

# Member Agreement

  
NEW HAMPSHIRE  
Local Government Center

**FY 2012**



**LGC Property-Liability Trust**

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# MEMBER AGREEMENT

New Hampshire Local Government Center Property-Liability Trust, LLC

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FY 2012

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## GENERAL PROVISIONS

The Local Government Center Property-Liability Trust, LLC (“PLT”) was organized for the primary purpose of assuming and spreading a portion of the risk of loss to the property of, and the liability exposure of *Members* and *School Members*. *Members* include those New Hampshire counties, municipalities and public or quasi-municipal entities which belong to the *New Hampshire Municipal Association* and which have agreed to pay contributions to PLT in such amounts as are established by PLT and participate in loss prevention and risk management programs offered by PLT. *Members* are protected under this *Agreement*. *School Members* are protected under a separate *Educators’ Member Agreement*.

### PURPOSE

The purpose of this *Agreement* is to memorialize the scope of the mutual obligations of PLT and *Members* to each other. Section I of this *Agreement* is designed to provide protection to *Members* similar to that afforded by an automobile physical damage insurance policy, a mobile equipment floater and a commercial property owners’ policy covering the risk of direct physical damage to, theft of, or destruction of property owned by or in the custody and control of the *Member*. Section II of this *Agreement* is designed to provide protection similar to that provided by a crime insurance policy. Section III of this *Agreement* is designed to provide third party liability protection to *Members* and, in some cases, their public officials, employees or *Volunteers*, similar to that afforded by errors and omissions, commercial general liability, commercial automobile liability, and public officials’ liability insurance policies. Section IV of this *Agreement* is designed to provide uninsured and underinsured motorist benefits. Section V of this *Agreement* is designed to provide medical expense reimbursement.

### AGREEMENT NOT AN INSURANCE POLICY

**This is not an insurance policy.** This *Agreement* has been designed specifically for PLT and *Members*. The scope of protection provided is generally broader than commercial policies, but in some circumstances may be more limited. Any differences in the scope of protection provided are intended. **(Read the entire *Agreement* carefully.)**

### WAIVER OF SOME CLAIMS; OTHER COVERAGE OR BOND

Because this is a risk-sharing agreement, each *Member* (other than its public officials, employees or *Volunteers*), agrees by its participation in PLT to waive any *Claim* it may have against any *Member* or *School Member* of PLT to the extent that this *Agreement* or the *Educators’ Member Agreement* affords protection to such other *Members* or *School Members*. In addition, PLT is entitled to the benefit of any insurance coverage, and coordination of limits with Public Official Schedule Bonds that apply to any property loss, crime loss or *Third Party Claim*, which is covered by this *Agreement*. Any available insurance or bond (including Public Official Schedule Bonds issued by PLT), whether purchased by a *Member*, its public officials, employees, *Volunteers* or other party, must first be exhausted in its entirety before the protection afforded by this *Agreement* will apply. The protection afforded by this *Agreement* shall not be pro-rated or shared with such insurance or bond and shall apply only in excess of such insurance or bond. Notwithstanding the provisions of this paragraph, when a public official, employee or *Volunteer* is acting within the scope of his/her duties, employment, or volunteer acts while using his/her personal vehicle or his/her personal real estate, the protection provided by PLT under Section III.A of this *Agreement* shall be primary even if the public official, employee or *Volunteer* that is a *Member* has other available insurance. Also, it is understood and agreed that with respect to and in the case of each and every loss or *Claim* or portion thereof paid or payable under a Public Official Schedule Bond issued by PLT to a *Member* that is also paid or payable in whole or in part under any portion of Section II, PROTECTION FOR LOSSES DUE TO CRIME, the amount of such loss paid under the PLT issued Public Official Schedule Bond shall be an offset or reduction of the amount otherwise payable or paid under such Section II, PROTECTION FOR LOSSES DUE TO CRIME, under this *Agreement*.

## **SALVAGE; SUBROGATION**

PLT is entitled to (i) all salvage or recovery value of *Protected Property* (“Salvage”) and (ii) all rights that a *Member* may have against third parties to the extent that the *Member* is reimbursed under this *Agreement* (“Subrogation”). Any amounts recovered from such third parties shall be allocated as follows: first, PLT shall be reimbursed in full for costs which it incurs in pursuing recovery from said third parties; second, PLT and the *Member* shall share the balance, if any, of such recovered amount pro rata (as more fully described below) until the *Member* has fully recovered any deductible and PLT has fully recovered any amounts paid to, for, or on behalf of the *Member* for any protected loss; third, the remaining balance recovered, if any, shall be paid to the *Member*. The *Member's* pro rata share shall be determined by multiplying the total amount recovered from third parties, less the amount paid to PLT for reimbursement of costs as described above, by a fraction, the numerator of which shall be the deductible of the *Member* and the denominator of which shall be the sum of the *Member's* deductible amount and the amount paid by PLT to, for, or on behalf of the *Member* for the protected loss:

Pro rata share = (total recovery – PLT costs) x (deductible/(deductible + amt. paid by PLT))

The *Member* shall not act, fail to act, or make any statement or agreement that would impair Salvage or Subrogation.

## **RIGHT TO INSPECT PROTECTED PROPERTY AND MEMBER'S RECORDS**

PLT and its duly authorized representatives shall be permitted at all reasonable times during the existence of this *Agreement* to inspect the *Protected Property* of the *Member* and to examine the *Member's* books or records insofar as they relate to the protection afforded by this *Agreement*, the contributions assessed and the reimbursements made by PLT.

## **CANCELLATION AND RENEWAL**

In the event of nonpayment of any contribution required from the *Member*, PLT will provide notice of cancellation of this *Agreement* in writing to the *Member*. All protection will terminate ten (10) days after the mailing of such notice. Either PLT or the *Member* may elect to non-renew this *Agreement* upon written notice to the other, provided said notice is provided at least forty-five (45) days prior to the expiration of the pending *Term*.

## **NOTICE TO PLT**

In the case of an *Occurrence, Accident, Wrongful Act*, loss, incident, or other event that is a *Claim* or is likely to result in a *Claim*, as a condition precedent to PLT's obligations under this *Agreement*, the claims department of PLT must receive notice of such *Claim* or event that is likely to result in a *Claim* as soon as practicable after the *Member* has such notice itself. PLT may waive a *Member's* failure in a specific instance to provide proper notice to PLT's claims department as soon as practicable after the *Member* had such notice, if PLT, in its sole, absolute discretion, determines that PLT was not prejudiced by such lack of notice. A waiver by PLT in any particular instance shall not constitute or be construed as a waiver in subsequent circumstances. Further, for the purposes of PLT's agreement to reimburse, pay on behalf of or assume the liability of a *Member* under this *Agreement*, a *Claim* by a person or organization will be deemed to have been first made under this *Agreement* when notice of the event giving rise to such *Claim* is first received by PLT from a *Member*, a claimant or their agent. Notice should include a basic description of the *Claim* or event likely to result in a *Claim* and the names and addresses of any parties or organizations expected to or having made a *Claim*, witnesses and any persons having knowledge of the *Claim*.

## **EXTENDED REPORTING PERIOD – SECTION III.B**

The protection afforded under this *Agreement* is extended to a *Wrongful Act* that is a *Claim* or is likely to result in a *Claim* otherwise protected under Section III.B of this *Agreement* and which occurs during the *Term of this Agreement* or prior *Agreements* maintained continuously by the *Member* or on or after the applicable retroactive date; provided that notice of such *Wrongful Act* that is a *Claim* or is likely to result in a *Claim* is made to PLT within sixty (60) days of the date of termination or withdrawal as a *Member* of PLT and otherwise fully complies with the notice requirements of the preceding paragraph, NOTICE TO PLT.

## PRIOR ACTS

- A. Subject to the provisions of paragraph C below, protection will be afforded under this *Agreement* for *Members* that were also *Members* as of June 30, 2005 for *Claims* arising out of an event or events that took place before the inception date of this *Agreement* and after the retroactive date assigned by PLT to the *Member* and which are not protected under this *Agreement* solely by reason of a change from claims made to *Occurrence* basis protection on July 1, 2005.
- B. Subject to the provisions of paragraph C below, protection will be afforded under this *Agreement* for *Claims* arising out of an event or events that took place before the inception date of this *Agreement* and after the retroactive date assigned by PLT to the *Member*, but only (i) if the event or events giving rise to the *Claim(s)* were unknown to the *Member* as of the *Member's* most recent effective date of membership in PLT, and (ii) if the *Member's* expiring insurance policies or similar agreements would have provided coverage if the event or events had been known and timely reported under the prior policies or similar agreements. An event shall be unknown to the *Member* if, after due inquiry by the *Member*, it could not have reasonably been known that a *Claim* or an event or events that could give rise to a *Claim* existed at the inception date of this *Agreement* or within any applicable extended reporting period under expiring insurance policies or similar agreements.
- C. The extent of protection afforded pursuant to paragraphs A and B above will be determined by the terms, conditions and provisions of this *Agreement*, and no protection will be provided if coverage or protection is afforded under any prior insurance policies or similar agreements or would have been provided but for the conduct of the *Member*.

