTATEMENT

Any reduction in the amount insured hereunder due to payment of any loss or losses shall be automatically reinstated for the balance of the term of this contract except as respects to the perils of Earthquake Shock and Flood.

F-1. FREE ON BOARD (F.O.B.) SHIPMENTS

The “**Authority**” shall be liable for the interest of the “**Member**” at sole option of the “**Member**”, the interest of the consignee in merchandise, which has been sold by the “**Authority**” under terms of F.O.B. point of origin or other terms usually regarded as terminating shippers' responsibility short of point of delivery.

G-1. BREACH OF CONDITIONS

If any breach of a clause, condition or warranty of this “**Memorandum**” shall occur prior to a loss affected thereby under this “**Memorandum**”, such breach shall not void the “**Memorandum**” nor avail the “**Authority**” to avoid liability unless such breach shall exist at the time of such loss under this contract or “**Memorandum**” and be a contributing factor to the loss for which claim is presented hereunder, it being understood that such breach of clause or condition is applicable only to the property affected thereby. Notwithstanding the foregoing, if the “**Member**” establishes that the breach, whether contributory or not, occurred without its knowledge or permission or beyond its control, such breach shall not prevent the “**Member**” from recovering under this “**Memorandum**”.

H-1. PERMITS AND PRIVILEGES

Anything in the printed conditions of this “**Memorandum**” to the contrary notwithstanding, permission is hereby granted:

1. to maintain present hazards and hazards which are consistent with the current operation of insured facilities;
2. to make additions, alterations, extensions, improvements and repairs, to delete, demolish, construct and reconstruct, and also to include all materials, equipment and supplies incidental to the foregoing operations of the property covered hereunder, while in, on and/or about the premises or adjacent thereto;
3. for such use of the premises as usual and/or incidental to the business as conducted therein and to keep and use all articles and materials usual and/or incidental to said business in such quantities as the exigencies of the business require;
4. to be or become vacant or unoccupied. If a building becomes vacant or unoccupied, notice is to be given to the “**Authority**” prior to the one-hundred twentieth (120th) consecutive day of vacancy or lack of occupancy. The giving, or failure to give such notice will not constitute a condition precedent to the “**Authority**’s” liability, but the “**Member**” shall make a reasonable effort to comply with such requirement.

This “**Memorandum**” shall not be prejudiced by:

1. any error in stating the name, number, street, or location of any building(s) and contents covered hereunder, or any error or omission involving the name or title of the “**Member**”;
2. any act or neglect of the owner of the building, if the “**Member**” hereunder is not the owner, or of any occupant of the within described premises other than the “**Member**”, when such

act or neglect is not within the control of the **“Member”**, named herein; or

3. by failure of the **“Member”** to comply with any of the warranties or conditions endorsed hereon in any portion of the premises over which the **“Member”** has no control.

I-1. PROTECTIVE SAFEGUARDS

The **“Member”** shall exercise due diligence in maintaining in complete working order all protective safeguard equipment and services.

J-1. ARBITRATION OF VALUE

In case the **“Member”** and the **“Authority”** shall fail to agree as to the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraisers selected. The appraiser shall first select a competent and disinterested umpire, and failing to agree upon such umpire, then, on request of the **“Member”** or the **“Authority”** such umpire shall be selected by judge of a court of record in the state in which the property covered is located.

The appraisers shall as soon as practicable, appraise the loss stating separately the loss of each item and failing to agree, shall submit their differences only to the umpire. An award in writing so itemized, of any two appraisers when filed with the **“Authority”** shall determine the amount of loss. The party selecting him shall pay each appraiser and the expenses of appraisal and umpire shall be paid by the parties equally.

K-1. PROOF OF LOSS

“You” shall render a signed and sworn proof of loss as soon as practical after the occurrence of a loss, stating the time, place and cause of loss, the interest of **“You”** and of all others in the property, the value thereof and the amount of loss or damage thereto.

L-1. SUROGATION

In the event of any loss payment under this **“Memorandum”**, **“We”**, shall be subrogated to all **“Your”** rights of recovery thereof against any person or organization and **“You”** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights.

As respects subrogation it is agreed that, after expenses incurred in subrogation are deducted, **“You”** and the **“Authority”** shall share proportionately to the extent of their respective interests as determined by the amount of their net loss. Any amount thus found to be due to either party from the other shall be paid promptly.

Notwithstanding the above wording, the **“Member”** has the right to enter into an agreement that releases or waives the **“Members”** right to recovery against third parties responsible for the loss if made before the loss occurred.

O-1. ABANDONMENT

There shall be no abandonment to the **“Authority”** of any property.

P-1. ASSIGNMENT

Assignment or transfer of this “**Memorandum**” shall not be valid except with the written consent of the “**Authority**”.

Q-1. SALVAGE

When, in connection with any loss hereunder, any salvage is received prior or subsequent to the payment of such loss, the loss shall be figured on the basis on which it would have been settled had the amount of salvage been known at the time the loss was originally determined. The salvage value will be deducted from the claim or returned to the “**Authority**”.

F. LIMITS OF LIABILITY:

“**We**” will not pay more than the following “**Limits of Liability**” for loss or damage arising from any one “**Occurrence**.”

A) \$750,000,000 per “**Occurrence**” regardless of the number of “**Covered Locations**” or types of coverage involved, subject to the following sub-limits which shall not operate to increase this per “**Occurrence**” limit of liability. When a sublimit is designated as an “**Annual Aggregate**,” that is the maximum “**Limit of Liability**” “**We**” will pay during the “**Term**” of the “**Memorandum**” regardless of the number of “**Occurrences**,” “**Covered Locations**” and/or types of coverage involved.

1. \$100,000,000 per “**Occurrence**” and in the “**Annual Aggregate**” limit for “**Flood**” loss occurring outside of Flood Zone A and V. Flood Zones are mapped by the Federal Emergency Management Agency (FEMA). All “**Flood**” loss that occurs within any 168 hour period will constitute a single “**Flood**” “**Occurrence**.” The expiration of the “**Term**” of this “**Memorandum**” will neither reduce or increase the 168 hour period.
2. \$50,000,000 per “**Occurrence**” and in the “**Annual Aggregate**” limit for “**Flood**” loss occurring within Flood Zone A and V locations. Flood Zones are mapped by the Federal Emergency Management Agency (FEMA). Flood Zone A and V correspond to areas within a 100-year flood zone. All “**Flood**” loss that occurs within any 168 hour period will constitute a single “**Flood**” “**Occurrence**.” The expiration of the “**Term**” of this “**Memorandum**” will neither reduce or increase the 168 hour period.
3. \$100,000,000 per “**Occurrence**” and in the “**Annual Aggregate**” limit per “**Occurrence**” for “**Earthquake**.” All “**Earthquake**” shocks which occur within any 168-hour period will constitute a single “**Occurrence**.” The expiration of the “**Term**” of this “**Memorandum**” will neither reduce or increase the 168-hour period.

4. \$50,000,000 limit per **“Occurrence”** for Extra Expense.
5. \$25,000,000 limit per **“Occurrence”** for Increased Cost of Construction due to the enforcement of building codes/ordinance or law.
6. \$25,000,000 limit per **“Occurrence”** for **“Valuable Papers and Records.”**
7. \$25,000,000 limit per **“Occurrence”** for property-in-transit within the **“Covered Territory”** specified in this **“Memorandum.”**
8. \$1,000,000 Limit per **“Occurrence”** for Loss of Rental and Other Income.
9. \$500,000 Limit per **“Occurrence”** for Tanks, Flues, Drains and Pipes. **“We”** only pay for such loss when directly caused by fire or explosion.
10. \$500,000 Limit per **“Occurrence”** for Air Supported Structures and the contents thereof.
11. \$1,000,000 Limit per **“Occurrence”** for landscaping, trees, shrubs, plants, greens and athletic fields and further subject to \$25,000/25 gallon maximum per item.
12. \$500,000 Limit per **“Occurrence”** for Ingress and Egress coverage.
13. \$3,000,000 Limit per **“Occurrence”** for Contingent Business Interruption.
14. \$500,000 Limit per **“Occurrence”** for **“Leased Equipment.”**
15. \$25,000,000 Limit per **“Occurrence”** for new locations of existing **“Members.”** Additionally, there is automatic coverage for new locations of value greater than \$25,000,000 up to \$100,000,000 for 90 days from date of acquisition. If values are not reported within 90 days from the date of acquisition, the maximum sublimit of \$25,000,000 will apply.
16. \$500,000 Limit per **“Occurrence”** for loss or damage from mold or other fungi, bacteria, wet rot, dry rot, bacteria or mildew which has directly resulted from direct physical damage caused by one or more **“Covered Perils.”** The maximum total limit provided by this coverage extension is \$500,000 per **“Occurrence,”** regardless of the number or type of **“Covered Perils”** involved, the number of **“Covered Locations”** to which this coverage extension applies, or the number or types of mold or other fungi, wet or dry rot, bacteria or mildew.
17. \$250,000,000 **“Annual Aggregate”** for direct physical loss or damage for **“Terrorism.”** This **“Limit of Liability”** combines coverages for Property Damage, Contingent Business Interruption, Loss of Rental and other Income and Extra Expense. There is an additional \$550,000,000 **“Limit of Liability”** applicable to all insureds of **“PEPIP.”**

18. \$25,000,000 Limit per **“Occurrence”** for off premises Services Interruption.

G. DEDUCTIBLES AND EXCESS INSURANCE:

All losses, damages or expenses arising out of anyone **“Occurrence”** shall be adjusted as one loss, and of the total amount of such adjusted loss **“We”** will pay the following maximum amount:

\$1,000,000 for loss from all perils, except hail. **A \$ 2,500,000** per **“Occurrence”** maximum applies for the peril of hail and wind. Property losses in excess of these limits are covered by excess insurance.

Property losses are also subject to **“Member”** deductibles which is outlined below and in the **“Authority’s Summary of Coverage”** for each **“Term”** of the **“Memorandum.”** Where a **“Member”** assumes liability for property coverage under a construction or renovation contract, the contractor shall be responsible for payment of the first \$1,000 of each **“Occurrence.”** The **“Member”** shall pay the remainder of the deductible, up to the maximum amount stated in the **“Authority’s Summary of Coverage.”**

“Member” Deductible Schedule

Each **“Member”** is assigned a building deductible based on the **“Member’s”** total appraised building values. The annual Budget Notice provides the **“Member”** with the recent appraised value. All losses, damages or expenses arising out of anyone **“Occurrence”** shall be considered as one loss, and the following deductibles shall be applied to the total of the loss regardless of the number of buildings that incur damage.

[DISTRICT, CHARTER SCHOOLS & ALL OTHER ENTITIES] (excluding Higher Education)

Building Values	Deductible	Maximum Out of Pocket Deductible	Contents Deductible
\$10 Million and Under	\$1,000	\$4,000	\$750
\$10 to \$20 Million	\$2,500	\$10,000	\$750
\$20 to \$50 Million	\$5,000	\$20,000	\$750
\$50 to \$100 Million	\$10,000	\$40,000	\$750
\$100 to \$200 Million	\$15,000	\$60,000	\$750
\$200 Million and Above	\$25,000	\$100,000	\$750
If there is a combination of building damage and contents damage, only the higher deductible shall be charged. Once the Out of Pocket deductible has been reached, the building deductible will default to \$750 per occurrence for the remainder of the “Term” of the “Memorandum” .			

[HIGHER EDUCATION]

Building Values	Deductible	Maximum Out of Pocket Deductible	Contents Deductible
\$10 Million and Under	\$1,000	\$4,000	\$750
\$10 to \$20 Million	\$2,500	\$10,000	\$750
\$20 to \$50 Million	\$2,500	\$20,000	\$750
\$50 to \$100 Million	\$2,500	\$40,000	\$750
\$100 to \$200 Million	\$2,500	\$60,000	\$750
\$200 Million and Above	\$2,500	\$100,000	\$750
If there is a combination of building damage and contents damage, only the higher deductible shall be charged. Once the Out of Pocket deductible has been reached, the building deductible will default to \$750 per occurrence for the remainder of the “ Term ” of the “ Memorandum ”.			

H. OTHER COVERAGE:

R-1. OTHER INSURANCE:

Permission is hereby granted to the “**Member**” to carry more specific insurance on any property covered under this **Memorandum**. This **Memorandum** shall not attach or become insurance upon any property which at the time of loss is more specifically described and covered under any other policy form until the liability of such other insurance has first been exhausted and shall then cover only the excess of value of such property over and above the amount payable under such other insurance, whether collectible or not. This **Memorandum**, subject to its conditions and limitations, shall attach and become insurance upon such property as respects any peril not covered by such other insurance and not otherwise excluded herein.

In the event of a loss that is covered by other insurance, wherein this **Memorandum** is excess of any amount paid by such other insurer, the other insurance shall be applied to the deductible amount stated elsewhere. Should the amount paid by such other insurance exceed these deductibles, no further deductibles shall be applied under this “**Memorandum**”.

This “**Memorandum**” provides the terms of coverage for the “**Authority’s**” self-insured layer and its provisions prevail, **within the self-insured layer**, over all provisions of excess coverages or individual policies purchased by the “**Authority**” for losses that may also be covered by this “**Memorandum**.”

S-1. RIGHT TO REVIEW RECORDS FOLLOWING AN INSURED LOSS

The “**Member**” as often as may be reasonably required, shall submit and so far as within their power, cause all other persons interested in the property or employees to submit to examination under oath by any person named by “**Us**” relative to any and all matters in connection with a claim, and produce for examination all books of account, bills, invoices and other vouchers or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by “**Us**” or “**Our**” representatives and shall permit extracts and copies thereof to be made.

T-1. CONCEALMENT AND FRAUD

This entire **“Memorandum”** shall be void, if whether before or after a loss, the **“Member”** has willfully concealed or misrepresented any material facts or circumstance concerning this **“Memorandum”** of the subject thereof, or the interest of the **“Member”** therein, or in case of any fraud or false swearing by the **“Member”** relating thereto.

U.1 SUIT AGAINST THE “AUTHORITY”

No suit, action or proceeding for the recovery of any claim under this **“Memorandum”** shall be sustainable in any court of law or equity unless the **“Member”** shall have complied with all the requirements of this **“Memorandum”**, nor unless the suit is commenced within twelve (12) months after the date that the **“Authority”** has made its final offer of settlement or denial of the loss. However, that if under the laws of the jurisdiction in which the property is located such limitation is invalid, then any such claims shall be void unless such action, suit or proceedings be commenced within the shortest limit of time permitted by the laws of such jurisdiction.

V-1. JOINT LOSS ADJUSTMENT – EQUIPMENT BREAKDOWN

In the event of damage to or destruction of property, at a location designated in this **Memorandum”** and also designated in an Equipment Breakdown policy, and there is a disagreement between the **“Us”** and the **“Member”** with respect to:

- (1) Whether such damage or destruction was caused by a peril covered against by this **“Memorandum”** or by an accident covered against by such Equipment Breakdown insurance policy(ies) or;
- (2) The extent of participation of this **“Memorandum”** and of such Equipment Breakdown insurance policy in a loss that is covered against, partially or wholly, by one or all of said policy(ies)/ **“Memorandum”**.

“We” shall, upon written request of the **“Member”**, pay to the **“Member”** one-half of the amount of the loss which is in disagreement, but in no event more than **“We”** would have paid if there had been no Equipment Breakdown insurance policy(ies) in effect, subject to the following conditions:

- (1) The amount of loss which is in disagreement after making provisions for any undisputed claims payable under the said policy/”**Memorandum”** and after the amount of the loss is agreed by the **“Member”** and the Equipment Breakdown Insurer and **“Us”** is limited to the minimum amount remaining payable under either the Equipment Breakdown insurance policy and the **“Memorandum”**.
- (2) The Equipment Breakdown insurer(s) shall simultaneously pay to the **“Member”**, one-half of the said amount, which is in disagreement.

- (3) The payments by “Us” and acceptance of the same by the “Member” signify the agreement of the “Authority” to submit to and proceed with arbitration within ninety (90) days of such payments:

The arbitrators shall be three (3) in number, one of whom shall be appointed by the Equipment Breakdown insurer(s) and one of whom shall be appointed by “Us” hereon and the third appointed by consent of the other two, and the decision by the arbitrators shall be binding on “Us” and the “Member” and that judgment upon such award may be entered in any court of competent jurisdiction.

- (4) The “Member” agrees to cooperate in connection with such arbitration but not to intervene therein.
- (5) This agreement shall be null and void unless the Policy of the Equipment Breakdown Insurer is similarly endorsed.

In no event shall “We” or the Insurer be obligated to pay more than their total single limit.

W-1. LENDERS LOSS PAYABLE

The following provisions (or equivalent) apply as required by "mortgages" and "lenders" to whom certificates of coverage have been issued.

1. Loss or damage, if any, under this “Memorandum”, shall be paid to the Payee named on this “Memorandum”, its successors and assigns, hereinafter referred to as "the Lender", in whatever form or capacity its interests may appear and whether said interest be vested in said Lender in its individual or in its disclosed or undisclosed fiduciary or representative capacity, or otherwise, or vested in a nominee or trustee of said Lender.
2. The insurance under this “Memorandum”, or any rider or endorsement attached thereto, as to the interest only of the Lender, its successors and assigns, shall not be invalidated nor suspended:
 - (a) by any error, omission, or change respecting the ownership, description, possession, or location of the subject of the insurance or the interest therein, or the title thereto;
 - (b) by the commencement of foreclosure proceedings or the giving of notice of sale of any of the property covered by this “Memorandum” by virtue of any mortgage or trust deed;
 - (c) by any breach of warranty, act, omission, neglect, or non-compliance with any of the provisions of this “Memorandum”, including any and all riders now or hereafter attached thereto, by the “Member”, the borrower, mortgagor, truster, vendee, owner, tenant, warehouseman, custodian, occupant, or by the agents of either or any of them or by the happening of any event permitted by them or either of them, or their agents, or which they failed to prevent, whether occurring before or after the attachment of this endorsement, or whether before or after a loss, which under the provisions of this “Memorandum” or of any rider or endorsement attached thereto would invalidate

or suspend the insurance as to the **“Member”**, excluding here from, however, any acts or omissions of the Lender while exercising active control and management of the property.

3. In the event of failure of the **“Member”** to pay any premium or additional premium which shall be or become due under the terms of this **“Memorandum”** or on account of any change in occupancy or increase in hazard not permitted by this **“Memorandum”**, the **“Authority”** agrees to give written notice to the Lender of such non-payment of premium after sixty (60) days from and within one hundred and twenty (120) days after due date of such premium and it is a condition of the continuance of the rights of the Lender hereunder that the Lender when so notified in writing by the **“Authority”** of the failure of the **“Member”** to pay such premium shall pay or cause to be paid the premium due within ten (10) days following receipt of the **“Authority’s”** demand in writing therefore. If the Lender shall decline to pay said premium or additional premium, the rights of the Lender under this Lender's Loss Payable Endorsement shall not be terminated before ten (10) days after receipt of said written notice by the Lender.
4. Whenever the **“Authority”** shall pay to the Lender any sum for loss or damage under this **“Memorandum”** and shall claim that as to the **“Member”** no liability therefore exists, the **“Authority”**, at its option, may pay to the Lender the whole principal sum and interest and other indebtedness due or to become due from the **“Member”**, whether secured or unsecured, (with refund of all interest not accrued), and the **“Authority”**, to the extent of such payment, shall thereupon receive a full assignment and transfer, without recourse, of the debt and all rights and securities held as collateral thereto.
5. If there be any other insurance upon the within described property, the **“Authority”** shall be liable under this **“Memorandum”** as to the Lender for the proportion of such loss or damage that the sum hereby insured bears to the entire insurance of similar character on said property under policies held by, payable to and expressly consented to by the Lender. Any Contribution Clause included in any Fallen Building Clause Waiver or any Extended Coverage Endorsement attached to this contract of insurance is hereby nullified, and also any Contribution Clause in any other endorsement or rider attached to this contract of insurance is hereby nullified except Contribution Clauses for the compliance with which the **“Member”** has received reduction in the rate charged or has received extension of the coverage to include hazards other than fire and compliance with such Contribution Clause is made a part of the consideration for insuring such other hazards. The Lender upon the payment to it of the full amount of its claim, will subrogate the **“Authority”** (pro rata with all other insurers contributing to said payment) to all of the Lender's rights of contribution under said other insurance.
6. The **“Authority”** reserves the right to cancel this **“Memorandum”** at any time, as provided by its terms, but in such case this **“Memorandum”** shall continue in force for the benefit of the Lender for ten (10) days after written notice of such cancellation is received by the Lender and shall then cease.

7. This **“Memorandum”** shall remain in full force and effect as to the interest of the Lender for a period of ten (10) days after its expiration unless an acceptable policy in renewal thereof with loss there under payable to the Lender in accordance with the terms of this Lender's Loss Payable Endorsement, shall have been issued by some insurance company and accepted by the Lender.
- 8 Should legal title to and beneficial ownership of any of the property covered under this **“Memorandum”** become vested in the Lender or its agents, insurance under this **“Memorandum”** shall continue for the term thereof for the benefit of the Lender but, in such event, any privileges granted by this Lender's Loss Payable Endorsement which are not also granted the **“Member”** under the terms and conditions of this **“Memorandum”** and/or under other riders or endorsements attached thereto shall not apply to the insurance hereunder as respects such property.
- 9 All notices herein provided to be given by the **“Authority”** to the Lender in connection with this **“Memorandum”** and this Lender's Loss Payable Endorsement shall be mailed to or delivered to the Lender at its office or branch described on the first page of the **“Memorandum”**.

X-1. SEVERAL LIABILITY NOTICE

“Our” obligations under this **“Memorandum”** are several, not joint and are limited solely to the extent of **“Our”** individual limits of coverage. **“We”** are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

Y-1. LOSS PAYABLE PROVISIONS

A. LOSS PAYABLE

For covered property in which both the **“Member”** and a Loss Payee have an insurable interest, **“We”** will:

1. Adjust losses with the **“Member”**, and;
2. Pay any claim for loss or their damage jointly to the **Member”** and the Loss Payee, as interests may appear.

B. LENDER’S LOSS PAYABLE

1. The Loss Payee is a creditor, including a mortgage holder or trustee, whose interest in Covered Property is established by such written instruments as:

- a. Warehouse receipts;
 - b. A contract for deed;
 - c. Bills of lading;
 - d. Financing statements or;
 - e. Mortgages, deeds of trust or security agreements.
2. For Covered Property in which both the **“Member”** and a Loss Payee have an insurable interest:
- f. **“We”** will pay for covered loss or damage to each Loss Payee in their order of precedence, as interests may appear.
 - g. The Loss Payee has the right to receive loss payment even if the Loss Payee has started foreclosure or similar action on the Covered Property.
 - h. If **“We”** deny the **“Member’s”** claim because of the **“Member’s”** act or because the **“Member”** has failed to comply with the terms of the **“Memorandum”** Coverage Part, the Loss Payee will still have the right to receive loss payment if the Loss Payee:
 - (I) Pays any premium due under this Coverage Part at our request if the **“Member”** has failed to do so;
 - (II) Submits a signed, sworn proof of loss within ninety (90) days after receiving notice from us of the **“Member’s”** failure to do so, and;
 - (III) Has notified us of any change in ownership, occupancy or substantial change in risk known to the Loss Payee.

All of the terms of this Coverage Part will then apply directly to the Loss Payee.

- i. If **“We”** pay the Loss Payee for any loss or damage and deny payment to the **“Member”** because of the **“Member’s”** acts or because the **“Member”** has failed to comply with the terms of this **Memorandum Coverage Part**:
 - (I) The Loss Payee's rights will be transferred to us to the extent of the amount the **“Authority”** pays and;
 - (II) The Loss Payee's rights to recover the full amount of the Loss Payee's claim will not be impaired.

At our option, **“We”** may pay to the Loss Payee the whole principal on the debt plus any accrued interest. In this event, the **“Member”** will pay the **Member’s** remaining debt to **Us**.

3. If **“We”** cancel this **“Memorandum”**, **“We”** will give written notice to the Loss Payee at least:
- a. Ten (10) days before the effective date of cancellation if **“We”** cancel for the **“Member’s”** non-payment of premium or;

- b. Thirty (30) days before the effective date of cancellation if “**We**” cancel for any other reason.
4. If “**We**” elect not to renew this “**Memorandum**”, **We** will give written notice to the Loss Payee at least ten (10) days before the expiration date of this **Memorandum**”.

C. CONTRACT OF SALE

1. The Loss Payee is a person or organization the “**Member**” has entered a contract with for the sale of “**Covered Property**”.
2. For “**Covered Property**” in which both the “**Member**” and the Loss Payee have an insurable interest, “**We**” will:
 - a. Adjust losses with the “**Member** Insured and;
 - b. Pay any claim for loss or damage jointly to the “**Member**” and the Loss Payee, as interests may appear.

3. The following is added to the OTHER INSURANCE Condition:

For Covered Property that is the subject of a contract of sale, the word “**Member**” includes the Loss Payee.

D. ELECTRONIC DATA

1. Electronic Data Exclusion

Notwithstanding any provision to the contrary within the “**Memorandum**” or any endorsement thereto, it is understood and agreed as follows:

- a. This “**Memorandum**” does not insure loss, damage, destruction, distortion, erasure, corruption or alteration of ELECTRONIC DATA from any cause whatsoever (including but not limited to COMPUTER VIRUS) or loss of use, reduction in functionality, cost, expense of whatsoever nature resulting therefrom, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

ELECTRONIC DATA means facts, concepts and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes program, software, and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.

COMPUTER VIRUS means 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".

- b. However, in the event that a **“Peril”** listed below results from any of the matters described in paragraph a) above, this **“Memorandum”**, subject to all its terms, conditions and exclusions will cover physical damage occurring during the **Memorandum** period to property insured by this **“Memorandum”** directly caused by such listed peril.

Listed Perils: Fire, Explosion

2. Electronic Data Processing Media Valuation

Notwithstanding any provision to the contrary within this **“Memorandum”** or any endorsement thereto, it is understood and agreed as follows:

Should electronic data processing media insured by this **“Memorandum”** suffer physical loss or damage insured by this **“Memorandum”**, then the basis of valuation shall be the cost to repair, replace or restore such media to the condition that existed immediately prior to such loss or damage, including the cost of reproducing any ELECTRONIC DATA contained thereon, providing such media is repaired, replaced or restored. Such cost of reproduction shall include all reasonable and necessary amounts incurred by the **“Member”** in recreating, gathering and assembling such ELECTRONIC DATA. If the media is not repaired, replaced or restored, the basis of valuation shall be the cost of the blank media. However, this **“Memorandum”** does not insure any amount pertaining to the value of such ELECTRONIC DATA to the **“Member”** or any other party, even if such ELECTRONIC DATA cannot be recreated, gathered or assembled.

I. GENERAL DEFINITIONS

1. **“Authority”** means the New Mexico Public School Insurance Authority and its employees and authorized representatives.
2. **Actual Cash Value** means replacement cost new less depreciation.
3. **Annual Aggregate** means a “Limit of Liability” up to which **“We”** will pay during each Term of this **“Memorandum”** regardless of the number of claims submitted.
4. **Automobile,” “Automobiles”** means a land motor vehicle of a private passenger type or of a commercial type used for the transportation of passengers, the delivery of goods or

for any other business purpose directly related to the operation of the “**Member**,” including equipment permanently attached thereto. An “**Automobile**” does not include any motor vehicle owned by or registered in the name of any employee, volunteer, officer, or board member, of a “**Member**,” or any motor vehicle insured elsewhere for physical damage coverage.

5. “**Breakdown**” means the following direct physical loss that causes physical damage to any of the following owned, operated or controlled by “**You**”:
 - a. Equipment designed and built to operate under internal pressure or vacuum other than weight of contents except the furnace and the gas passages from any boiler or fired vessel to the atmosphere,
 - b. Communication equipment and Computer equipment but does not include electronic data or media,
 - c. Fiber optic cable, or
 - d. Any other electrical or mechanical equipment that is used in the generation, transmission or utilization of energy, caused by electrical failure including arcing; failure of pressure or vacuum equipment; or mechanical failure including rupture or bursting caused by centrifugal force.
6. “**Computer Operations**” means computer hardware of any kind, computer networks and networking equipment, “**Computer Programs**,” electronic data processing media, “**Electronic Data**,” operating systems, media microchips, microprocessors, integrated circuits or similar devices, firmware, software, servers, websites, and all input, output processing, storage and off-line media libraries.
7. “**Computer Programs**” means recorded instructions, whether digital or otherwise, for the processing, collecting, transmitting, recording, retrieval or storage of “**Electronic Data**.”
8. “**Computer Virus**” means any corrupting, harmful or otherwise unauthorized instructions or code, including, but not limited to, any maliciously introduced unauthorized instructions or code, programmatic or otherwise, that propagate themselves through a computer system or network. “**Computer Virus**” includes, but is not limited to, “Trojan Horses,” “worms” and time or logic bombs.
9. “**Contaminant**,” “**Contamination**,” “**Contaminated**,” See definition of “**Pollutants**,” “**Pollution**,” “**Polluted**.”

10. **“Coverage Territory”** means the **“Member’s”** premises, and for property in transit anywhere in the United States of America, Puerto Rico and Canada. Certain specified coverages may apply as well to other locations as specified in this **“Memorandum.”**
11. **“Covered Location”** means a **“Member’s”** premises as listed in the **“Authority’s”** most recent building appraisal and any new properties acquired since the **“Authority’s”** most recent building appraisal.
12. **“Covered Peril”** means any cause of direct physical loss or damage except those excluded under the terms of this **“Memorandum.”**
13. **“Covered Property”** means all **“Real Property”** and **“Personal Property”** except that which is excluded under the terms of this **“Memorandum.”**
14. **“Date of Loss”** means the time at which an event or casualty causing loss or damage occurs.
15. **“Earthquake”** means any and all losses from this cause within a one hundred sixty-eight (168) hour period shall be deemed to be one loss. The **“Member”** may elect the moment from which each of the aforesaid periods of one hundred sixty-eight (168) hours shall be deemed to have commenced but no two such one hundred sixty eight (168) hour periods shall overlap.

“We” shall not be liable for any loss caused by an earthquake shock occurring before the effective date and time of this **“Memorandum”**. **“We”** will be liable for any losses occurring for a period of up to one hundred sixty eight (168) hours after the expiration of this **Memorandum”** provided that the first earthquake shock loss or damage within that one hundred sixty eight (168) hours occurs prior to the date and time of the expiration of this **“Memorandum”**.

In the event of there being a difference of opinion between the **“Member”** and **“The Authority”** as to whether or not all earthquake shock losses sustained by the **“Member”** during an elected period of one hundred sixty eight (168) hours arose out of, or were caused by a single earthquake shock, the stated opinion of the National Earthquake Shock Information Service of the United States Department of the Interior or comparable Authority in any other country or locality shall govern as to whether or not a single earthquake shock continued throughout the period at the locations involved.

The term earthquake shock is defined as any natural or man-made earth movement (except mudslide or mud flow caused by accumulation of water on or under the ground) caused by earthquake, volcanic action, landslide, subsidence or tsunami including also volcanic eruption, meaning eruption, explosion, or effusion of a volcano.

16. **“Electronic Data”** means data, information and knowledge recorded or transmitted in a form usable by **“Computer Programs,”** microchips, integrated circuits or similar devices in non-computer equipment which can be stored on electronic data processing media, including but not limited to, hard or floppy disks, CD-ROMs, tapes, drives, cells and other data processing devices.
17. **“Employee” or “Employees” means:**
- 1) Any natural person:
 - a. while in **“Your”** service;
 - b. whom **“You”** compensate directly by salary or Wages; and
 - c. whom **“You”** have the right to manage the work, direct the work and control the work while performing services for **You.”**
 - 2) Any natural person:
 - a. who is a non-compensated officer or elected or appointed official in service to **“You;”** or
 - b. who is a director or trustee in service to **“You”** while performing acts coming within the scope of their usual duties for **“You.”**
 - c. **Any natural person who is:**
 - a. a “regular volunteer” pursuant to 6.50.18 NMAC in service to **“You.”**

18. **“Expiration”** means the termination of this **“Memorandum”** at the end of the **“Term.”**

19. **“Flood”** means the general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation of run-off of surface waters from any source; mud-slide or mud-flow proximately caused by flooding; the accumulation of water underground or water which backs up through sewers, drains or sumps.

Each loss by flood shall constitute a single loss hereunder;

1. If any flood occurs within a period of the continued rising or overflow of any river(s) or stream(s) and the subsidence of same within the banks of such river(s) or stream(s) or;

2. If any flood results from any tidal wave or series of tidal waves caused by any one disturbance;

such flood shall be deemed to be a single occurrence within the meaning of this **“Memorandum”**.

Should any time period referred to above extend beyond the expiration date of this **“Memorandum”** and commence prior to expiration, **“We”** shall pay all such flood losses occurring during such period as if such period fell entirely within the term of this **“Memorandum”**.

“We” shall not be liable, however, for any loss caused by any flood occurring before the effective date and time of this **“Memorandum”** or commencing after the expiration date and time of this **“Memorandum”**.

The definition of flood does not include ensuing loss or damage by fire, explosion, or sprinkler leakage.

- i. Flood zones A and V as referenced in this **“Memorandum”** are defined by FEMA as being inclusive of all 100-year high risk flood areas. A one-hundred-year flood is a flood event that has a 1% probability of occurring in any given year.

20. “Limit of Liability,” means the maximum amount **“We”** will pay for claims as specified in detail in Section 6 of this **“Memorandum.”**

21. “Member:” means all participating School Districts, Charter Schools, Regional Education Cooperatives and Post-Secondary Institutions, as listed in Schedule (A) attached hereto and made part of this **“Memorandum.”**

22. “Memorandum of Coverage” means the New Mexico Public School Insurance Authorities written description of insurance for certain property related risks of its **“members”**.

23. “Occurrence” means all covered loss, damage or sequence of losses or damages, casualties or disasters arising from a single event or accident. With respect to the perils of **“Earthquake”** and **“Flood,”** one event shall be construed to include all losses arising during a continuous period of 168 hours. Except where the **“Limit of Liability”** is indicated as being an **“Annual Aggregate,”** loss under this **“Memorandum”** shall not reduce the stated **“Occurrence”** limits.

24. “Personal Property” means Property other than **“Real Property”** including: furniture, fixtures, machinery, equipment, stock, computers and office machinery, **“Your”** interest in as a tenant in improvements and betterments to leased premises and leased personal property which **“You”** have a contractual responsibility to provide property coverage for.

25. “Personal Property of Others” means any property (other than Real Property) belonging to others for which a **“Member”** has assumed liability. This includes but is not limited to:

Articles of Clothing
Jewelry
Sound Equipment
Fine Arts (up to the sub-limit of unscheduled fine arts)
EDP Media & Hardware
Valuable Papers
Portable Electronic Equipment
Employee Tools

- 25. “Pollutants,” “Pollution,” “Polluted”** means any solid, liquid, gaseous or thermal irritant or **“Contaminant”** including, but not limited to asbestos, smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed. **“Pollutants”** or **“Contaminants”** include, but are not limited to: 1) those materials that can cause or threaten damage to human health or human welfare, or cause or threaten damage, deterioration, loss of value, marketability or loss of use to property; and/or 2) bacteria, fungi, mold, mildew, virus or hazardous substances as listed in the Federal Water Pollution Control Act, Clean Air Act, Resource Conservation and Recovery Act of 1976, Toxic Substances Control Act or as designated by the U.S. Environmental Protection Agency or any other governing authority.
- 26. “Proof of Loss”** means a sworn statement by the **“Member”** regarding the facts of a claim for loss or damage to property.
- 27. “Real Property”** means existing buildings and structures, buildings and structures undergoing construction, repair or renovation and includes all permanent fixtures attached or adjacent to the buildings and structures such as signs, fences, glass, radio and television antennas, satellite dishes, landscaping, trees, shrubs, athletic fields, walkways, parking lots, exterior light fixtures and poles, foundations or other building supports.
- 28. “Securities”** means all negotiable and non-negotiable instruments or contracts representing either **“Money”** or **“Other Property”** owned by **“You”** or held by **“You.”**
- 29. “Student,” “Students”** means a natural person enrolled on a full or part time basis in classes at a **“Member”** institution.
- 30. “Term”** means the dates of coverage as stated on the first page of this **“Memorandum.”**
- 31. “Terrorism”** means any violent act dangerous or damaging to human life, property, or infrastructure within the United States or to a U.S. air carrier, vessel, or United States mission abroad, committed by an individual or individuals against U.S. civilians or the government.
- 32. “Time Element”** means an indirect loss stemming from direct loss or damage by a **“Covered Peril”** to income producing property.
- 33. “We,” “Us” or “Our”** means the New Mexico Public School Insurance Authority.