## MEMBER COOPERATION

The *Member* shall cooperate with PLT and, upon PLT's request, assist in (i) making settlements, (ii) the conduct of lawsuits, including appeals, (iii) enforcing any right of contribution, recovery, indemnity, subrogation or salvage against any person who or organization that may be liable to the *Member* because of *Damages* for which protection is afforded under this *Agreement* and/or (iv) any other reasonable administration of this *Agreement*. In this regard further, and without limitation, the *Member* shall (i) attend hearings and trials, (ii) assist in securing and getting evidence and (iii) assist in obtaining the attendance of witnesses at depositions, hearings, trials and other related proceedings, without further expense to PLT from the *Member* except as provided in this paragraph. PLT shall reimburse the *Member* for all reasonable expenses incurred for assistance in the investigation or defense of a *Claim* including a lawsuit, at the request of PLT, including actual loss of earnings (not including overtime or similar compensation), up to one hundred seventy five dollars (\$175) per day, because of required time off from work. If a *Member*, including without limitation a former employee of a *Member*, shall fail to so cooperate with PLT, and PLT, in its sole, absolute discretion, determines that PLT or any of its *Members* is prejudiced by such lack of cooperation (including, without limitation, resulting in increased expenses relating to a *Claim*) then PLT may deny protection or the continuation of protection to the person(s) who fail(s) to so cooperate in accordance with this *Agreement*.

## DISPUTE RESOLUTION

In the event that PLT provides a legal defense to any *Member* under a Reservation of Rights to deny protection under this *Agreement*, or provides a legal defense despite having denied protection, the *Member* agrees to reasonably cooperate with PLT to obtain a judicial resolution of the protection issue if PLT, in its sole discretion, requests the use of special verdict questions in the underlying *Claim* litigation. This includes allowing counsel appointed by PLT to defend the case to request special verdict questions on behalf of PLT to the extent counsel may do so in a manner consistent with their obligations under the Rules of Professional Conduct. In the event counsel is unable to make such requests on behalf of PLT, the *Member* agrees that it will not object or oppose any motion by PLT to intervene in the underlying *Claim* litigation to protect its interests in seeking resolution of the issue of protection.

**All other** disputes arising under or regarding the interpretation or application of this *Agreement* or the amount of any loss covered by this *Agreement* (**including any case in which PLT is providing a legal defense under a Reservation of Rights but in its sole discretion does not seek to obtain judicial resolution by use of special verdict questions in the underlying action**) shall be determined by arbitration before a panel of three arbitrators. One arbitrator shall be chosen and paid by PLT, one chosen and paid by the *Member*, and the third chosen by the two arbitrators previously chosen and paid one half by PLT and one half by the *Member*. The award or order of the arbitration panel shall be final except insofar as appealable under the New Hampshire statute governing Arbitration of Disputes (RSA Chapter 542, as amended).

#### **INTERPRETATION**

This *Agreement* shall be interpreted in accordance with the laws of the State of New Hampshire. No change in the terms of this *Agreement* is effective unless modified by written addendum to this *Agreement* issued by PLT, which becomes effective on the date set forth in that addendum.

## DEFINITIONS

Terms as utilized in this *Agreement* with the first letter thereof capitalized, bolded and italicized shall have the following meanings throughout the *Agreement* unless otherwise specifically provided. Terms not defined in this section that are defined elsewhere within the body of this *Agreement* with the first letter thereof capitalized, bolded and italicized shall have the meaning provided within the body of this *Agreement*.

*Accident* means an undesigned contingency, a happening by chance, something out of the usual course of things, unusual, fortuitous, not anticipated and not naturally to be expected, including repeated or continuous exposure to substantially the same general harmful conditions or subject matter. A series of similar or related events constitutes a single *Accident*.

*Advertising Injury* means unauthorized use of an idea or slogan of another and/or false or misleading representations in advertising.

*Agreement* or *Member Agreement* means (i) this *Agreement*, and when preceded by the word “prior,” predecessors to this *Agreement* to the extent maintained continuously by the *Member* to the beginning of the *Term of this Agreement*, (ii) the *Summary of Amounts of Protection* (as defined below) and all schedules referred to in the *Summary of Amounts of Protection*, and (iii) all certificates, endorsements and other schedules issued in connection with this *Agreement*.

*Automobile* or *Auto* means a land motor vehicle, trailer, or semi-trailer (other than fire engines or emergency vehicles) designed for travel on public roads and attached machinery or equipment that is *Protected Property* or is a temporary replacement for such *Protected Property*. Temporary replacement vehicles will be covered for no more than sixty (60) days unless notice is provided to PLT that a *Member* is requesting protection for a longer period of time.

*Bodily Injury* means physical injury, sickness or disease, including death, mental anguish or emotional distress.

*Claim* means a demand (whether or not involving a lawsuit) for *Damages*.

*Collapse* means:

- i. An abrupt falling down or caving in of a building or a portion of a building with the result that the building or portion of the building cannot be occupied for its intended purpose; or
- ii. A building or any portion of a building that has not abruptly fallen down or caved in, but is in imminent danger of abruptly falling down or caving in, or has suffered a substantial impairment of structural integrity.

A building that is standing or any portion of a building that is standing is not considered to be in a state of *Collapse* even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion unless the building is in imminent danger of abruptly falling down or caving in or has suffered a substantial impairment of structural integrity.

*Corporal Punishment* means the intentional infliction of physical or emotional pain upon or the physical restraint of an individual for disciplinary purposes. *Corporal Punishment* includes, but is not limited to, paddling, slapping, hitting, punching, striking, shaking, screaming, swearing, name calling, or any other activity that could be harmful to a person’s physical or psychological well-being.

*Damages* means monetary relief awarded or sought as compensation for loss or injury suffered.

*Earth Movement* means (i) *Earthquake*; (ii) *Volcanic Eruption*; (iii) landslide, including any earth sinking, rising or shifting related to such event; (iv) mine subsidence, meaning subsidence of a man-made mine, whether

or not mining activity has ceased; and (v) earth sinking, rising or shifting, including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty; all whether naturally occurring or due to man made or other artificial causes. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

**Earthquake** means a shaking or trembling of the earth's crust caused by underground volcanic or tectonic forces or by breaking or shifting of rock beneath the surface of the ground from natural causes, including any earth sinking, rising or shifting related to such event. All earthquake shocks that occur within any 168-hour period will constitute a single **Earthquake**.

**Educators' Member Agreement** means the PLT agreement applicable to **School Members**.

**Employee Benefits Program** means group life insurance, group accident insurance or health insurance, retirement plans, deferred compensation plans, employee stock subscription plans, workers' compensation, unemployment benefits, Social Security, disability benefits, travel, savings or vacation plans, flexible spending accounts, profit sharing plans, tuition assistance plans, any employee benefit plan as defined in ERISA (the Employee Retirement Income Security Act of 1974, as amended) or PERA (Public Employees Retirement Act, as amended), and other similar plans, programs and benefits.

**Fine Arts and Rare Property** means paintings, etchings, pictures, tapestries, statuary, marbles, bronzes, antique furniture, books, maps, glass, antique silver, jewelry, and other similar items of art rarity or antiquity.

**Flood** means (i) the overflow of inland or tidal waters, tsunamis, tidal waves, waves and tides; (ii) surface water, underground water, overflow of any body of water, or their spray, whether driven by wind or not; (iii) mudslide or mudflow; (iv) release of water impounded by a dam; or (v) water which backs up through sewers, drains or sumps; all whether naturally occurring or due to man made or other artificial causes. All **Flood** loss that occurs (i) during a period of continued rising or overflowing of any river(s), stream(s) or any body of water and the subsidence of same within the banks of such river(s), stream(s) or bodies of water; or (ii) due to any tidal waves or tsunamis that occur within any 168-hour period, will constitute a single **Flood Occurrence**.

**Local Government Center** means Local Government Center, Inc., the parent of the Local Government Center Property-Liability Trust, LLC.

**Member** means a county, municipality, or other public or quasi-municipal entity, which is both a member of the **New Hampshire Municipal Association** and a subscriber to this **Agreement**. A **Member** includes its public officials and employees (but only for acts within the scope of their duties as regards public officials, and acts within the scope of their employment as regards employees), and **Volunteers**. Scope of duties, as regards public officials, and scope of employment, as regards employees, includes service as an officer or director of a qualified outside entity. A qualified outside entity is a not-for-profit organization on which the individual's service is specifically required or authorized by the **Member** in connection with the public officials' or employees' customary duties or responsibilities. **Member** does not include any individual who is operating a motor vehicle as defined by RSA 259:60 after suspension or revocation of his or her driver's license.