34. “You” or “Your” means any participating school districts, other educational entities, charter schools from whom or on behalf of whom **“We”** have received the applicable premium as listed in Schedule A.

35. “Windstorm” Each loss by windstorm shall constitute a single claim hereunder; provided, if more than one windstorm shall occur within any period of seventy-two (72) hours during the term of this **“Memorandum”**, such windstorm shall be deemed to be a single windstorm within the meaning thereof. The **“Member”** may elect the moment from which each of the aforesaid periods of seventy-two (72) hours shall be deemed to have commenced but no two such seventy-two (72) hour periods shall overlap. **“We”** shall not be liable for any loss occurring before the effective date and time of the **“Memorandum”**. **“We”** will be liable for any losses occurring for a period of up to seventy-two (72) hours after the expiration of this **“Memorandum”** provided that the first windstorm loss or damage within that seventy-two (72) hours occurs prior to the date and time of expiration of this **“Memorandum”**. In the event of there being a difference of opinion between the **Member”** and **“The Authority”** as to whether or not all windstorm losses sustained by the **“Member”** during an elected period of seventy-two (72) hours arose out of, or was caused by a single atmospheric disturbance, the stated opinion of the National Weather Service or comparable Authority in any other country or locality shall govern as to whether or not a single atmospheric disturbance continued throughout the period at the location(s) involved.

5. TIER 1 WINDSTORM COUNTIES

<u>State</u>	Tier I Counties, Parishes or Independent Cities
Alabama	Baldwin, Mobile
Florida	Entire State, All Counties
Georgia	Bryan, Camden, Chatham, Glynn, Liberty, McIntosh,
Hawaii	Entire State, All Counties
Louisiana	Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion
Mississippi	Hancock, Harrison, Jackson
North Carolina	Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Currituck, Dare, Hyde, Jones, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrell, Washington
South Carolina	Beaufort, Berkeley, Charleston, Colleton, Georgetown, Horry, Jasper
Texas	Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Harris (entire County), Jackson, Jefferson, Kenedy, Kleberg, Liberty, Matagorda, Newton, Nueces, Orange, Refugio, San Patricio, Victoria, Willacy
Virginia	Accomack, Charles City, Chesapeake City, Gloucester, Hampton City, Isle of Wight, James City, Lancaster, Mathews, Middlesex, New Kent, Newport News, Norfolk City, Northampton, Northumberland, Poquoson City, Portsmouth City, Prince George, Suffolk City, Sussex, Surry, Virginia Beach City, Westmoreland, Williamsburg City, York

ADDITIONAL INSURED'S / LOSS PAYABLES

It is hereby understood and agreed that the interest of Additional Insured's and/or Loss Payees is automatically included, as per schedule held on file with the **"Authority"**.

SECTION III

FINE ARTS

A-1. COVERAGE

This **"Memorandum"** insures against all risks of physical loss of or damage except as hereafter excluded occurring during the **"Memorandum"** period to fine arts, which are the property of the **"Member"** or the property of others in the custody or control of the **"Member"** while on exhibition or otherwise within the limits of the United States.

If any of the property covered by this Section is also covered under any other provisions of the **"Memorandum"** of which this Section is made a part, those provisions are hereby amended to exclude such property, the intent being that the coverage under this Section is the sole coverage on such property.

1. PROPERTY COVERED

Objects of art of every kind and description, and property incidental thereto, which are the property of the **"Member"**, or the property of others in the custody and control of the **"Member"**, or in transit at the **"Member's"** risk, and property in which the **"Member"** shall have a fractional ownership interest which are owned by or have been leased, loaned, rented or otherwise made available to the **"Member"**. "Property" shall mean paintings, drawings, etchings, prints, rare books, manuscripts, rugs, tapestries, furniture, pictures, bronzes, potteries, porcelains, marbles statuary and all other bonafide works of art and other objects of rarity, historic value, cultural interest or artistic merit, which are part of the collections of the **"Member"**, or in the care, custody or control of the **"Member"**, and their frames, glazing and shadow boxes.

2. "WALL TO WALL" ("NAIL TO NAIL") COVERAGE

This Section covers the **"Member's"** property on a "Wall to Wall" ("Nail to Nail") basis, or domicile to domicile basis, as applicable, from the time said property is removed from its normal repository incidental to shipment until returned thereto or other point designated by the owner or owner's agent prior to return shipment, including while in transit to or from points of consolidation or deconsolidation, packing, repacking or unpacking, while at such locations during such processes or awaiting shipment.

Coverage shall terminate upon arrival of the covered property at the final destination designated by the owner or owner's agent, or upon expiration of this “**Memorandum**”, whichever may occur first, except that expiration of this “**Memorandum**” shall not prejudice coverage of any risk then in transit.

B-1. EXCLUSIONS

3. Loss or damage occasioned by: wear and tear, gradual deterioration, insects, vermin, inherent vice or damage sustained due to and resulting from any repairing, restoration or retouching process;
4. Loss or damage caused by or resulting from:
 - a. War, hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack;
 - i. by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces or;
 - ii. by military, naval or air forces; or
 - iii. by an agent of any such government, power, authority or forces;
 - b. Any weapon of war employing atomic fission or radioactive force whether in time of peace or war;
 - c. Insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence, seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade.
5. Nuclear reaction or nuclear radiation or radioactive contamination from any cause, all whether direct or indirect, controlled or uncontrolled, proximate or remote, or is contributed to or aggravated by a Covered Cause of Loss. However:
 - a. If fire not otherwise excluded results, the “**Authority**” shall be liable for the direct physical loss or damage by such resulting fire, but not including, any loss or damage due to nuclear reaction, nuclear radiation, or radioactive contamination, and
 - b. This “**Memorandum**” does insure against physical loss or damage caused by sudden and accidental radioactive contamination, including resultant radiation damage, from material used or stored or from processes conducted on the “**Member’s**” premises, provided that, at the time of such loss or damage, there is neither a nuclear reactor nor any new or used nuclear fuel on the “**Member’s**” premises.

6. Any dishonest, fraudulent or criminal act by the **“Member”**, a partner therein or an officer, director employee or trustee thereof, whether acting alone or in collusion with others.

For the purpose of this exclusion an act of vandalism or malicious damage by an employee shall not constitute a dishonest, fraudulent or criminal act.

C-1. LOSS PAYMENT BASIS/VALUATION

The valuation of each article of property covered by this Section shall be determined as follows:

- a. Property of the **“Member”** shall be covered for and valued at the current fair market value of each article indicated on the books and records of the **“Member”** prior to loss, according to the **“Member’s”** valuation of each object covered.
- b. Property of others loaned to the **“Member”** and for which the **“Member”** may be legally liable, or which the **“Member”** has been instructed to insure, shall be covered for and valued at the amount agreed upon for each article by the **“Member”** and owner(s) as recorded on the books and records of the **“Member”** prior to loss.
- c. Otherwise, in the absence of recorded current fair market values or agreed values for each article covered, the **“Authority”** shall not be liable beyond the fair market value of the property at the time any loss or damage occurs. Said value shall be ascertained by the **“Member”** and the **“Authority”** or, if they differ, then the amount of value or loss shall be determined as provided in the following appraisal clause.

D-1. SPECIAL CONDITIONS

7. Misrepresentation and Fraud: This entire Section shall be void if, whether before or after a loss, the **“Member”** has concealed or misrepresented any material fact or circumstance concerning this **“Memorandum”** or the subject thereof, or the interest of the **“Member”** therein, or in case of any fraud or false swearing by the **“Member”** relating thereto.
8. Notice of Loss: The **“Member”** shall as soon as practicable report in writing to the **“Authority”** or its agent every loss, damage or occurrence which may give rise to a claim under this Section and shall also file with the **“Authority”** or its agent within ninety (90) days from the date of discovery of such loss, damage or occurrence, a detailed sworn proof of loss.
9. Examination under Oath: The **“Member”**, as often as may be reasonably required, shall exhibit to any person designated by the **“Authority”** all that remains of any property herein described, and shall submit, and insofar as is within its power cause its employees, **“Member”** and others to submit to examination under oath by any person named by the

“Authority” and subscribe the same; and, as often as may be reasonably required, shall produce for examination all writings, books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by the **“Authority”** or its representative and shall permit extracts and copies thereof to be made. No such examination under oath or examination of books or documents, nor any act of the **“Member”** or any of its employees or representatives in connection with the investigation of any loss or claim hereunder, shall be deemed a waiver of any defense which the **“Member”** might otherwise have with respect to any loss or claim, but all such examinations and acts shall be deemed to have been made or done without prejudice to the **“Authority’s”** liability.

10. Settlement of Loss: All adjusted claims shall be paid or made good to the **“Member”** within sixty (60) days after presentation and acceptance of satisfactory proof of interest and loss at the office of the **“Authority”**. No loss shall be paid or made good if the **“Member”** has collected the same from others.
11. No Benefit to Bailee: This Section shall in no way inure directly or indirectly to the benefit of any carrier or other bailee.
12. Subrogation or Loan: If in the event of loss or damage the **“Member”** shall acquire any right of action against any individual, firm or corporation for loss of, or damage to, property covered hereunder, the **“Member”** will, if requested by the **“Authority”**, assign and transfer such claim or right of action to the **“Authority”** or, at the **“Authority’s”** option, execute and deliver to the **“Authority”** the customary form of loan receipt upon receiving an advance of funds in respect of the loss or damage; and will subrogate the **“Authority”** to, or will hold in trust for the **“Authority”**, all such rights of action to the extent of the amount paid or advanced, and will permit suit to be brought in the **“Member’s”** name under the direction of and at the expense of the **“Authority”**.
13. Loss Clause: Any loss hereunder shall not reduce the amount of this Section, except in the event of payment of claim for total loss of an item specifically scheduled hereon.
14. Protection and Preservation of Property: In case of actual or imminent physical loss or damage of the type insured against by this **“Memorandum”**, the expenses incurred by the **“Member”** in taking reasonable and necessary actions for the temporary protection and preservation of property insured hereunder shall be added to the total physical loss or damage otherwise recoverable under the **“Memorandum”** and be subject to the applicable deductible and without increase in the limit provisions contained in this **“Memorandum”**.
9. Appraisal: If the **“Member”** and the **“Authority”** fail to agree as to the amount of loss, each shall on the written demand of other, made within sixty (60) days after receipt of proof of loss by the **“Authority”**, select a competent and disinterested appraiser, and the appraisal shall be made at a reasonable time and place. The appraisers shall first select a competent and disinterested umpire, and failing for fifteen (15) days to agree upon such

umpire, then on the request of the **“Member”** or the **“Authority”**, such umpire shall be selected by a judge of a court of record in the state in which such appraisal is pending. The appraisers shall then appraise the loss, stating separately the fair market value at the time of loss and the amount of loss, and failing to agree shall submit their differences to the umpire. An award in writing of any two shall determine the amount of loss. the **“Member”** and the **“Authority”** shall each pay their chosen appraiser and shall bear equally the other expenses of the appraisal and umpire. The **“Member”** shall not be held to have waived any of its rights by any act relating to appraisal.

10. Civil Authority: Property covered under this Section against the peril of fire is also covered against the risk of damage or destruction by Civil authority during a conflagration and for the purpose of retarding the same; provided that neither such conflagration nor such damage or destruction is caused or contributed to by a peril otherwise excluded herein.
11. Changes: Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Section or stop the **“Member”** from asserting any right under the terms of this Section, nor shall the terms of this Section be waived or changed except by endorsement issued to form a part of this Section.
12. Additional Covered Party(ies): Corporations, associations, firms, institutions, museums, persons and others who own or control collections, objects or articles who make them available to the **“Member”**, and temporary borrowers or custodians (but not carriers, packers or shippers) of property covered, are additional Named Insured(s) hereunder, but only as respects coverage afforded to said **“Member’s”** property.
13. Packing: It is agreed by the **“Member”** that the property covered hereunder be packed and unpacked by competent packers.
14. Other Insurance: This fine arts floater Section is excess coverage over any other valid and collectible insurance which may apply to any objects of art for which coverage would apply under this **“Memorandum”**.
15. Pair And Set: In the event of the total loss of any article or articles which are a part of a set, the **“Authority”** agrees to pay the **“Member”** the full amount of the value of such set and the **“Member”** agrees to surrender the remaining article or articles of the set to the **“Authority”**.

SECTION IV

CONTRACTORS EQUIPMENT

A-1. COVERAGE

This “**Memorandum**” insures contractors equipment, whether self-propelled or not, including equipment thereof while attached thereto or located thereon, such as bulldozers, drag lines, power shovels, derricks, drills, concrete mixers and other machinery of a similar nature, and not subject to motor vehicle registration. Coverage under this Section is provided only while a construction project is in the course of construction either controlled, managed, or owned by the “**Member**” by written agreement.

If any of the property covered by this Section is also covered under any other provisions of the “**Memorandum**” of which this Section is made a part, those provisions are hereby amended to exclude such property, the intent being that the coverage under this Section is the sole coverage on such property.

B-1. PERILS EXCLUDED

This Section insures against all risks of direct physical loss or damage occurring during the “**Memorandum**” period to the above described property from any external cause except as provided below.

1. Loss or damage due to wear, tear, rust, corrosion, latent defect, mechanical breakage or improper assemblage.
2. Loss or damage due to the weight of the load imposed on the machine exceeding the capacity for which such machine was designed.
3. Loss or damage to crane or derrick boom(s) and jib(s) of lattice construction while being operated unless directly caused by fire, lightning, hail, windstorm, earthquake shock, explosion, riot, riot attending a strike, civil commotion, actual physical contact with an aircraft or airborne missile including objects falling therefrom, collision with other vehicles or other contractors equipment whether or not such other equipment is covered hereunder, landslide, or upset of the unit of which it is a part (but only when and to the same extent that such other perils are covered by the “**Memorandum**”).
4. Loss or damage due to explosion arising from within steam boilers.
5. Loss or damage to dynamos, exciters, lamps, switches, motors or other electrical appliances or

- devices, including wiring, caused by lightning or other electrical currents (artificial or natural) unless fire ensues and then for the loss by fire only.
6. Loss or damage due to dishonesty of “**Member’s**” employees or persons to whom the “**Member’s**” property is entrusted.
 7. Loss or damage caused by or contributed to failure of the “**Member**” to keep and maintain the property in a thorough state of repair.
 8. Loss or damage caused by or resulting from:
 - a. War, hostile or warlike action in time of peace or, including action in hindering, combating or defending against an actual, impending or expected attack;
 - i. by any government or sovereign power (de jure or de facto) or by any authority maintaining using military, naval or air forces or;
 - ii. any military, naval or air forces or;
 - iii. by an agent of any such government, power, authority or forces;
 - iv. any weapon of war employing atomic fission or radioactive force whether in time of peace or war;
 - b. insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence, seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade;
 9. Loss by nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril(s) covered against in this endorsement; however, subject to the foregoing and all provisions of this “**Memorandum**”, direct loss by fire resulting from nuclear reaction or nuclear radiation or radioactive contamination is covered against by this “**Memorandum**”.

C-1. PROPERTY EXCLUDED

15. Automobiles, motorcycles, motor trucks, or parts thereof.
16. Buildings
17. Machinery or equipment or building materials to be installed in any building for the purpose of becoming a part thereof; nor on any property which has become a permanent part of any

- structure.
18. Property that is located underground.
 19. Property while waterborne except while being transported on any regular ferry.
 20. The storage risk of property not owned or required to be insured by the “**Member**” at premises controlled or leased by the “**Member**”, except where incidental to the regular or frequent use of the equipment or property.
 21. Plans, blueprints, designs or specifications.

D-1. LOSS PAYMENT BASIS/ VALUATION

On Contractors Equipment (whether self-propelled or not), on or off premises, where Replacement Cost (New) values are specified, loss or damage shall be based on 100% of the Replacement Cost (New) at the time of loss. Partial losses shall be based on the cost of repairing or replacing the damaged portion, up to the fair market value of the Contractors Equipment. However, should these costs exceed the fair market value then recovery shall be based upon the Replacement Cost (New).

If the values, provided by the “**Member**”, provides a valuation based on replacement cost, then recovery will be on the same basis, if replaced. If not replaced, the basis of recovery shall be actual cash value.

E-1. SPECIAL CONDITIONS

This section covers property only within the limits of the United States of America.

It is a condition of this “**Memorandum**” that all articles covered hereunder are in sound condition at the time of attachment of this “**Memorandum**”.

SECTION V

UNMANNED AIRCRAFT

A-1. COVERAGE

This “**Memorandum**” insures only **Unmanned Aircraft**, that are usual to your business that you own or are required to insure, to pay for any physical damage loss sustained while not **In Flight** or **In Motion** and which are not the result of fire or explosion following crash or collision while the **Unmanned Aircraft** was **In Flight** or **In Motion** that are:

- (1) Listed on the schedule which is a part of this “**Memorandum**” or which is on file with us;
- (2) Unscheduled but for an amount not to exceed the limit of \$1,000,000.

If any of the property covered by this Section is also covered under any other provisions of the “**Memorandum**” of which this Section is made a part, those provisions are hereby amended to exclude such property, the intent being that the coverage under this Section is the sole coverage on such property.

B-1. PERILS EXCLUDED

This Section insures against all risks of direct physical loss or damage occurring during the “**Memorandum Period**” to **Unmanned Aircraft** from any external cause except as provided below.

1. Loss or damage due to the Unmanned Aircraft being **In Flight** or **In Motion** including during propulsion system startup or any time the propulsion system is operating.
2. Loss or damage due to wear, tear, rust, corrosion, latent defect, mechanical breakage, freezing or improper assemblage.
3. Loss or damage due to the weight of the load imposed on the **Unmanned Aircraft** exceeding the capacity for which such **Unmanned Aircraft** was designed.
4. Loss or damage to tires except where such loss or damage is caused by fire, theft, windstorm or vandalism or is the direct result of physical damage covered by this “**Memorandum**”.
5. Loss or damage to **Unmanned Aircraft** while being worked upon except for direct loss or damage caused by resulting fire or explosion.
6. Loss or damage to dynamos, exciters, lamps, switches, motors or other electrical appliances or devices, including wiring, caused by lightning or other electrical currents (artificial or natural) unless fire ensues and then for the loss by fire only.
7. Loss or damage due to conversion, embezzlement or secretion by any person or organization with legal right to possession of such **Unmanned Aircraft** under bailment, lease, conditional sale, purchase agreement, mortgage or other legal agreement that governs the use, sale or lease of the **Unmanned Aircraft**, nor for any loss or damage during or resulting therefrom.
8. Loss or damage due to dishonesty of the “**Member’s**” employees or persons to whom the “**Member’s**” property is entrusted.
9. Loss or damage caused by or contributed to failure of the “**Member**” to keep and maintain the property in a thorough state of repair.
10. Loss or damage caused by or resulting from:
 - a. War, hostile or warlike action in time of peace or, including action in hindering, combating or defending against an actual, impending or expected attack,
 - i. by any government or sovereign power (de jure or de facto) or by any authority maintaining using military, naval or air forces; or

- ii. any military, naval or air forces; or
- iii. by an agent of any such government, power, authority or forces;
- b. any weapon of war employing atomic fission or radioactive force whether in time of peace or war;
- c. insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence, seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade;

C-1. PROPERTY EXCLUDED

1. **Unmanned Aircraft** that are located in underground mines, caverns or underground storage facilities.
2. **Unmanned Aircraft** while waterborne except while being transported on any regular ferry.
3. The storage risk of **Unmanned Aircraft** not owned or required to be insured by the “**Member**” at premises controlled or leased by the “**Member**”, except where incidental to the regular or frequent use of the equipment or property.

D-1. LOSS PAYMENT BASIS / VALUATION

On **Unmanned Aircraft**, on or off premises, where Replacement Cost (New) values are specified, loss or damage shall be based on 100% of the Replacement Cost (New) at the time of loss. Partial losses shall be based on the cost of repairing or replacing the damaged portion, up to the fair market value of the **Unmanned Aircraft**. However, should these costs exceed the fair market value then recovery shall be based upon the Replacement Cost (New).

E-1. SPECIAL CONDITIONS

This section covers property only within the limits of the United States of America.

It is a condition of this “**Memorandum**” that all articles covered hereunder are in sound condition at the time of attachment of this “**Memorandum**”.

F-1. DEFINITIONS

1. UNMANNED AIRCRAFT

Means a powered aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, can fly autonomously or be piloted remotely, is recoverable and in some cases can carry a non-lethal payload including the propulsion system and equipment usually installed in the vehicle (1) while installed in the vehicle, (2) while temporarily removed from the vehicle and (3) while removed from the aircraft for replacement until such time as replacement by a similar item has commenced; also tools and equipment which are specially designed for the aircraft and which are ordinarily carried therein.

2. IN FLIGHT

Means, with respect to fixed wing **Unmanned Aircraft**, the time commencing with the actual take off run or launch and continuing thereafter until it has completed its landing run; or capture; and if the **Unmanned Aircraft** is a rotorcraft, from the time the rotors start to revolve under power for the purpose of flight until they subsequently cease to revolve after landing; and if the **Unmanned Aircraft** is a balloon, while it is inflated or being inflated or deflated.

3. IN MOTION

Means while the **Unmanned Aircraft** is moving under its own power or the momentum generated therefrom or while it is **In Flight** and, if the **Unmanned Aircraft** is a rotorcraft, any time the rotors are rotating or while it is **In Flight** and, if the **Unmanned Aircraft** is a glider or balloon, any time it is being transported, towed or while it is **In Flight**.

G-1. GENERAL CONDITIONS:

Applicable with respect to any claim under this “**Memorandum.**”

- A) **Examination of Records:** “**You**” shall, as often as may be reasonably required during the “**Term**” of this “**Memorandum**” and up to three years thereafter, produce for “**Our**” examination or examination by “**Our**” authorized representatives all the books and records, inventories and accounts relating to “**Your**” “**Covered Property.**”
- B) **No Assignment:** This “**Memorandum**” shall be void if assigned or transferred without “**Our**” written consent.
- C) **Cancellation:** This “**Memorandum**” may be cancelled by the “**Authority**” according to the rules set forth in the New Mexico Administrative Code Title 6, Chapter 50, Part 4 if “**You**” fail to make premium payments.
- D) **Inspections:** “**We**” and/or our authorized agents shall be permitted, but not obligated to, inspect “**Your**” “**Covered Property**” at all reasonable times. “**Our**” right to make inspections, the inspections themselves or any inspection reports do not imply that all other hazards or conditions are under control at the time of the inspection, or that such inspections constitute compliance with OSHA regulations or other similar laws.

- E) **Salvage and Recovery:** When “We” obtain any salvage or recovery in connection with any loss, “You” shall first be made whole; then the “Authority” and the excess insurers or reinsurers shall share the remaining portion on a pro rata basis.
- F) **Subrogation:** If “We” pay “You” or any person or organization for loss or damage caused by a third party, any of those subrogation rights to recover damages from the third party are to be transferred to the “Authority” to the extent of “Our” payment for that loss. “You” must do everything reasonably necessary to secure the “Authority’s” subrogation rights prior to any loss including, but not limited to, not agreeing to waivers of such subrogation rights contained in contracts wherever possible. “You” also must do nothing after loss to impair the “Authority’s” subrogation rights.
- G) **Duties in the Event of Loss or Damage:** “You” must see that the following are done in the event of loss or damage to “Covered Property:”
1. Notify the police if a law may have been broken.
 2. Give “Us” prompt notice of the loss or damage; including a full description of the property involved.
 3. As soon as possible, give “Us” a description of how, when, and where the loss or damage occurred.
 4. If feasible, set aside the damaged property in the best possible order for examination.
 5. Take all steps to protect the “Covered Property” from further damage and keep a record of your expenses necessary to protect the “Covered Property” so that these expenses may be paid, to the extent they are within the “Limit of Liability.” “We” will not pay for any subsequent loss or damage resulting from failure to take reasonable measures to protect the damaged property from further loss or damage.
 6. At “Our” request give “Us” complete inventories of the damaged and undamaged property, including quantities, costs, values, copies of original purchase documents and the amount of the loss claimed.
 7. Permit “Us,” as often as may be reasonably required, to inspect the damaged property and examine “Your” books and records.
 8. Permit “Us” to take samples of damaged and undamaged property for inspection, testing and analysis, and provide relevant copies from “Your” books and records.
 9. Send “Us” a signed, sworn “Proof of Loss” containing the information “We” require within 90 days after “Our” request. “We” will provide “You” with the necessary forms.

10. Cooperate with “Us” in the investigation or settlement of the claim.

“We” may examine “You” under oath and at such times as may be reasonably required, about any matter including “Your” books and records relating to the filed claim.

H) Administrative Appeal: If a “Member” makes a claim for coverage and the “Authority” does not agree that the claim is covered under this “Memorandum,” then, upon written demand of either, the matter or matters upon which we do not agree shall be adjudicated pursuant to Title 6, Chapter 50, Part 16 of the New Mexico Administrative Code (Administrative Appeal of Authority Coverage Determinations). Notwithstanding any other language in this “Memorandum,” either express or implied, this “Memorandum” does not and shall not be construed as creating a contract either express or implied between the “Authority” and any “Member” or any others whose interests may be covered by this “Memorandum.”

I) Right of Recovery: If the “We” have expended funds to settle “Your” claims and it is later determined that there is no coverage under this “Memorandum” for one or more of those claims, “We” reserve the right to seek reimbursement for those settlement funds from the recipient of those funds.

J) Misrepresentation, Concealment or Fraud:

This “Memorandum” is void as to any “Member” if before or after a loss:

1. “You” have willfully concealed or misrepresented a material fact or circumstance that relates to this “Memorandum” concerning any claim or the interest of the “Member” or any other person or entity seeking coverage under this “Memorandum;”
2. “You” or any other person or entity seeking coverage under this “Memorandum” has engaged in fraud or false swearing.

K) Changes: Notice to or knowledge of any of the “Authority’s” employees or authorized representatives shall not effect a waiver or a change in any part of this coverage or prevent the “Authority” from asserting any rights under the terms of this “Memorandum,” nor shall the terms of this “Memorandum” be waived or changed, except by endorsement issued to form a part of this “Memorandum.”

COVERAGE B: AUTOMOBILE PHYSICAL DAMAGE

The provisions stated in Coverage A: Property Coverage, Section 10- General Conditions also apply to Coverage B: Automobile Physical Damage. The following provisions apply to Coverage B only.

A. INTEREST & AUTOMOBILES COVERED:

A “Covered Automobile” is:

- A) An “Automobile” “You” own, including equipment permanently installed the “Automobile”;
- B) “Your” interest in or legal liability for direct physical loss or damage to an “Automobile” owned by others in “Your” custody to the extent “You” are required to keep the “Automobile” covered for direct physical loss or damage.

B. COVERED PERILS:

This “Memorandum” covers against direct physical loss or damage to “Covered Automobiles” caused by an “Occurrence” except as excluded by this “Memorandum.”

C. EXTENSIONS OF COVERAGE:

1) Glass Breakage:

“We” will pay for the following:

- 1. glass breakage; and
- 2. loss caused by hitting a bird or animal; and
- 3. loss caused by falling objects or missiles.)

2) Towing:

“We” will pay for reasonable towing and labor costs incurred when a “Covered Automobile” is disabled.

3) Rental reimbursement due to theft:

“We” will pay up to \$18 per day to a maximum of \$500 for transportation expenses “You” incur because of the total theft of a “Covered Automobile” of the private passenger type which “You” own.

D. INTERESTS & AUTOMOBILES NOT COVERED:

The provisions stated in Coverage A: Property Coverage, Item B. Property Not Covered apply to Coverage B: Automobile Physical Damage. The following provisions also apply to Coverage B: Automobile Physical Damage only.

This “**Memorandum**” does not cover:

- 1) tapes, wires, records, discs, or any other media for use with any device or instrument designed for the recording, reproduction, or recording and reproduction of sound;
- 2) any equipment designed for use for the detection or location of radar;
- 3) any telephonic, wireless, computer related, facsimile transmission, copying, navigation or other communication or computer related devices unless such device or instrument is installed by the manufacturer in the “**Covered Automobile.**”
- 4) any device or instrument designed for the recording, reproduction, or recording and reproduction of sound, unless such device or instrument is installed by the manufacturer in the “**Covered Automobile**”;
- 5) any “**Covered Automobile**” while used in any racing or demolition contest or stunting activity, or while practicing or being prepared for such contest or activity.

E. PERILS NOT COVERED:

The provisions stated in Coverage A: Property Coverage, Section II, E. Exclusions also apply to Coverage B: Automobile Physical Damage. The following provisions also apply to Coverage B: Automobile Physical Damage only.

This “**Memorandum**” does not cover against loss, damage or expense caused by or resulting from any of the following:

- A) wear and tear, freezing or mechanical or electrical breakdown or failure, unless such damage is the direct result of “**Covered Peril;**”
- B) blowouts, punctures or other road damage to tires, unless such damage is the direct result of a “**Covered Peril.**”

F. LIMITS OF LIABILITY:

The provisions stated in Coverage A: Property Coverage, Section II, Item F. Limits of Liability, also apply to Coverage B: Automobile Physical Damage. The following provisions are additional items that apply to Coverage B: Automobile Physical Damage only.

The most **“We”** will pay for loss to any one **“Covered Automobile”** in any one **“Occurrence”** is the lesser of:

- A) the **“Actual Cash Value”** of the damaged or stolen **“Covered Automobile”** as of the **“Date of Loss”**; or
- B) the cost of repairing or replacing the damaged or stolen **“Covered Automobile”** with another of like kind and quality.

G. DEDUCTIBLES:

“You” must pay a \$750.00 deductible for each **“Covered Automobile,”** that is damaged, lost or stolen with the exception of vehicle glass claims, which are subject to a \$50.00 deductible. In the event of a loss involving multiple **“Covered Automobiles”** in one **“occurrence”** (i.e. hail storm damage), the deductibles are capped in the following maximums:

- 1) Regardless of the number of **“Covered Automobiles”** damaged, the total deductible to any **“Member”** will not exceed \$5,000;
- 2) Regardless of the number of **“Covered Automobiles”** vehicle glass panes damaged, the total deductible for any **“Member”** will not exceed \$250.

H. APPRAISAL:

If **“You”** disagree with **“Us”** as to the amount of a loss, either party 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 third appraiser. The appraisers will state separately the **“Actual Cash Value”** and the amount of loss. If they fail to agree, they will submit their differences to the third appraiser. An award in writing of any two shall determine the amount of loss. Each party will:

- A) pay its chosen appraiser; and
- B) bear the other expenses of the appraisal and third appraiser equally.

“We” will not be held to have waived any of **“Our”** rights by any act arising out of this appraisal process.

I. DUTIES IN THE EVENT OF LOSS:

- 1) In the event of loss, **“You”** must give the **“Authority”** prompt notice. Such notice shall include information enough to establish:
 - i. how, when and where the loss occurred; and
 - ii. to the extent possible, the names and addresses of any injured persons and witnesses.
- 2) Additionally, **“You”** must:
 - i. assume no obligation, make no payment, or incur no expense without **“Our”** consent, except at **“Your”** expense;
 - ii. cooperate with **“Us”** in the investigation of the loss or damage, settlement or defense of any suit;
 - iii. promptly notify the police if the **“Covered Automobile”** or any of its manufacturer installed equipment is stolen;
 - iv. take all reasonable steps to protect the covered **“Covered Automobile”** from further damage and keep a record of **“Your”** expenses related to the loss or damage to the **“Covered Automobile”** for consideration in the settlement of the claim;
 - v. permit **“Us”** to inspect the **“Covered Automobile”** before its repair or disposition;
 - vi. agree to an examination under oath at **“Our”** request and/or, if requested, give **“Us”** a signed statement regarding the claim.

COVERAGE C: CRIME COVERAGES

The following provisions apply to **Coverage C: Crime Coverages** only.

A. INTERESTS AND PROPERTY COVERED:

Part A-Employee Theft – Per Loss Coverage:

“We” will pay for direct loss of **“Money,” “Securities”** or **“Other Property”** **“You”** sustain because of **“Theft”** or **“Forgery”** committed by an **“Employee,”** whether identified or not, acting alone or in collusion with other persons or other **“Employees,”** with the manifest intent to:

- 1) cause **“You”** to sustain loss; and also
- 2) to obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, or pensions

or other employee benefits earned in the normal course of employment) for:

- a) that **“Employee”** or those **“Employees”**; or
- b) any person or organization intended by the **“Employee”** to receive that benefit.

Part B-Inside the Premises Coverages:

- 1) **“We”** will pay for loss **“You”** sustain resulting directly from:
 - a) the loss of **“Money”** and **“Securities”** from inside **“Your” “Premises”** or any **“Banking Premises”** as a result of **“Theft,” “Robbery”** or **“Safe Burglary”** by one or more **“Third Parties”**, or
 - b) the actual disappearance or destruction of **“Money”** and **“Securities”** which occurs inside **“Your” “Premises.”**
- 2) **“We”** will pay for loss **“You”** sustain because of the loss of or damage to **“Other Property”** from:
 - a) inside the **“Premises”** resulting directly from an actual or attempted **“Robbery”** by one or more **“Third Parties;”** or
 - b) inside the **“Premises”** in a safe or vault, resulting directly from an actual or attempted **“Safe Burglary”** by one or more **“Third Parties.”**
- 3) **“We”** will pay for loss **“You”** sustain:
 - a) for damage to the **“Premises”** or its exterior; and
 - b) for loss of, or damage to a locked safe, vault, cash register, cash box or cash drawer located inside the **“Premises”**

resulting directly from an actual or attempted **“Theft,” “Robbery”** or **“Safe , Burglary,”** by one or more **“Third Parties”** if **“You”** are the owner of the **“Premises”** or are liable for damage to it.

Part C-Outside the Premises Coverages:

- 1) **“We”** will pay for loss **“You”** sustain because of **“Theft”** of **“Money”** or **“Securities”** by one or more **“Third Parties”** while being conveyed by a **“Messenger”** or armored motor vehicle company outside the **“Premises.”**
- 2) **“We”** will pay for loss **“You”** sustain because of disappearance or destruction of **“Money”** or **“Securities”** while being conveyed by a **“Messenger”** or armored motor vehicle company outside the **“Premises.”**
- 3) **“We”** will pay for loss **“You”** sustain because of loss of or damage to **“Other Property”** resulting from actual or attempted **“Robbery”** by one or more **“Third Parties”** outside the **“Premises”** while being conveyed by a **“Messenger”** or armored motor vehicle company.

- 4) **“We”** will pay for loss **“You”** sustain because of loss caused by **“Theft”** of **“Money,” “Securities”** or **“Other Property”** by a **“Third Party”** while temporarily at the home of a **“Messenger.”**

Part D-Forgery or Alteration Coverage

- 1) **“We”** will pay for loss **“You”** sustain of **“Money,” “Securities”** or **“Other Property”** resulting directly from **“Forgery”** or alteration of any financial instrument committed by one or more **“Third Parties.”**
- 2) If **“You”** are sued to enforce payment of any financial instrument covered in **Part D-Forgery or Alteration** on the basis that it has been forged or altered, and **“You”** have our written consent to defend against the suit, **“We”** will pay for any reasonable legal expenses that **“You”** incur and pay in that defense. The amount **“We”** will pay is in addition to the Limit of Coverage applicable to **Part D-Forgery or Alteration Coverage.**

Part E-Computer and Funds Transfer Fraud Coverage:

“We” will pay for loss **“You”** sustain because of **“Theft”** of **“Money,” “Securities”** or **“Other Property”** resulting directly from **“Computer Fraud”** by a **“Third Party.”**

Part F-Money Orders and Counterfeit Paper Currency Coverage:

“We” will pay for loss **“You”** sustain resulting directly from **“Your”** having accepted in good faith, in exchange for merchandise, **“Money”** or services from a **“Third Party.”**

- 1) money orders issued by any post office, express company or bank in the United States that are not paid upon presentation; or
- 2) counterfeit United States currency; that is acquired during the regular course of business.