**Mobile Equipment** means land vehicles, whether self-propelled or not, designed for use principally off public roads and attached machinery or equipment that is **Protected Property** or is a temporary replacement for such **Protected Property**. Temporary replacement **Mobile Equipment** will be covered for no more than sixty (60) days unless notice is provided to PLT that a **Member** is requesting protection for a longer period of time.

**New Hampshire Municipal Association** means New Hampshire Municipal Association, LLC, a New Hampshire limited liability company.

**Occurrence** means an **Accident** resulting in **Bodily Injury, Property Damage, or Damages** sustained in the **Administration of an Employee Benefits Program**, neither expected nor intended from the standpoint of the **Member** or a reasonable person standing in the position of the **Member**. An **Occurrence** shall be deemed to take place on the date of first exposure to the general harmful conditions or subject matter. An **Occurrence** that is continuing in nature shall be deemed one **Occurrence** beginning and ending on the date of first exposure regardless of the number of **Terms** over which the exposure occurs, and the limit of protection available on the first date of such exposure, as set forth on the applicable **Summary of Amounts of Protection**, shall be the limit of protection for that **Occurrence**.

**Property Damage** means physical injury to, destruction of, or loss of use of tangible property.

**Protected Property** means (i) such real and personal property listed together with its value on schedules on file with PLT for which a specific contribution has been paid; or (ii) real and personal property (A) of the type covered by this **Agreement**; (B) owned or leased by the **Member**; and (C) not listed on schedules on file with PLT because of good faith error, omission, mistake or misfortune of the **Member**, or for which a specific contribution was not paid because of good faith error, omission, mistake or misfortune of the **Member**.

**School Member** means a school administrative unit, school district, or charter school established pursuant to RSA Chap. 194-B, which is both a member of the **New Hampshire Municipal Association** and a subscriber to the **Educators' Member Agreement**. **School Member** includes its governing body, public officials, administrators, faculty, employees, student teachers, **Students** participating in unpaid supervised work-based learning programs, and **Volunteers**, but only for acts within the scope of their duties and/or employment. **School Member** does not include any individual who is operating a motor vehicle as defined by RSA 259:60 after suspension or revocation of his or her driver's license. **School Members** are not protected by this **Agreement**. They are protected by a separate **Educators' Member Agreement**.

**Sinkhole Collapse** means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include (i) the cost of filling sinkholes; or (ii) sinking or collapse of land into man made underground cavities.

**Specified Cause of Loss** means loss or damages caused only by one or more of the following: fire, lightning, explosion, theft, vandalism, falling objects, windstorm or hail, smoke, aircraft or vehicles, riot or civil commotion, leakage from fire extinguishing equipment, weight of snow, ice or sleet, **Water Damage, Volcanic Action or Sinkhole Collapse**. But falling objects does not include loss or damage to (i) personal property in the open; or (ii) the interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.

**Summary of Amounts of Protection** means the written statement prepared by PLT and issued to a **Member** for the separate **Term** with respect to which an **Agreement** is or was issued and setting forth, including on all attachments or schedules appended to or on file with PLT and referred to in such written statement, the (i) limits of protection provided by PLT to the **Member**, and (ii) deductible amounts applicable to a loss.

**Term of this Agreement or Term** means the fiscal year beginning July 1, and ending June 30, unless otherwise designated, for which the **Member** has paid contributions to PLT for the protection afforded under this **Agreement**.

**Terrorism** means activities against persons, organizations or property of any nature committed by an individual or individuals acting on behalf of any foreign person or foreign interest:

1. that involves the following or preparation for the following:
  - a. use or threat of force or violence; or
  - b. commission or threat of a dangerous act; or
  - c. commission or threat of an act that interferes with or disrupts an electronic communication, information, or mechanical system; and

2. when at least one of the following applies:
  - a. the effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
  - b. it appears that the intent is to intimidate or coerce a government, or further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

**Third Party Claim** means a **Claim** or suit brought against a **Member** for **Bodily Injury, Property Damage**, or **Damages** sustained in the **Administration** of an **Employee Benefits Program**, and caused by an **Occurrence**, or for **Damages** resulting from a **Wrongful Act**.

**Volcanic Action** means direct loss or damage resulting from a single **Volcanic Eruption** when the loss or damage is caused by (i) airborne volcanic blast or airborne shock waves; (ii) ash, dust or particulate matter; or (iii) lava flow. But **Volcanic Action** does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss or damage to the **Protected Property**.

**Volcanic Eruption** means the eruption, explosion or effusion of a volcano. All **Volcanic Eruptions** that occur within any 168-hour period will constitute a single **Volcanic Eruption**.

**Volunteer(s)** means an individual performing services for a **Member** (but only within the scope of their volunteer acts) at the request of a **Member** and who does not receive compensation, other than reimbursement for expenses actually incurred for such services. **Volunteer** does not include any individual who is operating a motor vehicle as defined by RSA 259:60 after suspension or revocation of his or her driver's license. In addition, an individual shall not be a **Volunteer** for these purposes who qualifies as an "employee" under any state or federal workers' compensation statute or is a work release or alternative sentencing participant.

**War** means war, including undeclared or civil war; warlike action by a military force, including action in hindering or defending against an actual or expected attack by any government, sovereign or other authority using military personnel or other agents; or insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**Water Damage** means accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of a plumbing, heating, air conditioning or other system or appliance (other than a sump system including its related equipment and parts) containing water or steam.

**Wrongful Act** means any actual or alleged error, misstatement, omission, violation of any federal, state or local civil rights or breach of duty by the **Member**. A repeated or series of **Wrongful Acts** relating to substantially the same general subject matter or conditions will be treated hereunder as a single **Wrongful Act**.

## SECTION I. PROTECTION FOR PROPERTY LOSSES

Subject to all other exceptions, exclusions, limitations, terms and conditions of this *Agreement*, PLT agrees to reimburse the *Member* for direct physical damage to, loss of, theft of, or destruction of *Protected Property* sustained by the *Member* and caused by an *Occurrence* that takes place during the *Term of this Agreement*, for the amount, less the stated deductible, as set forth on the *Summary of Amounts of Protection*. The stated deductibles as set forth on the *Summary of Amounts of Protection* shall not apply to any loss caused by another *Member* or employee of another *Member* while acting in the course of employment for that other *Member*.

### A. REIMBURSEMENT FOR SCHEDULED PROTECTED PROPERTY

Reimbursement for *Protected Property* listed on schedules on file with PLT and for which a specific contribution has been paid shall be determined as follows:

1. **Automobiles.** Reimbursement for loss to *Automobiles* shall be the cost to repair unless the loss is a ***Total Loss***. ***Total Loss*** with respect to *Automobiles* means that the cost to repair plus the salvage value of the *Automobile* exceeds the fair market value. If the *Automobile* is a ***Total Loss***, reimbursement shall be the fair market value. With respect to a ***Total Loss*** of a leased *Automobile*, PLT will pay only the balance owed on the lease, less any charges for excess wear, use and mileage, or similar charges.
2. **Fire Engines and Emergency Equipment.**
  - (a) Reimbursement for loss to fire engines and other emergency vehicles shall include reimbursement for permanently attached equipment and shall be the cost to repair unless the loss is a ***Total Loss***. ***Total Loss*** with respect to fire engines and other emergency vehicles means that the cost to repair plus the salvage value of the fire engine or other emergency vehicle exceeds the cost to obtain functionally similar equipment as near to the age or condition of the damaged equipment as is reasonably available. If the fire engine or other emergency vehicle is a ***Total Loss***, reimbursement shall be the cost to obtain functionally similar equipment as near to the age or condition of the damaged equipment as is reasonably available. With respect to a total loss of a leased fire engine or emergency equipment, PLT will pay only the balance owed on the lease, less any charges for excess wear, use and mileage, or similar charges.
  - (b) If the *Member* has obtained an Eligible Fire Engine Replacement Cost Amendment, and the Amendment applies to the loss incurred, the amount of reimbursement shall be as set forth in that Amendment.
3. **Mobile Equipment.** Reimbursement for loss to *Mobile Equipment* shall be the cost to repair unless the loss is a ***Total Loss***. ***Total Loss*** with respect to *Mobile Equipment* means that the cost to repair plus the salvage value of *Mobile Equipment* exceeds either the cost to obtain functionally similar equipment as near to the age or condition of the damaged equipment as is reasonably available or fair market value. If the *Mobile Equipment* is a ***Total Loss***, reimbursement shall be the lesser of (i) the cost to obtain functionally similar equipment as near to the age or condition of the damaged equipment as is reasonably available or (ii) fair market value. With respect to a total loss of leased *Mobile Equipment*, PLT will pay only the balance owed on the lease, less any charges for excess wear, use and mileage, or similar charges.
4. **Fine Arts and Rare Property.**
  - (a) Reimbursement for loss to *Fine Arts and Rare Property* for which an appraisal is required and has been provided will be the lesser of (i) the cost to restore plus any reduction in value between the restored value and the scheduled value or (ii) the scheduled value. The restored value shall be

determined by an appraisal conducted by an appraiser agreed upon by PLT and the *Member*, the cost of which shall be paid by PLT.