Part G-Credit Card Fraud Coverage:

“We” will pay for loss **“You”** sustain resulting directly from **“Credit Card Fraud”** committed by a **“Third Party.”**

Part H-Funds Transfer Fraud Coverage:

“We” will pay for loss **“You”** sustain resulting directly from **“Funds Transfer Fraud”** committed by a **“Third Party.”**

B. EXCLUSIONS:

A. Exclusions Applicable to All Coverages:

“We” will not pay for the following losses:

- 1) loss resulting from war, whether or not declared, warlike action, insurrection, civil war, rebellion or revolution or any related act or incident;

- 2) loss resulting from seizure or destruction of property by order of governmental authority, expropriation or nationalization or any related act or condition;
- 3) loss resulting from the cost of reproducing any information contained in any lost or damaged manuscripts, records, accounts, microfilms, tapes, electronic data storage or recording media or other records;
- 4) expenses incurred by **"You"** in establishing the existence or the amount of any loss covered under **Coverage C-Crime Coverages** except that **"We"** will reimburse **"You"** for those reasonable and customary charges of a Certified Public Accountant incurred by **"You"** in establishing a valid and collectible claim arising from an **"Occurrence"** under **Coverage C-Crime Coverage**, up to a maximum amount of \$5,000;
- 5) loss of income that **"You"** do not realize as the result of any loss covered under **Coverage C-Crime Coverage**;
- 6) fees, costs or expenses **"You"** incur or pay in prosecuting or defending any legal proceeding or claim, (other than legal proceedings covered under **Part D-Forgery and Alteration Coverage** above), whether or not such proceeding results or would result in a loss recoverable under **Coverage C- Crime Coverage**;
- 7) due to nuclear reaction, nuclear radiation or radioactive contamination;
- 8) **"Indirect or Consequential Losses"** of any kind.
- 9) any loss or potential loss not reported to **"Us"** more than 60 days following **"Your"** **"Discovery"** of the loss or potential loss or more than 60 days following **"Cancellation"** or **"Termination"** of this **"Memorandum of Coverage"** or all or any Part of **Coverage C-Crime Coverages**.
- 10) any loss of property covered under Coverage A-Property Coverage or Coverage B-Automobile Physical Damage Coverage of the **"Memorandum of Coverage"** of which **Coverage C-Crime Coverages** is a part.

B. Exclusions Only Applicable to Part A-Employee Dishonesty Coverage:

"We" will not pay for losses under **Part A-Employee Dishonesty Coverage** as follows:

- 1) loss caused by an **"Employee"** if **"Your"** management personnel possess knowledge of any prior act or acts of **"Theft,"** fraud or dishonesty committed by that **"Employee"** either while that **"Employee"** is employed by **"You"** or prior to his or her employment by **"You;"**
- 2) loss caused by **"Your"** broker, contractor, independent contractor or any other agent or representatives of them;
- 3) loss or that part of any loss the proof of which involves in any manner:
 - a. profit and loss computation; or
 - b. a comparison of inventory records with an actual physical count; provided, however, that

where **“You”** can establish that a loss has occurred wholly apart from such comparison, then **“You”** can offer inventory records and the actual physical count of inventory in support of the amount of loss claimed.

C. Exclusions Only Applicable to Parts B-Inside the Premises Coverages, and Part C– Outside the Premises Coverages:

“We” will not pay for any losses under **Part B-Inside the Premise Coverages** or **Part C-Outside the Premises Coverages**:

- 1) due to **“Theft”** or any other fraudulent, dishonest or criminal act by **“Your” “Employee”** whether acting alone or in collusion with others;
- 2) due to fire, except:
 - a. loss of or damage to **“Money”** or **“Securities,”** or
 - b. damage to any safe or vault caused by the use of fire for the purpose of **“Safe Burglary;”**
- 3) due to giving or surrendering **“Money”** or **“Securities”** in any exchange or purchase;
- 4) due to loss or damage to manuscripts, records, accounts, microfilm, tapes, or other electronic data storage or recording media;
- 5) due to **“Forgery;”**
- 6) due to loss or damage to **“Money,” “Securities”** or **“Other Property”** while in the mail or in the custody of a carrier for hire other than an armored motor vehicle company;
- 7) due to loss or damage to **“Money,” “Securities”** or **“Other Property”** while in the custody of any bank, trust company, similar recognized place of safe deposit, or armored motor vehicle company or **“Messenger”** unless the loss is in excess of the amount **“You”** have recovered or received under:
 - a. **“Your”** contract with the bank, trust company, or any similar recognized place of safe deposit, or armored motor vehicle company; or
 - b. any **“Other Bonds or Insurance”** which would cover the loss in whole or in part, in which case **Coverage C-Crime Coverages** will cover only such excess up to the applicable Limit of Coverage.
- 8) due to loss of **“Money,” “Securities”** or **“Other Property”** as a result of kidnap, ransom or other extortion payment (as distinct from **“Robbery”**) surrendered to any person as a result of a threat to do bodily harm to any person or a threat to do damage to the **“Premises”** or other property.

D. Exclusion Only Applicable to Part D-Forgery and Alteration Coverage; Part E-Computer Fraud Coverage; Part F- Money Orders and Counterfeit Currency Fraud Coverage; Part G- Credit Card Fraud Coverage and Part H-Funds Transfer Fraud Coverage:

Coverage does not apply to loss through “**Forgery**” or alteration of, on, or in any financial instrument, if the “**Forgery**” or alteration is committed by any “**Employee**” or by any person in collusion with any “**Employee**.”

C. GENERAL CONDITIONS:

The General Conditions stated in **Coverage A: Property Coverage, Section 11)** also apply to **Coverage C: Crime Coverages**. The General Conditions below apply to **Coverage C: Crime Coverages- Parts A, B, C, D, E, F, G and H** only:

A. Statutory Provisions:

Any terms of **Coverage C-Crime Coverages** which are in conflict with the statutes of the State of New Mexico are amended to conform to such statutes.

B. Other Coverage:

If any “**Other Bonds or Insurance**” apply to a loss covered by **Coverage C-Crime Coverages**, the coverage under **Coverage C-Crime Coverages** shall be excess over the amount collectible under “**Other Bonds or Insurance**.”

C. Excess Coverage, Insurance or Reinsurance:

“**You**” may purchase excess coverage, insurance or reinsurance above the Limits of Coverage which apply to **Coverage C-Crime Coverages**. Such excess coverage, insurance or reinsurance is not “**Other Bonds or Insurance**” for the purposes of the Paragraph B. above. Excess coverage, insurance or reinsurance shall not be considered in the application of any pro rata clause or apportionment clause.

D. Limit of Coverage and Deductible Amount:

The most **“We”** will pay for any loss **“You”** sustain caused by any one **“Occurrence”** under **Coverage C-Crime Coverages** is limited to the amounts shown below applicable to each Part of **Coverage C-Crime Coverages**.

Coverages	Limit of Insurance Per Occurrence	Member Deductible Per Occurrence
Part A. Employee Theft – Per Loss	\$250,000	\$750
Part B. Inside the Premises	\$250,000	\$750
Part C. Outside the Premises	\$250,000	\$750
Part D. Forgery or Alteration	\$250,000	\$750
Part E. Computer and Funds Transfer Fraud	\$250,000	\$750
Part F. Money Orders and Counterfeit Money	\$250,000	\$750
Part G. Credit, Debit or Charge Card Forgery	\$250,000	\$750
Faithful Performance of Duty for Government Employees	\$250,000	\$750

“We” will not pay for a loss **“You”** sustain which does not exceed the deductible amount shown above. If the loss exceeds the deductible amount **“We”** will pay the amount of loss in excess of the deductible amount up to the applicable Limit of Coverage.

E. Discovery of Loss:

“Discovery” of loss occurs when **“You”** first become aware of facts which would cause a reasonable person to assume that a loss covered by **Coverage C-Crime Coverages** has been or will be incurred, even though the amount or details of loss may not then be known. **“Discovery”** also occurs when **“You”** receive notice of an actual or potential claim against **“You”** alleging facts that if true would constitute a covered loss under **Coverage C-Crime Coverages**.

F. Duties After Discovery of a Loss:

After **“You”** **“discover”** a loss or a situation that may result in covered loss under **Coverage C-Crime Coverages**, **“You”** must:

- 1) notify **“Us”** as soon as possible and in no case later than 60 days after you have made the **“Discovery;”**
- 2) **“You”** must provide **“Us”** with a detailed, sworn proof of loss within 120 days after **“Discovery;”**
- 3) **“You”** must submit to an examination under oath at our request;

- 4) **“You”** must comply with the provisions of General Conditions **Stated in Coverage A: Property Coverage, Section II (G) Duties in the Event of Loss or Damage** of the **Memorandum of Coverage**”; and
- 5) **“You”** must produce all relevant records and cooperate with us in the investigation and settlement of the claim.
- 6) **“You”** must secure all of your rights of recovery against any person or organization responsible for the loss and do nothing to impair those rights.

G. Coverage for Prior Losses:

“We” will pay for loss **“You”** sustain caused by an **“Occurrence”** which happened any time on or after July 1, 1986 which has not been reported to any previous insurer, reinsurer or under any previous **“Memorandum of Coverage,”** so long as **“Discovery”** of the loss or situation that may result in loss takes place during the **“Term”** of this **“Memorandum of Coverage.”**

H. Audit Requirement:

“We” maintain the right to deny coverage for any loss under **Coverage C- Crime Coverages** in which a substantial contributing cause or factor in the loss itself or extent of the loss is **“Your”** unreasonable failure to comply with the provisions of the Audit Act, NMSA 1978 §12-6-1 et seq.

D. PROVISIONS AFFECTING LOSS SETTLEMENT

A. Limit of Coverage per Occurrence:

If **“We”** pay for any loss **“You”** sustain caused by an **“Occurrence”** under **Coverage C-Crime Coverages**, such payment shall not reduce **“Our”** duty to pay for other losses caused by other **“Occurrences.”**

The most **“We”** will pay for all loss resulting directly from an **“Occurrence”** is the applicable Limit of Coverage indicated in **“Item D – Limit of Coverage and Deductible Amount”**. If any loss is covered under more than one Insuring Agreement or Coverage, the most **We”** will pay for such loss shall not exceed the largest Limit of Insurance available under any one of those Insuring Agreements or Coverages.

B. Non-Accumulation of Coverage Limits:

Regardless of the number of years **Coverage C-Crime Coverages** remains in force or the number of premiums paid, no coverage limit accumulates from year to year or from **“Term”** to **“Term.”** All losses from a single act or any number of acts by the same **“Employee”** or **“Third Party”** will be treated as a single loss and the applicable Limit of Coverage will apply.

C. **Valuation:**

Subject to the applicable Limit of Coverage provision, **“We”** will pay for:

- 1) Loss of **“Money”**, but only up to and including its face value or the United States dollar value of a foreign currency based on the currency rate of exchange in effect on the day any loss involving foreign currency is **“Discovered.”**
- 2) Loss of **“Securities”** but only up to their value at the close of business on the business day immediately preceding the day on which the loss is **“Discovered.”**
 - a. **“We”** may at **“Our”** option pay the value of such **“Securities”** or replace them in kind, in which event **“You”** must assign to **“Us”** all of **“Your”** rights, title and interest in those **Securities**; or
 - b. The cost of any Lost Securities Bond required in connection with issuing duplicates of the **“Securities.”** However, **“We”** will pay only so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the value of the **“Securities”** at the close of business the day the loss was **“Discovered”** or the applicable Limit of Coverage.
- 3) Loss of or damage to **“Other Property”** for the replacement cost of the **“Other Property”** without deduction for depreciation. However, **“We”** will not pay more than the least of the following:
 - a. the Limit of Coverage applicable to the **“Other Property”** which has been lost or damaged; or
 - b. the cost to replace the **“Other Property”** that has been lost or damaged with property of comparable material and quality and used for the same purpose; or
 - c. the amount **“You”** actually spend that is necessary to repair or replace the lost or damaged **“Other Property.”** Any property that **“We”** pay for or replace becomes **“Our”** property.
- 4) Loss from damage to the **“Premises”** or its exterior. **“We”** will not pay on a replacement cost basis for any loss or damage:
 - a. Until the damage is actually repaired and unless the repair or replacement is made as soon as reasonably possible after the loss.
 - b. If the damage is not repaired, **“We”** will pay on an actual cash value basis.

D. **Recoveries:**

Any recoveries **“We”** obtain, less the cost of recovering them, made after settlement of loss covered by **Coverage C-Crime Coverages** will be distributed as follows:

- 1) to **“You,”** until **“You”** are reimbursed for any loss that **“You”** sustain that exceeds the applicable Limit of Coverage less the Deductible Amount;
- 2) then to **“Us,”** until **“We”** are reimbursed for the settlement made;
- 3) then to **“You”** until **“You”** are reimbursed for that part of the loss equal to the Deductible Amount.

This provision regarding Recoveries does not apply to any recovery from insurance, suretyship or reinsurance **“We”** have obtained to cover **“Our”** obligations under **Coverage C-Crime Coverages**. This provision regarding Recoveries also does not apply to original **“Securities”** after duplicates of them have been issued.

E. CANCELLATION PROVISIONS

A. “Cancellation” as to any Employee:

Coverage C-Crime Coverages is **“Cancelled”** as to any **“Employee”**:

- 1) effective immediately upon **“Discovery”** by **“You”** of any act of **“Theft”** or other fraudulent or dishonest act committed by that **“Employee,”** whether the act was committed before or after becoming employed by **“You.”** **“You”** must report any such **“discovery”** to **“Us”** within 60 days of such **“Discovery.”** However, **Coverage C-Crime Coverage** shall be **“Cancelled”** as to that **“Employee”** for any acts of **“Theft”** or **“Forgery”** committed after such **“Discovery,”** whether or not the **“Discovery”** is reported to **“Us.”**
- 2) for any other reason other than **“Discovery”** of **“Theft”** or dishonest or fraudulent acts by the **“Employee,”** on the date specified in a notice mailed to **“You.”** The date will be at least 30 days after the date of notice.

B. “Cancellation” of Coverage C-Crime Coverages

“We” may **“Cancel”** all or any part of **Coverage C-Crime Coverages** at any time in accordance with the Rules and Regulations of the **“Authority”** upon 60 days’ notice to **“You.”**

F. DEFINITIONS

- A. **“Authority”** means the New Mexico Public School Insurance Authority.
- B. **“Banking Premises”** means the interior of that portion of any building occupied by a banking institution or similar safe depository.
- C. **“Cancellation”** means that **“We”** have put an end to all or some of our obligations under **Coverage C-Crime Coverages** as a result of a default by **“You”** or one of **“Your”** **“Employees”**.

- D. **“Computer Fraud”** means the unlawful taking of **“Money,” “Securities”** or **“Other Property”** resulting from a **“Computer Violation.”**
- E. **“Computer System”** means a computer or network of computers, including its input, output, processing, storage and communication facilities, and shall include offline media libraries.
- F. **“Computer Violation”** means an unauthorized:
- 1) entry into or deletion of data from a **“Computer System;”**
 - 2) change to data elements or program logic of a **“Computer System,”** which is kept in machine readable format; or”
 - 3) introduction of instructions, programmatic or otherwise, which propagate themselves through a **“Computer System.”**
- G. **“Counterfeit”** means an imitation of an actual valid original which is intended to deceive and to be taken as the original.
- H. **“Credit Card Fraud”** means the **“Forgery”** or alteration of, on or in, any written instrument required in connection with any credit card issued to **“You”** or at **“Your”** request to any of **“Your” “Employees.”**
- I. **“Discovery” or “Discovered” or “Discover”** means the time at which **“You”** first become aware of facts which would cause a reasonable person to believe that a loss covered by **Coverage C-Crime Coverage** has occurred or will be incurred or the time when **“You”** receive notice of a claim or potential claim.
- J. **“Employee” or “Employees”** means:
- 1) Any natural person:
 - a. while in **“Your”** service;
 - b. whom **“You”** compensate directly by salary or wages; and
 - c. whom **“You”** have the right to manage the work, direct the work and control the work while performing services for **“You.”**
 - 2) Any natural person:
 - a. who is a non-compensated officer or elected or appointed official in service to **“You;”** or
 - b. who is a director or trustee in service to **“You”** while performing acts coming within the

scope of their usual duties for **“You.”**

- 3) Any natural person who is temporarily furnished to **“You:”**
 - a. as a substitute for a permanent **“Employee”** who is on leave, or
 - b. to meet seasonal or short-term workload conditions, who is assigned to perform **“Employee”** duties while that person is subject to **“Your”** management’s direction and control and performing services for **“You,”** excluding, however, any such person while having care and custody of any of **“Your”** property outside the **“Premises.”**
 - c. **“We”** will not cover any loss caused by any temporarily employed person if such loss is also covered by any fund, insurance or suretyship held by an agency furnishing such temporary personnel to **“You.”**
 - 4) Any natural person who is:
 - a. a student enrolled in a school under **“Your”** jurisdiction while the student is handling or has possession of **“Money”** or **“Other Property”** in connection with sanctioned student activities; or
 - b. a “regular volunteer” pursuant to 6.50.18 NMAC in service to **“You”** while handling or in possession of **“Money”** or **“Other Property”** in connection with sanctioned student activities.
 - 5) **“Employee”** does not mean any agent, broker, person leased to **“You”** by a labor leasing firm, factor, commission merchant, consignee, independent contractor or representative of the same general nature.
- K. **“Forgery”** means falsely making or altering any signature to, or any part of, any writing purporting to have any legal efficacy with intent to injure or defraud or knowingly issuing or transferring a forged writing with intent to injure or defraud.
- L. **“Funds Transfer Fraud”** means fraudulent written, electronic, telegraphic, cable, teletype or telephone instructions issued to a financial institution directing such institution to transfer, pay or deliver **“Money”** or **“Securities”** from any account maintained by **“You”** at such institution, without **“Your”** knowledge or consent.
- M. **“Faithful Performance of Duty for Government Employees”** means loss or damage to “money”, “securities” and “other property” resulting directly from the 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 your covered property.

- N. **“Indirect or Consequential Loss”** is a loss that is the indirect result of any act or **“Occurrence”** covered by this **“Memorandum of Coverage,”** including, but not limited to loss resulting from:
- 1) **“Your”** inability to realize income that **“You”** would have realized had there been no loss of or loss from damage to **“Money,” “Securities”** or **“Other Property,”** or
 - 2) payment of damages of any type for which **“You”** are legally liable except as specifically covered under **Part D – Forgery or Alteration Coverage** or **“Your”** liability for damage to premises you do not own under **Part B-Inside the Premises Coverage.**
- O. **“Messenger”** means any of **“Your” “Employees”** who is authorized by **“You”** to have care and custody of **“Money,” “Securities”** or **“Other Property”** outside the **“Premises.”**
- P. **“Money”** means currency, coin, bank notes and bullion owned or held by **“You”** on behalf of others.
- Q. **“Occurrence”**:
- 1) As respects **Coverage C- Crime Coverages - Section 1-Part A-Employee Dishonesty Coverage, “Occurrence”** means an individual act; the combined total of all separate acts whether or not related; or a series of acts whether or not related; committed by an “employee” acting alone or in collusion with other persons, during the **“Memorandum”** period, before such period, or both. In the event an **“Employee”** is an **“Employee”** of more than one **“Member”** at the time that **“Employee”** commits dishonest acts, the combined total of all separate acts whether or not related, committed by that **“Employee”**, acting alone or in collusion with other persons, shall be considered as a single **“Occurrence”** and a single Limit of Insurance will apply to all **“Members”**.
 - 2) As respects **Coverage C- Crime Coverages - Section 1-Part B-Inside the Premises Coverages, Part C- Outside the Premises Coverages, Part D-Forgery and Alteration Coverage, Part E- Computer Fraud Coverage, Part F- Money Orders and Counterfeit Paper Coverage, Part G- Credit Card Fraud Coverage and Part H - Funds Transfer Fraud Coverage, “Occurrence”** means all loss or losses caused by any **“Third Party”** or in which that **“Third Party”** is involved, whether the loss involves one or more items, one or more **“Third Parties”** or a single act or series of related acts.
 - 3) As to losses involving the disappearance or destruction of **“Money”** or **“Securities,”** **“Occurrence”** means all disappearances or destruction which result from the same event or related series of events.
- R. **“Other Bonds or Insurance”** means any primary [not excess] bonds or insurance coverage **“You”** or any other party in interest acquire as protection against risks covered by **Coverage C-Crime Coverages.**
- S. **“Other Property”** means any tangible property other than **“Money”** or **“Securities”** owned by **“You”** or held by **“You”** on behalf of others that has intrinsic value which is not otherwise excluded.

- T. **“Premises”** means the interior of that portion of any buildings **“You”** occupy in conducting school related activities.
- U. **“Robbery”** means the unlawful taking of **“Money,” “Securities”** or **“Other Property”** from the care and custody of an **“Employee,” “Messenger”** or other authorized person by a **“Third Party”** who has caused or threatened to cause the **“Employee,” “Messenger”** or other authorized person with bodily harm.
- V. **“Safe Burglary”** means the taking of:
- 1) **“Money,” “Securities”** or **“Other Property”** from within a locked safe or vault by a **“Third Party”** unlawfully entering the safe or vault as evidenced by marks of forcible entry upon its exterior; or
 - 2) a safe or vault from inside the **“Premises.”**
- W. **“Securities”** means all negotiable and non-negotiable instruments or contracts representing either **“Money”** or **“Other Property”** owned by **“You”** or held by **“You”** and includes:
- 1) tokens, tickets and stamps (whether represented by actual stamps or unused value in a meter) in current use; and
 - 2) evidence of debt issued in connection with credit or charge cards, but does not include **“Money.”**
- X. **“Term”** means the one-year period commencing July 1 of a given year and ending June 30 of the following year which is identified as “Term of Memorandum of Coverage” on the first page of the **“Memorandum of Coverage.”**
- Y. **“Termination”** means the expiration of a **“Memorandum of Coverage”** at the end of a **“Term.”**
- Z. **“Theft”** means the unlawful taking of **“Money,” “Securities”** or **“Other Property.”**
- AA. **“Third Party”** means a person other than an **“Employee.”**

The “Authority” secures a separate Crime policy on behalf of its “Members” with the following limits and Deductibles:

Coverages	Limit of Insurance Per Occurrence	Deductible Per Occurrence
Part A. Employee Theft – Per Loss	\$2,000,000	\$250,000
Part B. Inside the Premises	\$2,000,000	\$250,000
Part C. Outside the Premises	\$2,000,000	\$250,000
Part D. Forgery or Alteration	\$2,000,000	\$250,000
Part E. Computer and Funds Transfer Fraud	\$2,000,000	\$250,000
Part F. Money Orders and Counterfeit Money	\$2,000,000	\$250,000
Part G. Credit, Debit or Charge Card Forgery	\$2,000,000	\$250,000
Part H. Faithful Performance of Duty for Government Employees	\$1,000,000	\$250,000

The most the Insurer will pay for all loss resulting directly from an “Occurrence” is the applicable Limit of Insurance indicated in the schedule above– “Limit of Coverage and Deductible Amount”. If any loss is covered under more than one Insuring Agreement or Coverage, the most the Insurer will pay for such loss shall not exceed the largest Limit of Insurance available under any one of those Insuring Agreements or coverages.

COVERAGE D: CYBER COVERAGE

The “Authority” secures a separate Cyber policy on behalf of its “Members” with the following limits and Retentions:

A. COVERAGES & LIMITS:

1. \$25,000,000 Annual “**Policy**” and Program Aggregate Limit of Liability

(subject to “**Policy**” exclusions) for all “**Members**” combined (Aggregate for all coverage's combined, including Claims Expenses), subject to the following sub- limits as noted

2. \$2,000,000 Annual Aggregate Limit of Liability for each

Insured/Member for Information Security & Privacy Liability. Each Member of a JPA will have a \$2,000,000 Limit Each (Aggregate for all coverages combined, including Claim Expenses) but sublimited to:

B. BREACH RESPONSE

Breach Response Costs:	\$500,000	Annual Aggregate Limit of Liability for each Insured/Member Privacy Notification Costs coverage. (Limit is increased to \$1,000,000 if Beazley Vendor Services are used)
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FIRST PARTY LOSS

Business Interruption Loss:	\$2,000,000	Member Aggregate Limit of Liability for each “Member” resulting from Security Breach
	\$250,000	Member Aggregate Limit of Liability for each Insured /Member resulting from System Failure
Dependent Business Loss:	\$750,000	Member Aggregate Limit of Liability for each Insured/Member resulting from Dependent Security Breach
Cyber Extortion Loss:	\$2,000,000	Member Aggregate Limit of Liability for each Insured/Member Cyber Extortion Loss
Data Recovery Costs:	\$2,000,000	Member Aggregate Limit of Liability for each Insured/Member Data Protection Loss

LIABILITY

Data & Network Liability:	\$2,000 ,000	Annual Aggregate Limit of Liability for each Insured/Member for all Damages and Claims Expenses for Network Liability
Regulatory Defense & Penalties:	\$2,000,000	Annual Aggregate Limit of Liability for each Insured/Member for all Damages and Claims Expenses for Regulatory Defense & Penalties
Payment Card Liabilities & Costs:	\$2,000 ,000	Annual Aggregate Limit of Liability for each Insured/Member for all Damages and Claims Expenses for Payment Card Liabilities & Costs

Media Liability: \$2,000,000 **Annual Aggregate Limit of Liability** for each Insured/Member for all Damages and Claims Expenses for **Website Media Content Liability**

ECRIME

Fraudulent Instruction: \$50,000 **Member Aggregate Limit of Liability** for each Insured/Member for all Damages and Claims Expenses for **Fraudulent Instruction.**

Funds Transfer Fraud: \$50,000 **Member Aggregate Limit of Liability** for each Insured/Member for all Damages and Claims Expenses for **Funds Transfer Fraud**

Telephone Fraud: \$50,000 **Member Aggregate Limit of Liability** for each Insured/Member for all Damages and Claims Expenses for **Telecommunications Fraud**

***CRIMINAL
REWARD***

Criminal Reward: \$25,000 **Member Aggregate Limit of Liability** for each Insured/Member for all Damages and Claims Expenses for **Criminal Reward.**

***COVERAGE
ENDORSEMENT(S)***

Consequential Reputational Loss: \$50,000 **Member Aggregate Limit of Liability** for each Insured/Member for all Damages and Claims Expenses for **Consequential Reputational Loss**

RETENTIONS: \$50,000 Per Occurrence for each Insured/Member with TIV up to \$500,000,000 at the time of loss
8 Hour waiting period for first party claims
\$100,000 Per Occurrence for each Insured/Member with TIV greater than \$500,000,000 at the time of loss
8 Hour waiting period for first party claims

NOTICE:

Coverage of this “**Policy**” provides coverage on a claim made and reported basis; except as otherwise provided, coverage under noted coverage schedule applies only to claims first made against the “**You**” and reported to “**Us**” during the “**Policy Period**”. Claims expenses shall reduce the applicable Limit of Liability.

EXTENDED REPORTING PERIOD:

For “**Members**” - To be determined at the time of election.

C. SPECIFIC COVERAGE PROVISIONS:

- A. Breach Response indemnifies the “**Member**” Organization for Breach Response Costs incurred by the Insured Organization because of an actual or reasonably suspected Data Breach or Security Breach that the Insured first discovers during the “**Policy Period**”.
- B. First Party Loss indemnifies the “**Member**” for: Business Interruption Loss the “**Member**” sustains as a result of a Security Breach or System Failure that the “**Member**” first discovers during the “**Policy Period**”. Dependent Business Interruption Loss indemnifies loss the “**Member**” sustains as a result of a Dependent Security Breach or a Dependent System Failure that the “**Member**” first discovers during the “**Policy Period**”. Cyber Extortion Loss indemnifies loss the “**Member**” incurs as a result of an Extortion Threat first made against the “**Member**” during the “**Policy Period**”. Data Recovery Costs indemnifies the loss “**Member**” incurs as a direct result of a Security Breach that the “**Member**” first discovers during the “**Policy Period**”.
- C. Liability: Data & Network Liability pays Damages and Claims Expenses, which the “**Member**” is legally obligated to pay because of any Claim first made against any “**Member**” during the “**Policy Period**”. Regulatory Defense & Penalties pays Penalties and Claims Expenses, which the “**Member**” is legally obligated to pay because of a Regulatory Proceeding first made against any “**Member**” during the “**Policy Period**” for a Data Breach or a Security Breach. Payment Card Liabilities & Costs indemnifies the “**Member**” for PCI Fines, Expenses and Costs which it is legally obligated to pay because of a Claim first made against any “**Member**” during the “**Policy Period**”. Media Liability pays Damages and Claims Expenses, which the “**Member**” is legally obligated to pay because of any Claim first made against any “**Member**” during the “**Policy Period**” for Media Liability.
- D. eCrime indemnifies the **Member**” for any direct financial loss sustained resulting from:

- i. Fraudulent Instruction
- ii. Funds Transfer Fraud
- iii. Telephone Fraud

That the “**Member**” first discovers during the “**Policy**”.

SPECIFIC COVERAGE PROVISIONS (Continued)

E. Criminal Reward indemnifies the “**Member**” for Criminal Reward Funds.

D. EXCLUSIONS:

(Including but not limited to)

Coverage does not apply to any claim or loss from

- Bodily Injury or Property Damage
- Any employer-employee relations, policies, practices
- Any actual or alleged act, error or omission or breach of duty by any director, officer, manager if claim is brought by principals, officers, directors, stockholders and the like
- Anti-Trust violations
- Unfair trade practices
- Unlawful collection or acquisition of Personally Identifiable Non-Public Information
- Distribution of unsolicited e-mails, facsimile, audio or video recording
- Prior knowledge or previously reported incidents
- Incidents occurring prior to retroactive date (varies according to Members’ inception date no earlier than July 1, 2010)
- Any act, error, omission, of computer security if occurred prior to “**Policy**” inception
- Collusion
- Securities Act Violations
- Fair Labor Act Violations
- Discrimination
- Intentional Acts with regard to Privacy and Security Breach
- Infringement - Patent and Copyright
- Federal Trade Commission and related state, federal, local and foreign governmental activities
- Insured vs. Insured
- Money/Securities/Funds Transfer
- Broadcasting, Publications and Advertising

- War and Terrorism
- Nuclear Incident
- Radioactive Contamination
- First Party Loss - with respects to Business Interruption as a result of System Failure only

E. DEFINITIONS

Additional Insured means any person or entity that the “**Member**” has agreed in writing to add as an Additional Insured under this “**Policy**” prior to the commission of any act for which such person or entity would be provided coverage under this “**Policy**”, but only to the extent the “**Member**” would have been liable and coverage would have been afforded under the terms and conditions of this “**Policy**” had such Claim been made against the “**Member**”.

Breach Notice Law means any statute or regulation that requires notice to persons whose personal information was accessed or reasonably may have been accessed by an unauthorized person.

Breach Notice Law also includes any statute or regulation requiring notice of a Data Breach to be provided to governmental or regulatory authorities.

Breach Response Costs means the following fees and costs incurred by the “**Member**” with the Underwriters' prior written consent in response to an actual or reasonably suspected Data Breach or Security Breach:

1. for an attorney to provide necessary legal advice to the “**Member**” to evaluate its obligations pursuant to Breach Notice Laws or a Merchant Services Agreement;
2. for a computer security expert to determine the existence, cause and scope of an actual or reasonably suspected Data Breach, and if such Data Breach is actively in progress on the “**Member’s**” Computer Systems, to assist in containing it;
3. for a PCI Forensic Investigator to investigate the existence and extent of an actual or reasonably suspected Data Breach involving payment card data and for a Qualified Security Assessor to certify and assist in attesting to the “**Member’s**” PCI compliance, as required by a Merchant Services Agreement;
4. to notify those individuals whose Personally Identifiable Information was potentially impacted by a Data Breach;
5. to provide a call center to respond to inquiries about a Data Breach;
6. to provide a credit monitoring, identity monitoring or other personal fraud or loss prevention solution, to be approved by the Underwriters, to individuals whose

Personally Identifiable Information was potentially impacted by a Data Breach;
and

7. public relations and crisis management costs directly related to mitigating harm to the **“Member”** which are approved in advance by the Underwriters in their discretion.

Breach Response Costs will not include any internal salary or overhead expenses of the **“Member”**.

Business Interruption Loss means:

1. Income Loss;
2. Forensic Expenses; and
3. Extra Expense;

actually, sustained during the Period of Restoration as a result of the actual interruption of the **“Member’s”** business operations caused by a Security Breach or System Failure. Coverage for Business Interruption Loss will apply only after the Waiting Period has elapsed.

Business Interruption Loss will not include (i) loss arising out of any liability to any third party; (ii) legal costs or legal expenses; (iii) loss incurred as a result of unfavorable business conditions; (iv) loss of market or any other consequential loss; (v) Dependent Business Loss; or (vi) Data Recovery Costs.

Claim means:

1. a written demand received by any **“Member”** for money or services;
2. with respect to coverage provided under the Regulatory Defense & Penalties insuring agreement only, institution of a Regulatory Proceeding against any **“Member”**; and
3. with respect to coverage provided under part 1. of the Data & Network Liability insuring agreement only, a demand received by any **“Member”** to fulfill the **“Member’s”** contractual obligation to provide notice of a Data Breach pursuant to a Breach Notice Law;

Multiple Claims arising from the same or a series of related, repeated or continuing acts, errors, omissions or events will be considered a single Claim for the purposes of this **“Policy”**. All such Claims will be deemed to have been made at the time of the first such Claim.

Claims Expenses means:

1. all reasonable and necessary legal costs and expenses resulting from the investigation, defense and appeal of a Claim, if incurred by the Underwriters, or by the **“Member”** with the prior written consent of the Underwriters; and

2. the premium cost for appeal bonds for covered judgments or bonds to release property used to secure a legal obligation, if required in any Claim against a **“Member”**; provided the Underwriters will have no obligation to appeal or to obtain bonds.

Claims Expenses will not include any salary, overhead, or other charges by the **Member** for any time spent in cooperating in the defense and investigation of any Claim or circumstance that might lead to a Claim notified under this **“Policy”**, or costs to comply with any regulatory orders, settlements or judgments.

Computer Systems means computers, any software residing on such computers and any associated devices or equipment:

1. operated by and either owned by or leased to the **“Member”**; or
2. with respect to coverage under the Breach Response and Liability insuring agreements, operated by a third party pursuant to written contract with the **“Member”** and used for the purpose of providing hosted computer application services to the **“Member”** or for processing, maintaining, hosting or storing the **“Member’s”** electronic data.

Retroactive Date means:

1. the inception or effective date the **“Member”** to first become a scheduled Named Insured to the **“Memorandum”** but no earlier than July 1, 2010; and
2. with respect to any Subsidiaries acquired after the Retroactive Date, whereas, the date the **“Member”** acquired such Subsidiary.

Control Group means any principal, partner, corporate officer, director, general counsel (or most senior legal counsel) or risk manager of the **“Member”** and any individual in a substantially similar position.

Criminal Reward Funds means any amount offered and paid by the **“Member”** with the Underwriters' prior written consent for information that leads to the arrest and conviction of any individual(s) committing or trying to commit any illegal act related to any coverage under this **“Policy”**; but will not include any amount based upon information provided by the **“Member”**, the **“Member’s”** auditors or any individual hired or retained to investigate the illegal acts. All Criminal Reward Funds offered pursuant to this **“Policy”** must expire no later than 6 months following the end of the **“Policy Period”**.

Cyber Extortion Loss means:

1. any Extortion Payment that has been made by or on behalf of the **“Member”** with the Underwriters' prior written consent to prevent or terminate an Extortion Threat; and
2. reasonable and necessary expenses incurred by the **“Member”** with the Underwriters' prior written consent to prevent or respond to an Extortion Threat.

Damages means a monetary judgment, award or settlement, including any award of prejudgment or post-judgment interest; but Damages will not include:

1. future profits, restitution, disgorgement of unjust enrichment or profits by a **“Member”**, or the costs of complying with orders granting injunctive or equitable relief;
2. return or offset of fees, charges or commissions charged by or owed to a **“Member”** for goods or services already provided or contracted to be provided;
3. taxes or loss of tax benefits;
4. fines, sanctions or penalties;
5. punitive or exemplary damages or any damages which are a multiple of compensatory damages, unless insurable by law in any applicable venue that most favors coverage for such punitive, exemplary or multiple damages;
6. discounts, coupons, prizes, awards or other incentives offered to the **“Member’s”** customers or clients;
7. liquidated damages, but only to the extent that such damages exceed the amount for which the **“Member”** would have been liable in the absence of such liquidated damages agreement;
8. fines, costs or other amounts an Insured is responsible to pay under a Merchant Services Agreement; or
9. any amounts for which the **“Member”** is not liable, or for which there is no legal recourse against the **“Member”**.

Data means any software or electronic data that exists in Computer Systems and that is subject to regular back-up procedures.

Data Breach means the theft, loss, or Unauthorized Disclosure of Personally Identifiable Information or Third Party Information that is in the care, custody or control of the **“Member”** or a third party for whose theft, loss or Unauthorized Disclosure of Personally Identifiable Information or Third Party Information the **Member** is liable.