- (b) Reimbursement for loss to *Fine Arts and Rare Property* for which an appraisal is required but has not been provided will be the lesser of (i) the cost to restore plus any reduction in value between the restored value and the scheduled value, (ii) the scheduled value, or (iii) 80% of the appraised value. The restored value and the appraised value shall be determined by an appraisal conducted by an appraiser agreed upon by PLT and the *Member*, the cost of which shall be paid by the *Member*.
- (c) Reimbursement for loss to *Fine Arts and Rare Property* for which an appraisal is not required will be the lesser of (i) the cost to restore plus any reduction in value between the restored value and the scheduled value, or (ii) the scheduled value. The restored value shall be determined by an appraisal conducted by an appraiser agreed upon by PLT and the *Member*, the cost of which shall be paid by PLT.

If at the time of loss such *Fine Arts and Rare Property* are claimed to be undervalued in the applicable schedules on file with PLT because of error or oversight of the *Member* and not because of a deliberate choice of the *Member*, the *Member* or PLT may request that *Fine Arts and Rare Property* be revalued by appraisal for purposes of determining the amount of reimbursable loss under this sub-paragraph (c). In no event, however, shall reimbursement be greater than 125% of the value listed on the applicable schedule on file with PLT. The cost of determining the amount of any revaluation shall be paid by the requesting party.

5. Other Scheduled *Protected Property*. PLT may appraise or cause to be appraised *Protected Property* with values of twenty-five thousand dollars (\$25,000) or greater on schedules on file with PLT. If PLT appraises *Protected Property*, it will provide the *Member* with copies of each appraisal.

- (a) If PLT conducts or causes to be conducted an appraisal and the *Member* agrees to schedule the *Protected Property* with PLT for the appraised value, or if PLT did not appraise the *Protected Property*, the amount of reimbursement for loss to *Protected Property* shall be determined as follows:
  - (1) If a *Member* does not repair, rebuild or replace *Protected Property*, the amount of reimbursement for loss to *Protected Property* shall be the lesser of the cost to repair, rebuild or replace the *Protected Property* with that of like kind and quality, less depreciation.
  - (2) If within two (2) years of the date of the loss the *Member* repairs, rebuilds, replaces or enters into a legally binding contract to repair, rebuild or replace the *Protected Property*, PLT shall then reimburse the *Member* for the lesser of the cost to repair, rebuild or replace the *Protected Property* with that of like kind and quality. In the event PLT has appraised the *Protected Property*, like kind and quality shall be determined by the appraisal.
- (b) If a *Member* decides to schedule *Protected Property* that has been appraised by PLT for an amount less than that recommended by PLT, such amount will be known as the *Agreed Value*. In the event of loss to *Protected Property* listed at the *Agreed Value* on schedules maintained by PLT, the amount of reimbursement shall be determined as follows:
  - (1) If a *Member* does not repair, rebuild or replace *Protected Property*, the amount of reimbursement for loss to *Protected Property* shall be the lesser of the cost to repair, rebuild or replace the *Protected Property* with that of like kind and quality, less depreciation; provided, however, that in no event shall the amount of reimbursement be more than the *Agreed Value*.

- (2) If within two (2) years of the date of the loss the **Member** repairs, rebuilds, replaces or enters into a legally binding contract to repair, rebuild or replace the **Protected Property**, PLT shall reimburse the **Member** for the lesser of the cost to repair, rebuild or replace the **Protected Property** with that of like kind and quality; provided, however, that in no event shall the amount of reimbursement be more than the **Agreed Value**.
- (c) **Protected Property** with **Member** reported scheduled values of less than twenty-five thousand dollars (\$25,000) will generally not be appraised by PLT. If at the time of loss such **Protected Property** is found to be properly valued in the applicable schedules on file with PLT, the amount of reimbursement shall be determined as follows:
- (1) If a **Member** does not repair, rebuild or replace **Protected Property**, the amount of reimbursement for loss to **Protected Property** shall be the lesser of the cost to repair, rebuild or replace the **Protected Property** with that of like kind and quality, less depreciation.
  - (2) If within two (2) years of the date of the loss the **Member** repairs, rebuilds, replaces or enters into a legally binding contract to repair, rebuild or replace the **Protected Property**, PLT shall then reimburse the **Member** for the lesser of the cost to repair, rebuild or replace the **Protected Property** with that of like kind and quality. In the event PLT has appraised the **Protected Property**, like kind and quality shall be determined by the appraisal.
- (d) **Protected Property** with **Member** reported scheduled values of less than twenty-five thousand dollars (\$25,000) will generally not be appraised by PLT. If at the time of loss such **Protected Property** is found to be undervalued in the applicable schedules on file with PLT because of error or oversight of the **Member** and not because of a deliberate choice of the **Member**, the amount of reimbursement shall be determined as follows:
- (1) If a **Member** does not repair, rebuild or replace **Protected Property**, the amount of reimbursement for loss to **Protected Property** shall be the lesser of the cost to repair, rebuild or replace the **Protected Property** with that of like kind and quality, less depreciation; provided, however, that in no event shall the amount of reimbursement be more than 125% of the value listed in the applicable schedule on file with PLT.
  - (2) If within two (2) years of the date of the loss the **Member** repairs, rebuilds, replaces or enters into a legally binding contract to repair, rebuild or replace the **Protected Property**, PLT shall reimburse the **Member** for the lesser of the cost to repair, rebuild or replace the **Protected Property** with that of like kind and quality; provided, however, that in no event shall the amount of reimbursement be more than 125% of the value listed in the applicable schedule on file with PLT.
- (e) **Protected Property** with **Member** reported scheduled values of less than twenty-five thousand dollars (\$25,000) will generally not be appraised by PLT. If at the time of loss such **Protected Property** is found to be undervalued in the applicable schedules on file with PLT because of a deliberate choice of the **Member**, the amount of reimbursement shall be determined as follows:
- (1) If a **Member** does not repair, rebuild or replace **Protected Property**, the amount of reimbursement for loss to **Protected Property** shall be the lesser of the cost to repair, rebuild or replace the **Protected Property** with that of like kind and quality, less depreciation; provided, however, that in no event shall the amount of reimbursement be more than the amount in the applicable schedules on file with PLT.

- (2) If within two (2) years of the date of the loss the *Member* repairs, rebuilds, replaces or enters into a legally binding contract to repair, rebuild or replace the *Protected Property*, PLT shall reimburse the *Member* for the lesser of the cost to repair, rebuild or replace the *Protected Property* with that of like kind and quality; provided, however, that in no event shall the amount of reimbursement be more than the amount in the applicable schedules on file with PLT.

## **B. REIMBURSEMENT FOR CERTAIN UNSCHEDULED PROTECTED PROPERTY**

Reimbursement for *Protected Property* not listed on schedules on file with PLT because of good faith error, omission, mistake or misfortune of the *Member*, or for which a specific contribution was not paid because of good faith error, omission, mistake or misfortune of the *Member*, shall be determined as follows:

- (a) Reimbursement for *Automobiles*, Fire Engines and Emergency Equipment, *Mobile Equipment* and other *Protected Property* shall be the lesser of (i) 80% of the reimbursable amount calculated pursuant to paragraphs 1, 2, 3, or 5 of Section I.A of this *Agreement* or (ii) five hundred thousand dollars (\$500,000), less the amount of contribution that should have been paid by the *Member* under this *Agreement* and prior *Agreements* since the *Member's* commencement of ownership of the damaged or destroyed property, and less any deductible or other adjustment or charge under this *Agreement* that would be applicable if the property destroyed or damaged had been listed on schedules on file with PLT.
- (b) Reimbursement for loss to Fine Arts and Rare Property will be the lesser of (i) the cost to restore plus any reduction in value between the restored value and the appraised value, or (ii) 80% of the appraised value, or (iii) one hundred thousand dollars (\$100,000), less the amount of contribution that should have been paid by the *Member* under this *Agreement* and prior *Agreements* since the *Member's* commencement of ownership of the damaged or destroyed *Fine Arts and Rare Property* and less any deductible or other adjustment or charge under this *Agreement* that would be applicable if the *Fine Arts and Rare Property* destroyed or damaged had been listed on schedules on file with PLT. Appraised and restored value shall be determined by an appraiser agreed upon by PLT and the *Member*, the cost of which shall be paid by the *Member*.