Data Recovery Costs means the reasonable and necessary costs incurred by the **“Member”** to regain access to, replace, or restore Data, or if Data cannot reasonably be accessed, replaced, or restored, then the reasonable and necessary costs incurred by the **“Member”** to reach this determination.

Data Recovery Costs will not include: (i) the monetary value of profits, royalties, or lost market share related to Data, including but not limited to trade secrets or other proprietary information or any other amount pertaining to the value of Data; (ii) legal costs or legal expenses; (iii) loss arising out of any liability to any third party; or (iv) Cyber Extortion Loss.

Dependent Business means any entity that is not a part of the **“Member”** but which provides necessary products or services to the **“Member”** pursuant to a written contract.

Dependent Business Loss means:

1. Income Loss; and
2. Extra Expense;

actually, sustained during the Period of Restoration as a result of an actual interruption of the “**Member’s**” business operations caused by a Dependent Security Breach or Dependent System Failure. Coverage for Dependent Business Loss will apply only after the Waiting Period has elapsed.

Dependent Business Loss will not include (i) loss arising out of any liability to any third party; (ii) legal costs or legal expenses; (iii) loss incurred as a result of unfavorable business conditions; (iv) loss of market or any other consequential loss; (v) Business Interruption Loss; or (vi) Data Recovery Costs.

Dependent Security Breach means a failure of computer security to prevent a breach of computer systems operated by a Dependent Business.

Dependent System Failure means an unintentional and unplanned interruption of computer systems operated by a Dependent Business.

Dependent System Failure will not include any interruption of computer systems resulting from (i) a Dependent Security Breach, or (ii) the interruption of computer systems that are not operated by a Dependent Business.

Digital Currency means a type of digital currency that:

1. requires cryptographic techniques to regulate the generation of units of currency and verify the transfer thereof;
2. is both stored and transferred electronically; and
3. operates independently of a central bank or other central authority.

Extortion Payment means Money, Digital Currency, marketable goods or services demanded to prevent or terminate an Extortion Threat.

Extortion Threat means a threat to:

1. alter, destroy, damage, delete or corrupt Data;
2. perpetrate the Unauthorized Access or Use of Computer Systems;
3. prevent access to Computer Systems or Data;
4. steal, misuse or publicly disclose Data, Personally Identifiable Information or Third-Party Information;

5. introduce malicious code into Computer Systems or to third party computer systems from Computer Systems; or
6. interrupt or suspend Computer Systems;
unless an Extortion Payment is received from or on behalf of the **“Member”**.

Extra Expense means reasonable and necessary expenses incurred by the **“Member”** during the Period of Restoration to minimize, reduce or avoid Income Loss, over and above those expenses the **“Member”** would have incurred had no Security Breach, System Failure, Dependent Security Breach or Dependent System Failure occurred.

Financial Institution means a bank, credit union, saving and loan association, trust company or other licensed financial service, securities broker-dealer mutual fund, or liquid assets fund or similar investment company where the **“Member”** maintains a bank account.

Forensic Expenses means reasonable and necessary expenses incurred by the **“Member”** to investigate the source or cause of a Business Interruption Loss.

Fraudulent Instruction means the transfer, payment or delivery of Money or Securities by a **“Member”** as a result of fraudulent written, electronic, telegraphic, cable, teletype or telephone instructions provided by a third party, that is intended to mislead a **“Member”** through the misrepresentation of a material fact which is relied upon in good faith by such **“Member”**.

Fraudulent Instruction will not include loss arising out of:

1. any actual or alleged use of credit, debit, charge, access, convenience, customer identification or other cards;
2. any transfer involving a third party who is not a natural person Insured, but had authorized access to the **“Member’s”** authentication mechanism;
3. the processing of, or the failure to process, credit, check, debit, personal identification number debit, electronic benefit transfers or mobile payments for merchant accounts;
4. accounting or arithmetical errors or omissions, or the failure, malfunction, inadequacy or illegitimacy of any product or service;
5. any liability to any third party, or any indirect or consequential loss of any kind;
6. any legal costs or legal expenses; or
7. proving or establishing the existence of Fraudulent Instruction.

Funds Transfer Fraud means the loss of Money or Securities contained in a Transfer Account at a Financial Institution resulting from fraudulent written, electronic, telegraphic, cable, teletype or telephone instructions by a third party issued to a Financial Institution directing such institution to

transfer, pay or deliver Money or Securities from any account maintained by the “**Member**” at such institution, without the “**Member**”’s “knowledge or consent.

Funds Transfer Fraud will not include any loss arising out of:

1. the type or kind covered by the “**Member**’s” financial institution bond or commercial crime policy;
2. any actual or alleged fraudulent, dishonest or criminal act or omission by, or involving, any natural “**Member**”;
3. any indirect or consequential loss of any kind;
4. punitive, exemplary or multiplied damages of any kind or any fines, penalties or loss of any tax benefit;
5. any liability to any third party, except for direct compensatory damages arising directly from Funds Transfer Fraud;
6. any legal costs or legal expenses; or proving or establishing the existence of Funds Transfer Fraud;
7. the theft, disappearance, destruction of, unauthorized access to, or unauthorized use of confidential information, including a PIN or security code;
8. any forged, altered or fraudulent negotiable instruments, securities, documents or instructions; or
9. any actual or alleged use of credit, debit, charge, access, convenience or other cards or the information contained on such cards.

Income Loss means an amount equal to:

1. net profit or loss before interest and tax that the “**Member**” would have earned or incurred; and
2. continuing normal operating expenses incurred by the **Member**” (including payroll), but only to the extent that such operating expenses must necessarily continue during the Period of Restoration.

Individual Contractor means any natural person who performs labor or service for the “**Member**” pursuant to a written contract or agreement with the “**Member**”. The status of an individual as an Individual Contractor will be determined as of the date of an alleged act, error or omission by any such Individual Contractor.

Insured means:

1. the **“Member”**;
2. any director or officer of the **“Member”**, but only with respect to the performance of his or her duties as such on behalf of the **“Member”**;
3. an employee (including a part time, temporary, leased or seasonal employee or volunteer) or Individual Contractor of the **“Member”**, but only for work done while acting within the scope of his or her employment and related to the conduct of the **“Member’s”** business;
4. a principal if the **Member”** is a sole proprietorship, or a partner if the **“Member”** is a partnership, but only with respect to the performance of his or her duties as such on behalf of the **Member”**;
5. any person who previously qualified as a **“Member”** under parts 2. - 4., but only with respect to the performance of his or her duties as such on behalf of the **“Member”**;
6. an Additional Insured, but only as respects Claims against such person or entity for acts, errors or omissions of the **“Member”**;
7. the estate, heirs, executors, administrators, assigns and legal representatives of any **“Member”** in the event of such **“Member’s”** death, incapacity, insolvency or bankruptcy, but only to the extent that such **“Member”** would otherwise be provided coverage under this **“Policy”**; and
8. the lawful spouse, including any natural person qualifying as a domestic partner of any **“Member”**, but solely by reason of any act, error or omission of an Insured other than such spouse or domestic partner.

Insured Organization means the **“Member”** and any Subsidiaries.

Loss means Breach Response Costs, Business Interruption Loss, Claims Expenses, Criminal Reward Funds, Cyber Extortion Loss, Damages, Data Recovery Costs, Dependent Business Loss, PCI Fines, Expenses and Costs, Penalties, loss covered under the eCrime insuring agreement and any other amounts covered under this **“Policy”**.

Multiple Losses arising from the same or a series of related, repeated or continuing acts, errors, omissions or events will be considered a single Loss for the purposes of this **“Policy”**.

With respect to the Breach Response and **“Member”** Loss insuring agreements, all acts, errors, omissions or events (or series of related, repeated or continuing acts, errors, omissions or events) giving rise to a Loss or multiple Losses in connection with such insuring agreements will be deemed to have been discovered at the time the first such act, error, omission or event is discovered.

Media Liability means one or more of the following acts committed by, or on behalf of, the **“Member”** in the course of creating, displaying, broadcasting, disseminating or releasing Media Material to the public:

1. defamation, libel, slander, product disparagement, trade libel, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization;
2. a violation of the rights of privacy of an individual, including false light, intrusion upon seclusion and public disclosure of private facts;
3. invasion or interference with an individual's right of publicity, including commercial appropriation of name, persona, voice or likeness;
4. plagiarism, piracy, or misappropriation of ideas under implied contract;
5. infringement of copyright;
6. infringement of domain name, trademark, trade name, trade dress, logo, title, metatag, or slogan, service mark or service name;
7. improper deep-linking or framing;
8. false arrest, detention or imprisonment;
9. invasion of or interference with any right to private occupancy, including trespass, wrongful entry or eviction; or
10. unfair competition, if alleged in conjunction with any of the acts listed in parts 5. or 6. above.

Media Material means any information, including words, sounds, numbers, images or graphics, but will not include computer software or the actual goods, products or services described, illustrated or displayed in such Media Material.

Merchant Services Agreement means any agreement between a **“Member”** and a financial institution, credit debit card company, credit debit card processor or independent service operator enabling a **“Member”** to accept credit card, debit card, prepaid card or other payment cards for payments or donations.

Money means a medium of exchange in current use authorized or adopted by a domestic or foreign government as a part of its currency.

“Member” means the **“Members”** listed in the **“Memorandum”**.

PCI Fines, Expenses and Costs means the monetary amount owed by the **“Member”** under the terms of a Merchant Services Agreement as a direct result of a suspected Data Breach. With the prior consent of the Underwriters, PCI Fines, Expenses and Costs includes reasonable and necessary legal costs and expenses incurred by the **“Member”** to appeal or negotiate an assessment of such monetary amount. PCI Fines, Expenses and Costs will not include any charge backs, interchange fees, discount fees or other fees unrelated to a Data Breach.

Penalties means:

1. any monetary civil fine or penalty payable to a governmental entity that was imposed in a Regulatory Proceeding; and
2. amounts which the **“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 (including such amounts required to be paid into a "Consumer Redress Fund");

but will not include: (a) costs to remediate or improve Computer Systems; (b) costs to establish, implement, maintain, improve or remediate security or privacy practices, procedures, programs or policies; (c) audit, assessment, compliance or reporting costs; or (d) costs to protect the confidentiality, integrity and/or security of Personally Identifiable Information or other information.

The insurability of Penalties will be in accordance with the law in the applicable venue that most favors coverage for such Penalties.

Period of Restoration means the 180-day period of time that begins upon the actual and necessary interruption of the **“Member’s”** business operations.

Personally Identifiable Information means:

1. any information concerning an individual that is defined as personal information under and Breach Notice Law; and
2. an individual's driver's license or state identification number, social security number, unpublished telephone number, and credit, debit or other financial account numbers in combination with associated security codes, access codes, passwords or PINs; if such information allows an individual to be uniquely and reliably identified or contacted or allows access to the individual's financial account or medical record information but will not include information that is lawfully made available to the general public.

“Policy Period” means the period of time between the inception date listed in the Declarations and the effective date of termination, expiration or cancellation of this **“Policy”** and specifically excludes any Optional Extension Period or any prior **“Policy”** or renewal period.

Privacy Policy means the **“Member’s”** public declaration of its policy for collection, use, disclosure, sharing, dissemination and correction or supplementation of, and access to Personally Identifiable Information.

Regulatory Proceeding means a request for information, civil investigative demand, or civil proceeding brought by or on behalf of any federal, state, local or foreign governmental entity in such entity's regulatory or official capacity.

Securities means negotiable and non-negotiable instruments or contracts representing either Money or tangible property that has intrinsic value.

Security Breach means a failure of computer security to prevent:

1. Unauthorized Access or Use of Computer Systems, including Unauthorized Access or Use resulting from the theft of a password from a Computer System or from any **“Member”**;
2. a denial of service attack affecting Computer Systems;
3. with respect to coverage under the Liability insuring agreements, a denial of service attack affecting computer systems that are not owned, operated or controlled by a **“Member”**; or
4. infection of Computer Systems by malicious code or transmission of malicious code from Computer Systems.

Subsidiary means any not-for-profit entity:

1. which, on or prior to the inception date of this **“Policy”**, the governing body of the **“Member”** exerts effective control, directly and indirectly, and whose accounts are included with or consolidated into financial statements of the **“Member”**; and
2. which the governing body of the **“Member”** exerts effective control, directly and indirectly after the inception date of this **“Policy”**; provided that:
 - (i) the value of the sum of all assets (including, but not limited to, real estate, securities assumed indebtedness and other consideration) expended, assumed or exchanged for any such acquisition, formation or merger does not exceed 5% of the total assets of the **“Member”** and its consolidated subsidiaries and affiliates;
 - (ii) the combined or consolidated operations and the acquired, formed or merged entity are not materially different from those of the **“Member”** prior to the acquisition, formation or merger;
 - (iii) coverage with respect to that newly formed, acquired or merged entity will begin on the date of acquisition, formation or merger, and there is no coverage for any entity acquired by or merged into the **“Member”** or for any person with respect to that entity for **“Occurrences”** happening prior to the date of acquisition or merger.

This **“Policy”** provides coverage only for acts, errors, omissions, incidents or events that occur while the **“Member”** exerts effective control, directly and indirectly over an entity.

System Failure means an unintentional and unplanned interruption of Computer Systems.

System Failure will not include any interruption of computer systems resulting from (i) a Security Breach, or (ii) the interruption of any third-party computer system.

Telephone Fraud means the act of a third-party gaining access to and using the “**Member’s**” telephone system in an unauthorized manner.

Third Party Information means any trade secret, data, design, interpretation, forecast, formula, method, practice, credit or debit card magnetic strip information, process, record, report or other item of information of a third party not insured under this “**Policy**” which is not available to the general public.

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 Money or Securities.

Unauthorized Access or Use means the gaining of access to or use of Computer Systems by an unauthorized person(s) or the use of Computer Systems in an unauthorized manner.

Unauthorized Disclosure means the disclosure of (including disclosure resulting from phishing) or access to information in a manner that is not authorized by the “**Member**” is without knowledge of, consent or acquiescence of any member of the Control Group.

Waiting Period means the period of time that begins upon the actual interruption of the “**Member’s**” business operations caused by a Security Breach, System Failure, Dependent Security Breach or Dependent System Failure, and ends after the elapse of the number of hours listed as the Waiting Period in the Declarations.

F. EXCLUSIONS

The coverage under this “**Policy**” will not apply to any Loss arising out of:

Bodily Injury or Property Damage

1. physical injury, sickness, disease or death of any person, including any mental anguish or emotional distress resulting from such physical injury, sickness, disease or death; or
2. physical injury to or destruction of any tangible property, including the loss of use thereof; but electronic data will not be considered tangible property;

Trade Practices and Antitrust

any actual or alleged false, deceptive or unfair trade practices, antitrust violation, restraint of trade, unfair competition (except as provided in the Media Liability insuring agreement), or false or deceptive or misleading advertising or violation of the Sherman Antitrust Act, the Clayton Act, or the Robinson-Patman Act; but this exclusion will not apply to:

1. the Breach Response insuring agreement; or
2. coverage for a Data Breach or Security Breach, provided no member of the Control Group participated or colluded in such Data Breach or Security Breach;

Gathering or Distribution of Information

1. the unlawful collection or retention of Personally Identifiable Information or other personal information by or on behalf of the **“Member”**; but this exclusion will not apply to Claims Expenses incurred in defending the **“Member”** against allegations of unlawful collection of Personally Identifiable Information; or
2. the distribution of unsolicited email, text messages, direct mail, facsimiles or other communications, wiretapping, audio or video recording, or telemarketing, if such distribution, wiretapping, recording or telemarketing is done by or on behalf of the **“Member”**; but this exclusion will not apply to Claims Expenses incurred in defending the **“Member”** against allegations of unlawful audio or video recording;

Prior Known Acts & Prior Noticed Claims

1. any act, error, omission, incident or event committed or occurring prior to the inception date of this **“Policy”** if any member of the Control Group on or before the Retroactive Date knew or could have reasonably foreseen that such act, error or omission, incident or event might be expected to be the basis of a Claim or Loss;
2. any Claim, Loss, incident or circumstance for which notice has been provided under any prior **“Policy”** of which this **“Policy”** is a renewal or replacement;

Racketeering, Benefit Plans, Employment Liability & Discrimination

1. any actual or alleged violation of the Organized Crime Control Act of 1970 (commonly known as Racketeer Influenced and Corrupt Organizations Act or RICO), as amended;
2. any actual or alleged acts, errors or omissions related to any of the **“Member’s”** pension, healthcare, welfare, profit sharing, mutual or investment plans, funds or trusts;
3. any employer-employee relations, policies, practices, acts or omissions, or any actual or alleged refusal to employ any person, or misconduct with respect to employees; or
4. any actual or alleged discrimination;

but this exclusion will not apply to coverage under the Breach Response insuring agreement or parts 1., 2. or 3. of the Data & Network Liability insuring agreement that results from a Data Breach; provided no member of the Control Group participated or colluded in such Data Breach;

Sale or Ownership of Securities & Violation of Securities Laws

1. the ownership, sale or purchase of, or the offer to sell or purchase stock or other securities; or
2. an actual or alleged violation of a securities law or regulation; Criminal, Intentional or Fraudulent Acts

any criminal dishonest, fraudulent, or malicious act or omission, or intentional or knowing violation of the law, if committed by a **“Member”**, or by others if the **“Member”** colluded or participated in any such conduct or activity; but this exclusion will not apply to:

1. Claims Expenses incurred in defending any Claim alleging the foregoing until there is a final non-appealable adjudication establishing such conduct; or
2. with respect to a **Member**, if such **“Member”** did not personally commit, participate in or know about any act, error, omission, incident or event giving rise to such Claim or Loss.

For purposes of this exclusion, only acts, errors, omissions or knowledge of a member of the Control Group will be imputed to the **“Member”**; Patent, Software Copyright, Misappropriation of Information

1. infringement, misuse or abuse of patent or patent rights;
2. infringement of copyright arising from or related to software code or software products other than infringement resulting from a theft or Unauthorized Access or Use of software code by a person who is not a past, present or future employee, director, officer, partner or independent contractor of the **“Member”**; or
3. use or misappropriation of any ideas, trade secrets or Third Party Information (i) by, or on behalf of, the **“Member”**, or (ii) by any other person or entity if such use or misappropriation is done with the knowledge, consent or acquiescence of a member of the Control Group;

Governmental Actions;

a Claim brought by or on behalf of any state, federal, local or foreign governmental entity, in such entity's regulatory or official capacity; but this exclusion will not apply to the Regulatory Defense & Penalties insuring agreement;

Other & Related Enterprises;

a Claim made by or on behalf of:

1. any **“Member”**; but this exclusion will not apply to a Claim made by an individual that is not a member of the Control Group under the Data & Network Liability insuring agreement, or a Claim made by an Additional Insured; or
2. any business enterprise in which any **“Member”** has greater than 15% ownership interest or made by any parent company or other entity which owns more than 15% of the **“Member”**;

Trading Losses, Loss of Money & Discounts

1. any trading losses, trading liabilities or change in value of accounts;
2. any loss, transfer or theft of monies, securities or tangible property of the Insured or others in the care, custody or control of the **“Member”**;
3. the monetary value of any transactions or electronic fund transfers by or on behalf of the **“Member”** which is lost, diminished, or damaged during transfer from, into or between accounts; or
4. the value of coupons, price discounts, prizes, awards, or any other valuable consideration given in excess of the total contracted or expected amount;

but this exclusion will not apply to coverage under the eCrime insuring agreement; Media -Related Exposures with respect to the Media Liability insuring agreement:

- a. any contractual liability or obligation; but this exclusion will not apply to a Claim for misappropriation of ideas under implied contract;
- b. the actual or alleged obligation to make licensing fee or royalty payments;
- c. any costs or expenses incurred or to be incurred by the **“Member”** or others for the reprinting, reposting, recall, removal or disposal of any Media Material or any other information, content or media, including any media or products containing such Media Material, information, content or media;
- d. any Claim brought by or on behalf of any intellectual property licensing bodies or organizations;
5. the actual or alleged inaccurate, inadequate or incomplete description of the price of goods, products or services, cost guarantees, cost representations, contract price estimates, or the failure of any goods or services to conform with any represented quality or performance;

6. any actual or alleged gambling, contest, lottery, promotional game or other game of chance; or
7. any Claim made by or on behalf of any independent contractor, joint venturer or venture partner arising out of or resulting from disputes over ownership of rights in Media Material or services provided by such independent contractor, joint venturer or venture partner;

First Party Loss;

with respect to the First Party Loss insuring agreements:

1. seizure, nationalization, confiscation, or destruction of property or data by order of any governmental or public authority;
2. costs or expenses incurred by the “**Member**” to identify or remediate software program errors or vulnerabilities or update, replace, restore, assemble, reproduce, recollect or enhance data or Computer Systems to a level beyond that which existed prior to a Security Breach, System Failure, Dependent Security Breach, Dependent System Failure or Extortion Threat;
3. failure or malfunction of satellites or of power, utility, mechanical or telecommunications (including internet) infrastructure or services that are not under the “**Member’s**” direct operational control; or
4. fire, flood, earthquake, volcanic eruption, explosion, lightning, wind, hail, tidal wave, landslide, act of God or other physical event.

ENDORSEMENT NO. 1

WEBSITE MEDIA CONTENT LIABILITY

This endorsement modifies insurance provided under the following:

1. The definition of Media Liability is deleted in its entirety and replaced with the following:

Media Liability means one or more of the following acts committed by, or on behalf of, the “**Member**” in the course of the “**Member’s**” display of Media Material on its web site or on social media web pages created and maintained by or on behalf of the “**Member**”:

1. defamation, libel, slander, trade libel, infliction of emotional distress, outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organization;
2. a violation of the rights of privacy of an individual, including false light and public disclosure of private facts;
3. invasion or interference with an individual's right of publicity, including commercial appropriation of name, persona, voice or likeness;
4. plagiarism, piracy, misappropriation of ideas under implied contract;
5. infringement of copyright;
6. infringement of domain name, trademark, trade name, trade dress, logo, title, metatag, or slogan, service mark, or service name; or
7. improper deep-linking or framing within electronic content.

2. The definition of Media Material is deleted in its entirety and replaced with the following:

Media Material means any information in electronic form, including words, sounds, numbers, images, or graphics and shall include advertising, video, streaming content, web-casting, online forum, bulletin board and chat room content, but does not mean computer software or the actual goods, products or services described, illustrated or displayed in such Media Material.

All other terms and conditions of this “**Memorandum**” remain unchanged.

ENDORSEMENT NO. 2

CONSEQUENTIAL REPUTATIONAL LOSS

This endorsement modifies insurance provided under the following:

3. INSURING AGREEMENTS is amended by the addition of:

Consequential Reputational Loss:

To indemnify the **“Member”** for Consequential Reputational Loss, that the **Member”** incurs during the Notification Period as a result of (i) an actual or reasonably suspected Data Breach or Security Breach that the **“Member”** first discovers during the **“Policy Period”** and (ii) for which individuals have been notified pursuant to part 4. of the Breach Response Services definition.

4. For purposes of this endorsement, DEFINITIONS is amended to include:

Consequential Reputational Loss means the Income Loss during the Notification Period; provided that Consequential Reputational Loss shall not mean and no coverage shall be available under this endorsement for any of the following: loss arising out of any liability to any third party for whatever reason; legal costs or legal expenses of any type; loss incurred as a result of unfavorable business conditions, loss of market or any other consequential loss; or costs or expenses the **“Member”** incurs to identify, investigate, respond to or remediate an actual or reasonably suspected Data Breach or Security Breach.

Income Loss means the net profit resulting directly from the **“Member’s”** business operations, before income taxes, that the **“Member”** is prevented from earning as a direct result of damage to the **“Member’s”** reputation caused by an actual or reasonably suspected Data Breach or Security Breach. In determining Income Loss, due consideration shall be given to the prior experience of the **“Member’s”** business operations before the beginning of the Notification Period and to the reasonable and probable business operations the **“Member”** could have performed had the actual or reasonably suspected Data Breach or Security Breach not occurred.

Income Loss does not include any internal salary, costs or overhead expenses of the **“Member”**.

Notification Period means the 30-day period that begins on the specific date on which Notified Individuals first receive notification of the incident for which Notification Services are provided.

5. Notice of Claim or Loss under GENERAL CONDITIONS is amended to include:

With respect to Consequential Reputational Loss the **“Member”** must notify the Underwriters through the contacts listed for Notice of Claim, Loss or Circumstance in the Declarations as soon as practicable after discovery of the circumstance, incident or event giving rise to such loss. The **“Member”** will provide the Underwriters a proof of Consequential Reputational Loss. All loss described in this paragraph must be reported, and all proofs of loss must be provided, to the Underwriters no later than six (6) months after the end of the **“Policy Period”**. The costs and expenses of preparing and submitting a proof of loss and establishing or proving Consequential Reputational Loss shall be the **“Member’s”** obligation and are not covered under this **“Policy”**.

ENDORSEMENT NO. 3

GDPR CYBER ENDORSEMENT

This endorsement modifies insurance provided under the following:

It is hereby understood and agreed that the Data & Network Liability insuring agreement is amended to include:

5. non-compliance with the following obligations under the EU General Data Protection Regulation (or legislation in the relevant jurisdiction implementing this Regulation):

- (a) Article 5.1(f), also known as the Security Principle;
- (b) Article 32, Security of Processing; I.
- (c) Article 33, Communication of a Personal Data Breach to the Supervisory Authority; or II.
- (d) Article 34, Communication of a Personal Data Breach to the Data Subject

ENDORSEMENT NO. 4

OTHER INSURANCE AMENDMENT ENDORSEMENT

GENERAL CONDITIONS

Other Insurance

The insurance under this **“Policy”** will apply in excess of any other valid and collectible insurance available to any **“Member”** unless such other insurance is written only as specific excess insurance over this **“Policy”**.

The insurance under this **“Policy”** shall not apply to any Claim for which a **“Member”** has coverage under any other policy.

NEW MEXICO PUBLIC SCHOOLS INSURANCE AUTHORITY

PROPERTY, AUTOMOBILE PHYSICAL DAMAGE, CRIME & CYBER COVERAGES

The schedule of covered “Members” is as follows including any other Educational Entities or Charter Schools added during the Term of this Memorandum of Coverage not named in Schedule A:

SCHEDULE A: MEMBERS

1. 21st Century Charter School dba 21st Century Public Academy
2. ABQ Charter Academy
3. ABQ Collegiate Charter School
4. Academy for Technology and the Classics
5. ACE Leadership High School
6. ACES Technical Charter School
7. Alamogordo Public Schools
8. Albuquerque Bilingual Academy
9. Albuquerque Institute of Math and Science (AIMS@UNM)
10. Albuquerque School of Excellence
11. Albuquerque Talent Development Academy
12. Aldo Leopold Charter School
13. Alice King Community School
14. Alma D’ Arte Charter High School
15. Altura Preparatory Academy
16. Amy Biehl Charter School
17. Anansi Charter School
18. Animas Charter School
19. Artesia Public Schools
20. Aztec Municipal Schools
21. Belen Consolidated Schools
22. Bernalillo Public Schools
23. Bloomfield School District
24. Capitan Municipal Schools
25. Carlsbad Municipal Schools
26. Carrizozo Municipal Schools
27. Central Consolidated School District #22
28. Cesar Chavez Community School
29. Chama Valley Independent Schools
30. Christine Duncan Heritage Academy
31. Cien Aguas International School

32. Cimarron Municipal Schools
33. Clayton Municipal Schools
34. Cloudcroft Municipal School
35. Clovis Municipal Schools
36. Cobre Consolidated Schools
37. Cooperative Educational Services
38. Coral Community Charter School
39. Corona Public Schools
40. Corrales International Charter School
41. Cottonwood Valley Charter School
42. Cottonwood Classical Preparatory School
43. Cuba Independent Schools
44. DATA Charter School (Digital Arts & Technology Academy)
45. Deming Cesar Chavez High School
46. Deming Public Schools
47. Des Moines Municipal Schools
48. Dexter Consolidated Schools
49. Dora Consolidated Schools
50. Dream Dine' Charter School
51. Dulce Independent Schools
52. DZIL DIT L'OOI School of Empowerment, Action & Perseverance (DEAP)
53. East Mountain Charter School
54. Eastern New Mexico University
55. El Camino Real Academy
56. Elida Municipal Schools
57. Espanola Municipal Schools
58. Estancia Municipal Schools
59. Estancia Valley Classical Academy
60. Eunice Public Schools
61. Explore Academy
62. Explore Academy – Las Cruces
63. Farmington Municipal Schools
64. Floyd Municipal Schools
65. Fort Sumner Municipal Schools
66. Gadsden Independent Schools
67. Gallup-McKinley County Public Schools
68. Gilbert L. Sena Charter High School DBA: CEPI #2
69. Gordon Bernell Charter School
70. Grady Municipal Schools
71. Grants Cibola County Schools
72. Hagerman Municipal Schools
73. Hatch Valley Municipal Schools

74. Health Leadership High School
75. Hobbs Municipal Schools
76. Hondo Valley Public Schools
77. Horizon Academy West
78. Hozho Academy
79. House Municipal Schools
80. J. Paul Taylor Academy
81. Jal Public Schools
82. Jefferson Montessori Academy
83. Jemez Mountain Public Schools
84. Jemez Valley Public Schools
85. La Academia de Esperanza
86. La Academia de Idiomas Y Cultura
dba La Academia Dolores Huerta Middle School
87. Albuquerque Bilingual Academy
88. La Tierra Montessori School of the Arts & Science
89. Lake Arthur Municipal Schools
90. Las Cruces Public Schools
91. Las Montañas Charter High School
92. Las Vegas City Public Schools
93. Logan Municipal Schools
94. Lordsburg Municipal Schools
95. Los Alamos Public Schools
96. Los Lunas Public Schools
97. Los Puentes Charter School
98. Loving Municipal Schools
99. Lovington Municipal Schools
100. Luna Community College
101. Magdalena Municipal Schools
102. Mark Armijo Academy
103. Maxwell Municipal Schools
104. McCurdy Charter School
105. Media Arts Collaborative Charter School
106. Melrose Municipal Schools
107. Mesa Vista Consolidated Schools
108. Mesalands Community College
109. Middle College High School
110. Mission Achievement and Success Charter School
111. Monte Del Sol Charter School
112. Montessori of the Rio Grande
113. Mora Independent Schools
114. Moreno Valley Charter High School
115. Moriarty Municipal Schools

- 116.Mosaic Academy
- 117.Mosquero Municipal Schools
- 118.Mountain Mahogany Community School
- 119.Mountainair Public Schools
- 120.Native American Community Academy
- 121.New Mexico Activities Association
- 122.New Mexico Association of School Business Officials
- 123.New Mexico Coalition for Educational Leaders
- 124.New Mexico Connections Academy
- 125.New Mexico Highlands University
- 126.New Mexico International School
- 127.New Mexico Public Schools Insurance Authority
- 128.New Mexico School for the Arts
- 129.New Mexico School for the Arts – Art Institute
- 130.New Mexico School for the Blind and Visually Impaired
- 131.North Valley Academy
- 132.Pecos Connections Academy
- 133.Pecos Independent Schools
- 134.Penasco Independent Schools
- 135.Pojoaque Valley Public Schools
- 136.Portales Municipal Schools
- 137.Public Academy for Performing Arts
- 138.Quemado Independent Schools
- 139.Questa Independent Schools
- 140.Raices del Saber Xinachtli Community School Charter
- 141.Raton Public Schools
- 142.Red River Valley Charter
- 143.Regional Education Cooperative # 2
- 144.Regional Education Cooperative #6
- 145.Regional Education Cooperative # 7
- 146.Regional Education Cooperative #8
- 147.Reserve Independent Schools
- 148.Rio Gallinas Charter School
- 149.Rio Rancho Public Schools
- 150.Robert F. Kennedy Charter School
- 151.Roots and Wings Community School
- 152.Roswell Independent Schools
- 153.Roy Municipal Schools
- 154.Ruidoso Municipal Schools
- 155.San Diego Riverside Charter School
- 156.San Jon Municipal Schools
- 157.Sandoval Academy of Bilingual Education
- 158.Santa Fe Community College
- 159.Santa Fe Public Schools
- 160.Santa Rosa Consolidated Schools

161. School of Dreams Academy (SODA)
162. Sidney Gutierrez Middle Schools
163. Siembra Leadership High School
164. Silver Consolidated Schools
165. Six Directions Indigenous School
166. Socorro Consolidated Schools
167. Solare Collegiate Charter School
168. South Valley Academy
169. South Valley Preparatory School
170. Southwest Aeronautics, Mathematics and Science Academy
171. Southwest Preparatory Learning Center
172. Southwest Secondary Learning Center
173. Springer Municipal Schools
174. Taos Academy
175. Taos Charter School
176. Taos Integrated School of the Arts
177. Taos International School
178. Taos Municipal Schools
179. Tatum Municipal Schools
180. Technology Leadership High School
181. Texico Municipal Schools
182. The Albuquerque Sign Language Academy
183. The ASK Academy
184. The Great Academy
185. The International School at Mesa Del Sol
186. The MASTERS Program
187. The Montessori Elementary Schools
188. The New America School, Las Cruces
189. The New America School, New Mexico (Albuquerque)
190. Tierra Adentro Charter School
191. Tierra Encantada Charter High School
192. Truth or Consequences Municipal Schools
193. Tucumcari Public Schools
194. Tularosa Municipal Schools
195. Turquoise Trail Charter School
196. Vaughn Municipal Schools
197. Vista Grande High School
198. **Voz Collegiate Preparatory Charter School**
199. Wagon Mound Public School
200. Walatowa High Charter School
201. West Las Vegas Public Schools
202. Western New Mexico University
203. William W. & Josephine Dorn Charter School
204. Zuni Public Schools

ENDORSEMENT NO. 5

Attached to and forming part of the PROPERTY, AUTOMOBILE PHYSICAL DAMAGE & CRIME and CYBER COVERAGES - MEMORANDUM OF COVERAGE, NMPSIA MOC No. P022

Only as respects losses within the “**Authority’s**” retention, this endorsement extends the Territory for interests of the “**Member**” for “**Personal Property**” coverage for which the “**Member**” becomes legally liable, to “**Personal Property**” located or in transit anywhere in the world, but such extension shall be subject to a limit of \$50,000 per occurrence.

Nothing herein contained shall alter, vary or extend any provisions or conditions of this “**Policy**” other than as above stated.

ENDORSEMENT NO. 6

SPECIFIED MEMBERS - LIMITED PARTICIPATION COVERAGE ENDORSEMENT

Pursuant to NMSA 1978, §22-29-1 et seq. and New Mexico Administrative Code, Title 6, Chapter 50, Parts 1-18, this Memorandum of Coverage (“**Memorandum**”) is an agreement by the New Mexico Public School Insurance Authority (the “**Authority**”) and its “**Members,**” as listed in Schedule A attached hereto, to provide or obtain insurance protection for all covered losses subject to the limits and other terms and conditions of this “**Memorandum**” and any endorsements attached.

This endorsement modifies insurance of this “**Memorandum**” provided under:

COVERAGE B: AUTOMOBILE PHYSICAL DAMAGE

SCHEDULE A: MEMBERS (As listed)

130. New Mexico School for the Blind and Visually Impaired

Schedule			
Coverage Part	Coverage	Covered	Not Covered
Coverage A	Property Coverage		X
Coverage B	Automobile Physical Damage	X	
Coverage C	Crime Coverage		X
Coverage D	Cyber Coverage		X

It is hereby understood and agreed that the insurance under this “**Memorandum**” shall only apply to the “**Member**” as listed in Schedule A and coverage as designated and described in the Schedule of this endorsement.

1. For purposes of this endorsement, I. GENERAL DEFINITIONS, Item 4., is amended with the following:

The word “**Automobile**”, “**Automobiles**” means a land motor vehicle of a commercial type used solely for the bus transportation of passengers. An “**Automobile**” does not include any motor vehicle or private passenger type owned

by or registered in the name of the “**Member**”, any employee, volunteer, officer, or board member, of a “**Member**,” or any motor vehicle insured elsewhere for physical damage coverage.

2. INTEREST & AUTOMOBILES COVERED is amended with the following:

A “**Covered Automobile**” is:

A) An “**Automobile**” “**You**” own, hire or borrow including equipment permanently installed in the “**Automobile**”.

B) “**Your**” interest in or legal liability for direct physical loss or damage to an “**Automobile**” owned by others in “**Your**” custody to the extent “**You**” are required to keep the “**Automobile**” covered for direct physical loss or damage

All other terms, conditions, provisions and exclusions of this “**Memorandum**” remain the same.

New Mexico Public Schools Insurance Authority

By: _____

Board of Director, President Date