## **C. AGGREGATE PER TERM LIMITS FOR FLOOD, EARTHQUAKE, AND VOLCANIC ERUPTION PROTECTION**

PLT protections for *Flood* (including *Floods* in Zones A and V), *Earthquake* and *Volcanic Eruption* are limited in the aggregate per year as set forth in the *Summary of Amounts of Protection* accompanying the *Agreement*. Such losses shall be reimbursed (i) as between multiple *Occurrences* in a *Term* on a first to happen *Occurrence* basis, and (ii) within a single *Occurrence*, pro rata or proportionally based upon the ratio between individual *Member* losses and the total of all losses for the *Occurrence*.

The most that PLT will pay for the total of all loss or damage caused directly or indirectly by *Flood* in any one *Term*, regardless of any other cause or event that contributes concurrently or in any sequence to the loss is the aggregate limit specified for *Flood* in the *Summary of Amounts of Protection*. But, if *Flood* results in fire, explosion or leakage from fire protective equipment, the *Flood* limit shall not apply to or modify the amount otherwise applicable to the loss or damage caused by that resulting fire, explosion or leakage from fire protective equipment. The protection provided for *Earthquake* and *Volcanic Eruption* does not apply to loss caused by or resulting from *Flood* that is attributable to an *Earthquake* and *Volcanic Eruption*.

The most that PLT will pay for the total of all losses or damage caused directly or indirectly by *Earthquake* and *Volcanic Eruption* in any one *Term* regardless of any other cause or event that contributes concurrently or in any sequence to the loss is the aggregate limit specified for *Earthquake* in the *Summary of Amounts of*

**Protection.** But if **Earthquake** or **Volcanic Eruption** results in fire, explosion (other than volcanic explosion) or **Volcanic Action**, this limit shall not apply to or modify the amount otherwise applicable to the loss or damage caused by that resulting fire, explosion (other than volcanic explosion) or **Volcanic Action**.

#### **D. LOSSES EXCEPTED FROM PROTECTION**

1. *Reimbursement will not be made for loss caused directly or indirectly by the following hazards, regardless of any other cause or event that contributes concurrently or in any sequence to the loss.*

- (a) Loss or damage arising directly or indirectly from nuclear reaction, radiation or radioactive contamination however caused. However, if nuclear reaction, radiation or radioactive contamination results in fire, PLT will pay for loss or damage caused by that resulting fire.
  - (b) Loss or damage due to **War** or **Terrorism**.
  - (c) Loss or damage resulting from the seizure of property by order of governmental authority; however, PLT will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire loss would be protected under this Section I. PROTECTION FOR PROPERTY LOSS.
  - (d) Loss or damage caused by or resulting from **Earth Movement**, other than **Earthquake**, **Volcanic Eruption** and **Sinkhole Collapse**. But if **Earth Movement** results in fire or explosion, PLT will pay for the loss or damage caused by that resulting fire or explosion. This exception does not apply to **Flood** loss or damage caused by or resulting from:
    - (1) Mudslide or mudflow that is caused or precipitated by the accumulation of water on or below the ground; or
    - (2) **Flood** that is attributable to an **Earth Movement**, such as a tsunami;
  - (e) Loss caused by or resulting from enforcement of any ordinance or law (i) regulating the construction, use or repair of any property; or (ii) requiring the tearing down of any property including the cost of removing its debris. This exclusion does not apply to EXTENSION OF PROTECTION 6, which covers expenses occasioned by and required to comply with the enforcement of any federal, state or municipal law, ordinance or code with respect to real property that is **Protected Property** under this Section I of this **Agreement**. However, in no event will PLT pay under that Extension of Protection for:
    - (1) Any loss due to the **Member's** failure to comply with any ordinance or law that the **Member** was required to comply with before the loss, even if the **Protected Property** was not damaged;
    - (2) Any costs associated with the enforcement of any ordinance or law that requires the insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of **Pollutants**, mold, mold spores, mildew and/or fungus.
2. *Reimbursement will not be made for loss caused by or resulting from the following:*
- (a) Loss arising in whole or in part, either directly or indirectly, out of or related in any way to the existence of, removal of, disposal of, exposure to, handling of, inhalation or ingestion of, contamination by, monitoring of, testing for, or contact with mold, mold spores, mildew and/or fungus. However, if **mold**, mold spores, mildew and/or fungus results in a **Specified Cause of Loss** PLT will pay for the loss or damage caused by that **Specified Cause of Loss**.

- (b) Loss by moth, vermin, termites or other insects, wear, tear or gradual deterioration, rust, or wet or dry rot. However, if such loss results in a ***Specified Cause of Loss*** PLT will pay for the loss or damage caused by that ***Specified Cause of Loss***.
- (c) Loss resulting from loss of use during repair, restoration, replacement, except as otherwise provided in Section F. EXTENSIONS OF PROTECTION.
- (d) Loss resulting from explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by the ***Member*** or operated under the ***Member's*** control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, PLT will pay for the loss or damage caused by that fire or combustion explosion. PLT will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass. (Note – Protection is afforded to each ***Member*** for boiler and machinery losses subject to a one thousand dollar (\$1,000) deductible and all other exceptions, exclusions, limitations, terms and conditions under an insurance policy separately maintained by PLT. The current boiler and machinery form is available for review by ***Members*** at PLT offices during normal business hours.)
- (e) Loss resulting from the continuous or repeated seepage or leakage of water; or the presence of condensation of humidity, moisture or vapor that occurs over a period of fourteen (14) days or more.
- (f) Loss of or damage to electrical appliances or devices of any kind including wiring arising from electrical injury or disturbance to said electrical appliances or devices or wiring from artificial causes, except from ensuing fire or explosion and then only for the loss caused by such ensuing fire or explosion.
- (g) Loss by settling, cracking, shrinkage or expansion.
- (h) Loss resulting from shrinkage, evaporation, loss of weight or leakage.
- (i) Loss resulting from inventory shortages or mysterious disappearances.
- (j) Loss resulting from any kind of dishonesty or criminal act on the part of a ***Member*** or its employees or ***Volunteers***:
  - (1) Acting alone or in collusion with others; or
  - (2) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by the ***Member's*** employees or ***Volunteers*** but theft by the ***Member's*** employees or ***Volunteers*** is not covered.
- (k) Loss by mechanical breakdown or derangement, inherent vice or weakening defect. However, if such loss results in a ***Specified Cause of Loss*** PLT will pay for the loss or damage caused by that ***Specified Cause of Loss***.
- (l) Loss arising in whole or in part, either directly or indirectly, out of or related in any way to the existence of, use of, sale of, installation of, removal of, distribution of, storage of, disposal of, exposure to, handling of, inhalation or ingestion of, contamination by, monitoring of, testing for, or contact with asbestos, asbestos products, products containing asbestos, asbestos fibers, and/or asbestos dust.
- (m) Loss arising in whole or in part, either directly or indirectly, out of or related in any way to the existence of, use of, sale of, installation of, removal of, distribution of, storage of, disposal of, exposure

to, handling of, inhalation or ingestion of, contamination by, monitoring of, testing for, or contact with lead, lead dust, paint containing lead or lead compounds, and/or lead contained in any other goods, products or materials.

- (n) Loss due to the actual, alleged or threatened **Discharge of Pollutants**, except such liability as may arise out of the activities of a hazardous materials response team after July 1, 1993 while performing within the scope of their official duties, but then only to the extent not otherwise excluded in this **Agreement**.

For the purposes of this provision the term **Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant or hazardous materials, including, without limitation, smoke, vapor, soot, fumes, ashes, alkalis, chemicals, petroleum based fuels, biological and etiologic agents or materials, and **Waste**. **Waste** includes material to be recycled, reconditioned or reclaimed. For the purposes of this provision the term **Discharge** includes initial disposal, placement, discharge, dispersal, release, seepage, migration or escape of **Pollutants** into the air, water or land or discharge, dispersal, release, seepage, migration or escape of **Pollutants** which results in direct or indirect contact between such **Pollutants** and persons or property (real or personal).

This Exception (n) shall not apply to **Clean Up Costs**, up to the limits of protection set forth herein, resulting from a **Pollution Incident** (i) neither expected nor intended from the standpoint of the **Member**, and (ii) occurring on **Protected Property** premises. The limits of protection shall be ten thousand dollars (\$10,000) per **Occurrence** and an aggregate limit per **Term** of twenty-five thousand dollars (\$25,000).

For the purposes of this Exception (n):

**Clean Up Costs** means expenses for the removal or neutralization of **Pollutants** as above defined.

**Pollution Incident** means an emission, discharge, release or escape of **Pollutants** into or upon the land, the atmosphere or any watercourse or body of water, provided that such emission, discharge, release or escape results in **Member Environmental Damage**. The entirety of any such emission, discharge, release or escape shall be determined to be one **Pollution Incident**.

**Member Environmental Damage** means the injurious presence of **Pollutants** in or upon **Protected Property**, and the land, atmosphere or any watercourse or body of water of the **Member**.

- (o) Loss arising from computer and/or data processing equipment or software that results from a time and/or date miscalculation or misrecognition.
- (p) Loss resulting from water or other liquids, powder, or molten material that leaks or flows from plumbing, heating, air conditioning, or other equipment, (except fire protective systems and pumps in fire apparatus that are **Protected Property**) caused by or resulting from freezing, unless: (i) the **Member** exercises reasonable care to maintain heat in the building or structure; or (ii) the **Member** drains the equipment and shuts off the supply if the heat is not maintained.
- (q) Loss caused by **Collapse**. However, if **Collapse** results in a cause of loss not otherwise excepted, this exception does not apply to loss or damage caused by that resulting cause of loss not otherwise excepted.

The following exceptions apply to this **Collapse** exclusion:

- (1) PLT will pay for direct physical loss or damage caused by the collapse of a building or any part of a building that is **Protected Property** or that contains **Protected Property**, if the building or any portion of the building is in a state of **Collapse** and the state of **Collapse** is caused by one or more of the following:

- (i) A **Specified Cause of Loss** or breakage of building glass;
  - (ii) Weight of people or personal property; or
  - (iii) Weight of rain that collects on a roof; and
- (2) When a building or any portion of a building has abruptly fallen down or caved in and can no longer be occupied for its intended purpose, PLT will also pay for any direct physical loss or damage to **Protected Property** caused by:
- (i) Decay that is hidden from view, unless the presence of such decay is known to the **Member** prior to **Collapse**;
  - (ii) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to the **Member** prior to **Collapse**; or
  - (iii) Use of defective material or methods in construction, remodeling or renovation if the building abruptly falls down or caves in during the course of the construction, remodeling or renovation. However, if the abrupt falling down or caving in of the building occurs after construction, remodeling or renovation is complete and is caused in part by a cause of loss listed in (q)(1) and (q)(2)(i) and (ii) above, PLT will pay for the loss or damage even if use of defective material or methods, in construction, remodeling, or renovation, contributes to the abrupt falling down or caving in.
3. *Reimbursement will not be made for loss caused by or resulting from the following: However, if an excluded cause of loss that is listed in 3.(a) through 3.(c) results in a cause of loss not otherwise excluded, PLT will pay for loss or damage caused by that resulting cause of loss not otherwise excluded:*
- (a) Weather conditions. However, this exception only applies if weather conditions contribute in any way with a cause or event excluded in Section D. 1. above.
  - (b) Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.
  - (c) Loss resulting from faulty, inadequate or defective:
    - (1) Planning, zoning, development, surveying, siting;
    - (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
    - (3) Materials used in repair, construction, renovation or remodeling; or
    - (4) Maintenance; of part or all of any property, wherever located.
4. *Reimbursement will not be made for any:*
- (a) Loss arising out of an **Occurrence** that takes place before the **Term of this Agreement**.
  - (b) Loss resulting from the **Member's** failure to reasonably mitigate.

#### **E. PROPERTY EXCLUDED FROM PROTECTION**

*The following classes of property are not protected:*

1. Property of any kind and description (except general contents of buildings that are **Protected Property**) acquired by the **Member** prior to the **Term of this Agreement** unless specifically listed on schedules on file with PLT.
2. Property acquired during the **Term of this Agreement** by tax collectors' deed unless reported to PLT in writing within thirty (30) days to obtain protection as of the acquisition date, or between thirty (30) and ninety (90) days to obtain protection as of the reporting date.
3. Money, deeds, postage, notes or securities or other evidences of debt.
4. Animals.
5. Aircraft.
6. Tunnels, aqueducts, penstocks, culverts, streets, roadways and other paved surfaces and their appurtenances including, without limitation, guardrails.
7. Underground pipes, sewers or drains that are not part of or on the premises of a protected building listed on schedules on file with PLT.
8. Foundations below the basement floor.
9. Trees, shrubs, plants or landscaping, crops, water or land, including **Recreation Fields**; provided, however, that protection for **Property Damage** to recreation fields arising from vandalism will be provided up to twenty-five thousand dollars (\$25,000) per **Occurrence** regardless of the number of recreational fields damaged. For the purposes of this paragraph 9, **Recreation Fields** means land improved as a playing field for recreational activities and maintained as a natural surface.
10. Valuable papers, records or, data or the cost to research, replace or restore the information contained therein, whether existing or stored on paper or electronic or magnetic media, in excess of two hundred fifty thousand dollars (\$250,000).
11. (i) Fees, costs, or expenses of the **Member** for investigation, preparation, presentation, or similar activities in connection with a **Claim** not at the request of PLT (and if at the request of PLT, only to the extent specifically provided in this **Member Agreement** at GENERAL PROVISIONS; **MEMBER COOPERATION**), (ii) remedial or corrective action of a **Member** with respect to a loss, or (iii) any fines, penalties, or similar assessments or charges of any **Member**.
12. Property that has not been listed on schedules with PLT because of intentional or deliberate action, inaction, or decision of the **Member**, property for which a specific contribution has not been made because of intentional or deliberate action, inaction, or decision of the **Member**, and property both which has not been listed and for which a specific contribution has not been paid because of intentional or deliberate action, inaction, or decision of the **Member**.
13. Loss to dams, except when listed in the property schedule on file with and specifically accepted by PLT and then only up to the agreed upon replacement value for which a contribution has been paid.
14. Loss to wharves, docks, boardwalks, and bridges except when listed in the schedule on file with PLT, and then only when caused by or resulting from fire, lightning, windstorm, hail, collision, theft, vandalism or malicious mischief.

## **F. EXTENSIONS OF PROTECTION**

*PLT agrees to reimburse the Member for the following losses if caused by an Occurrence otherwise protected under Section I of this Agreement:*

1. Any expense or damage occasioned by the removal of **Protected Property** from premises for preservation against loss or destruction by fire or natural disaster, not exceeding the lesser of (i) 50% of the value on the schedules attached or referred to in the **Summary of Amounts of Protection** and on file with PLT for the **Protected Property** so removed, or (ii) fifty thousand dollars (\$50,000).
2. Expenses incurred from losses protected under this Section I of this **Agreement**, for the removal of debris of the damaged building, improvements or contents of real property from the premises (other than foundations), not in excess of 25% of the amount paid by PLT under this Section I of this **Agreement** for the loss or damage to such building or improvements.
3. Architect and/or engineer fees for consultation arising from loss to real property that is **Protected Property** under this Section I of this **Agreement** for a maximum of 7% of such loss paid by PLT.
4. Expenses necessarily incurred (i) for the purpose of reducing, mitigating or preventing any further loss which would be protected under this Section I of this **Agreement**, not to exceed the amount of potential future loss that is thereby prevented, and/or (ii) for the purpose of securing the **Protected Property** against unauthorized access by third parties, in an amount authorized by PLT.
5. **Extra Expense**, not exceeding the lesser of (i) 25% of the value on the schedules attached to or referred to in the **Summary of Amounts of Protection** and on file with PLT of the building and its contents, or, (ii) one million dollars (\$1,000,000), incurred during the period following a loss that is required with the exercise of due diligence and dispatch, to repair, rebuild or replace real property or contents of real property that is Protected Property under this Section I of this **Agreement**. **Extra Expense** means additional costs incurred by the **Member** above the total costs which would have been incurred to conduct the **Member's** normal business had the loss protected under this Section I of this **Agreement** not occurred.
6. Additional expenses occasioned by and required to comply with the enforcement of any federal, state or municipal law, ordinance or code with respect to real property that is **Protected Property** under this Section I of this **Agreement**, but only if the ordinance, law or code regulates the repair, replacement or rebuilding of **Protected Property** and is in force at the time of loss and/or at the time of rebuilding, repairing or replacing the **Protected Property**. Reimbursement for additional expenses under this paragraph shall not exceed 25% of the amount paid by PLT under this **Agreement** for the loss of or to such real property being so repaired, rebuilt or replaced.
7. Business interruption following and as a result of a protected loss, not exceeding one hundred thousand dollars (\$100,000). Business interruption means the loss of net revenue, excluding revenue from taxes.
8. Loss to property of others, not listed on the schedules on file with PLT, in the care, custody and control of the **Member**. This extension does not protect against loss to motor vehicles or **Mobile Equipment**. This extension of protection is subject to a yearly aggregate limit of fifty thousand dollars (\$50,000) per **Member**.
9. Loss to personal motor vehicles used by any employee or **Volunteer** of the **Member**, up to a limit of five hundred dollars (\$500), when the loss occurs in the course of employment or **Volunteer** activity for the **Member**. For the purposes of this paragraph 9, use of a personal vehicle for travel to or from the place of employment or to or from the place of **Volunteer** activity (other than by a police officer, firefighter or rescue personnel in response to an emergency or similar event) shall not be deemed to be used in the course of employment or **Volunteer** activity for the **Member**. The **Member's** deductible is not applicable to this extension of protection.

10. Expenses incurred by a **Member** following a loss of (i) an **Automobile** or (ii) **Mobile Equipment** for daily rental of an **Automobile** or **Mobile Equipment** of like kind and quality. This extension of protection is subject to a daily limit of up to fifty dollars (\$50) for an **Automobile** and one hundred dollars (\$100) for **Mobile Equipment** and a limit of one thousand five hundred dollars (\$1,500) per event for each **Automobile** or **Mobile Equipment** listed on a schedule on file with PLT and per **Claim**.
11. If the **Member** incurs physical loss of or damage to the **Member's** records of accounts receivable, PLT will reimburse the **Member** up to a maximum of twenty-five thousand dollars (\$25,000) for:
  - (i) Reasonable collection costs incurred because of such loss or damage and any amounts due to the **Member** which the **Member** is unable to collect despite such efforts.
  - (ii) Interest charges on any loan taken by the **Member** to offset any delay in collections of accounts receivable because of such loss or damage.

This Extension of Protection No. 11 shall not apply to loss due to accounting, bookkeeping or billing errors or omissions.



## SECTION II. PROTECTION FOR LOSSES DUE TO CRIME

For purposes of this Section II, *Member* means only the entity including county, municipality, or other public or quasi-municipal entity and does not mean the public officials, employees or *Volunteers*.

### A. PROTECTION FOR LOSS OF MONEY AND SECURITIES

Subject to all other exceptions, exclusions, limitations, terms and conditions of this *Agreement*, PLT shall reimburse the *Member* for loss of money or securities belonging to the *Member* or for which the *Member* is legally liable from any premises occupied or used by the *Member*, sustained during the *Term of this Agreement* and caused by theft, burglary, robbery, kidnapping, disappearance or destruction. Protection under this provision is afforded (i) up to the stated limits and (ii) less the amount of any deductible, as are set forth in the *Summary of Amounts of Protection*. A series of losses caused by the same individual, or by individuals acting in collusion with one another, shall be considered one loss, regardless of the number of *Terms* over which the loss is sustained. If a loss is sustained over more than one *Term*, the limit of protection available for the first *Term* during which the loss is sustained, as established in the applicable *Summary of Amounts of Protection*, shall be the limit of the PLT's liability.

Subject to all other exceptions, exclusions, limitations, terms and conditions of this *Agreement*, PLT shall reimburse the *Member* for loss of money or securities belonging to the *Member* or for which the *Member* is legally liable while in transit in the custody of officials, employees or *Volunteers* of the *Member*, sustained during the *Term of this Agreement* and caused by theft, robbery, kidnapping, disappearance or destruction (other than by fraud or connivance of the official, employees or *Volunteers* of the *Member*). Protection under this provision is afforded (i) up to the stated limits and (ii) less the amount of any deductible, as are set forth in the *Summary of Amounts of Protection*. A series of losses caused by the same individual, or by individuals acting in collusion with one another, shall be considered one loss, regardless of the number of *Terms* over which the loss is sustained. If a loss is sustained over more than one *Term*, the limit of protection available for the first *Term* during which the loss is sustained, as established in the applicable *Summary of Amounts of Protection*, shall be the limit of the PLT's liability.

This protection does not apply to: (1) any fraudulent, dishonest or criminal act other than robbery or safe burglary or attempt thereof committed by a *Member* or any of its officers, employees or *Volunteers* whether acting alone or in collusion with others or (2) to forgery committed by anyone.

### B. BLANKET BOND PROTECTION

Subject to all other exceptions, exclusions, limitations, terms and conditions of this *Agreement*, PLT agrees to reimburse the *Member* for any loss of money or other property belonging to the *Member* or for which the *Member* is legally liable, sustained during the *Term of this Agreement* and caused by larceny, theft, embezzlement, computer fraud, forgery, misappropriation, wrongful abstraction, willful misapplication or other fraudulent or dishonest act or acts committed by any one or more of the officials, employees or *Volunteers* of the *Member*, acting alone or in collusion with others. Protection under this provision is afforded (i) up to the stated limits and (ii) less the amount of any deductible, as are set forth in the *Summary of Amounts of Protection*. A series of losses caused by the same individual, or by individuals acting in collusion with one another, shall be considered one loss, regardless of the number of *Terms* over which the loss is sustained. If a loss is sustained over more than one *Term*, the limit of protection available for the first *Term* during which the loss is sustained, as established in the applicable *Summary of Amounts of Protection*, shall be the limit of the PLT's liability.

### C. PROTECTION FOR FAITHFUL PERFORMANCE

Subject to all other exceptions, exclusions, limitations, terms and conditions set forth in this *Agreement*, PLT shall reimburse the *Member* for loss of money or other property belonging to the *Member* or for which the *Member* is legally liable, sustained during the *Term of this Agreement* and caused by the failure of any of the employees, officials or *Volunteers* of the *Member* to perform faithfully his or her duties or to account properly for all moneys and property received by virtue of his or her position as an officer, employee or *Volunteer* of the *Member*. Protection under this provision is afforded (i) up to the stated limits and (ii) less the amount of any deductible, as are set forth in the *Summary of Amounts of Protection*. A series of losses caused by the same individual or individuals shall be considered one loss, regardless of the number of *Terms* over which the loss is sustained. If a loss is sustained over more than one *Term*, the limit of protection available for the first *Term* during which the loss is sustained, as established in the applicable *Summary of Amounts of Protection*, shall be the limit of PLT's liability.

### D. PROTECTION FOR DEPOSITORS FORGERY

Subject to all other exceptions, exclusions, limitations, terms and conditions of this *Agreement*, PLT shall reimburse the *Member* for loss of money or other property belonging to the *Member* or for which the *Member* is legally liable, sustained during the *Term of this Agreement* and caused by forgery or alteration of, on, or in a check, draft, promissory note, electronic payment transfer directive, or similar written promise or order or direction to pay a certain sum in money, if it is drawn by or upon the *Member*, or made or drawn by a person acting as the *Member's* agent, or that are purported to have been so made or drawn. Protection is not afforded for loss caused by any dishonest or criminal act by any of the officials or employees of a *Member* while acting alone or in collusion with others. Protection under this provision is afforded (i) up to the stated limits and (ii) less the amount of any deductible, as are set forth in the *Summary of Amounts of Protection*. A series of losses caused by the same individual, or by individuals acting in collusion with one another, shall be considered one loss, regardless of the number of *Terms* over which the loss is sustained. If a loss is sustained over more than one *Term*, the limit of protection available for the first *Term* during which the loss is sustained, as established in the applicable *Summary of Amounts of Protection*, shall be the limit of the PLT's liability.

### E. PROTECTION FOR COUNTERFEIT PAPERS

Subject to all other exceptions, exclusions, limitations, terms and conditions of this *Agreement*, PLT shall reimburse the *Member* for each loss of money or other property belonging to the *Member* or for which the *Member* is legally liable, sustained during the *Term of this Agreement* and caused by acceptance in good faith of counterfeit paper currency and travelers checks or money orders not paid on presentation. Protection under this provision is afforded (i) up to the stated limits and (ii) less the amount of any deductible, as are set forth in the *Summary of Amounts of Protection*. A series of losses caused by counterfeit papers accepted from the same presenter, or presenters acting in collusion with one another, shall be considered one loss, regardless of the number of *Terms* over which the loss is sustained. If a loss is sustained over more than one *Term*, the applicable limit of protection available for the first *Term* during which the loss is sustained, as established in the *Summary of Amounts of Protection*, shall be the limit of the PLT's liability.

### VALUATION

Loss of money will not be valued in excess of its face value. Loss of securities will be valued as of the close of the business day on which the loss is discovered, but PLT will pay the lesser amount of that value or whatever sums would be necessary to obtain replacement securities. Loss of other property will be valued at its fair market value as of the date the loss is discovered.

## EXCEPTIONS

### 1. LOSS DUE TO *WAR* OR *TERRORISM*

Notwithstanding any provisions of this Section II, PROTECTION FOR LOSSES DUE TO CRIME, no reimbursement shall be made to the *Member* if the *Claim* or the loss of money or other property belonging to the *Member* or for which the *Member* is legally liable, was due to *War* or *Terrorism*.

### 2. CERTAIN COSTS INCURRED IN CONNECTION WITH A CLAIM AS WELL AS CERTAIN FINES AND PENALTIES

Notwithstanding any provision of this Section II, PROTECTION FOR LOSSES DUE TO CRIME, no reimbursement shall be made to the *Member* for (i) fees, costs, or expenses of the *Member* for investigation, preparation, presentation or similar activities in connection with a *Claim* not at the request of PLT (and if at the request of PLT, only to the extent specifically provided in this *Agreement* at GENERAL PROVISIONS; MEMBER COOPERATION), (ii) remedial or corrective action of a *Member* with respect to a loss, or (iii) any fines, penalties, or similar assessments or charges of any *Member*.

### 3. DISCOVERY RULE

Upon discovery by the *Member* of any loss protected under this Section II, PROTECTION FOR LOSSES DUE TO CRIME, no protection shall be provided under this Section II, as to any acts committed by the person(s) causing, in whole or in part, the loss, subsequent to the date of the discovery.

### 4. SUCCESSOR PUBLIC OFFICIALS AND EMPLOYEES

Notwithstanding any provisions of this Section II, PROTECTION FOR LOSSES DUE TO CRIME, no reimbursement shall be made for a loss caused by any person: (1) with respect to whom a *Claim* has been paid under (A) this or predecessor *Agreements*, or (B) any Public Official Schedule Bond or similar obligation issued by PLT or another entity acting as a surety; or (2) who has been (A) removed from any public office or (B) convicted of a felony pursuant to the laws of the State of New Hampshire or any other state, territory or district of the United States of America, when such removal or conviction was for the failure to faithfully perform duties, or by reason or in consequence of a fraudulent, dishonest or other act that is of the kind covered under this Section II or by any Public Official Schedule Bond or similar obligation.



## **SECTION III. ASSUMPTION OF LIABILITY AGREEMENT FOR THIRD PARTY CLAIMS AGAINST MEMBERS**

### **A. PROTECTION FOR THIRD PARTY CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE**

Subject to all other exceptions, exclusions, limitations, terms and conditions of this *Agreement*, PLT assumes the liability of the *Member* up to the stated limit as set forth in the *Summary of Amounts of Protection for Third Party Claims* for *Bodily Injury* or *Property Damage* caused by an *Occurrence* that takes place during the *Term of this Agreement*.

#### **EXTENSIONS OF PROTECTION**

##### **1. No-Fault Sewer and Water Main Coverage**

Liability assumed under this Section III is extended to loss arising out of a (i) backup of a sewer main of a *Member* or (ii) flooding incident caused by breakage of water mains and/or attendant pipes of a *Member*, without regard to the contributory or comparative negligence of the injured party or the negligence of the *Member*. The limits of protection afforded under this amendment are a reduction from or offset against the otherwise available limits under this *Agreement* for an accompanying *Claim* other than on a no fault basis and resulting from the same incident.

The amount of reimbursement for loss arising out of a (i) backup of a sewer main of a *Member*, or (ii) flooding incident caused by breakage of water mains and/or attendant pipes of a *Member* shall be limited to three thousand five hundred dollars (\$3,500) per *Claim* up to a maximum (combined for sewer and flood incidents) aggregate amount of \$52,500 during the *Term*, subject to an offset against otherwise available limits under this Section III of the *Member Agreement* for an accompanying *Claim* other than on a no-fault basis arising from the same incident.

By virtue of issuance of this protection, the *Member* acknowledges, understands and agrees that the *Member* hereby waives the provisions of paragraph F, SETTLEMENT OF THIRD PARTY CLAIMS of SECTION III, ASSUMPTION OF LIABILITY AGREEMENT FOR THIRD PARTY CLAIMS relating to the requirement of *Member* consent to the settlement of any *Claim* to the extent that the no fault protection extended under this protection is applicable to the *Claim*. The rights of the *Member* under such paragraph F, including to reasonably consent to a settlement of any *Claim*, shall be retained by and is not waived by the *Member* to the extent the no fault provisions of this protection are not applicable to such *Claim*.

##### **2. Extended Motor Vehicle Coverage for *Members* Using Protected Property**

Notwithstanding the definition of *Member* in this *Agreement*, *Members* to whom are entrusted *Automobiles* or *Mobile Equipment*, which are *Protected Property*, for their regular and unrestricted use, including during times they are not within the scope or course of their official duties or employment, will be afforded liability protection to the same extent as if they were within such scope or course.

Notwithstanding the definition of *Member* in this *Agreement*, *Members* to whom are entrusted *Automobiles* or *Mobile Equipment*, which are *Protected Property*, for their occasional use will be afforded liability protection to the same extent as if they were within such scope or course if their use of the vehicle, constitutes reasonable incidental use of the vehicle that is expressly or implicitly permitted by the *Member*, even if such use is not within the scope or course of their official duties or employment.

## EXCEPTIONS

*This Section III A of this **Agreement** does not provide protection and no liability is assumed under this **Agreement** for **Third Party Claims** for **Bodily Injury** and **Property Damage** (and whether or not in connection with other protection provided or liability assumed under this **Agreement**):*

1. (i) Seeking relief or redress in any form other than monetary **Damages**; (ii) to fees, costs, or expenses which are expended, incurred, or become the obligation of the **Member** by reason of any such **Claim**; (iii) to fees, costs, or expenses of the **Member** for the investigation, preparation or presentation of or similar activities in connection with a **Claim** not at the request of PLT (and if at the request of PLT, only to the extent specifically provided in this **Member Agreement** at GENERAL PROVISIONS; MEMBER COOPERATION); (iv) to remedial or corrective action of a **Member** with respect to a loss; or (v) to any fines, penalties, or similar assessments or charges of any **Member**.
2. For the amount of each **Claim** in excess of the limit of liability contained in RSA 507-B:4, except (i) where the specific limits of RSA 507-B:4 do not apply, (ii) the limit of RSA 507-B is found to be unconstitutional, or (iii) to the extent that PLT fails to raise RSA 507-B:4 as a defense.
3. For punitive **Damages** or liberal compensatory **Damages** sometimes referred to as, without limitation, exemplary or enhanced **Damages**, awarded by any court in excess of one hundred thousand dollars (\$100,000).
4. Arising out of the ownership, maintenance or use, including loading or unloading, of watercraft used to carry persons for a charge or rented to others, unless such watercraft is (i) listed on schedules on file with PLT, (ii) less than twenty-five (25) feet in length, and (iii) non-motorized.
5. Arising out of the ownership, maintenance or use, including loading and unloading of aircraft.
6. For damage to or destruction of property owned by any **Member**.
7. Arising out of damage to or destruction of property in the care, custody or control of the **Member**. (But see Section I.F.8.). Vehicles which are parked on property or facilities of the **Member**, whether for a fee or not, shall not be considered within the care, custody or control of the **Member**. For purposes of this paragraph 7, **Member** means only the entity, including county, municipality, or other public or quasi-municipal entity, and does not mean the public officials, employees or **Volunteers**.
8. For or arising out of the loss of any intangible property such as, but not limited to, claims, expectations, profits, or diminution in the value of any property.
9. Arising out of the ownership, maintenance or operation of ski jumps, ski lifts or tows, and associated trails other than "cross country" ski trails.
10. Arising out of **Hospital** or **Clinic** malpractice. For the purposes of this paragraph 10, (i) **Hospital** shall mean an institution in which sick or injured persons are given medical or surgical treatment or care, including a nursing home, and (ii) **Clinic** shall mean a place, whether or not in connection with a hospital, for the treatment and medical care of non-resident patients, but shall not include (A) the medical care dispensed by emergency medical technicians, paramedics, or similar persons otherwise protected under this **Agreement**, (B) the medical care dispensed at a school or place or establishment of a **Member**, (i) if the dispensing of care is incidental to the activities of the town or municipal government and (ii) such care is dispensed only in connection with such primary activities of the town or municipal government.

11. Arising in whole or in part, either directly or indirectly, out of or related in any way to the existence of, use of, sale of, installation of, removal of, distribution of, storage of, disposal of, exposure to, handling of, inhalation or ingestion of, contamination by, monitoring of, testing for, or contact with asbestos, asbestos products, products containing asbestos, asbestos fibers, and/or asbestos dust.
12. Arising in whole or in part, either directly or indirectly, out of or related in any way to the existence of, use of, sale of, installation of, removal of, distribution of, storage of, disposal of, exposure to, handling of, inhalation or ingestion of, contamination by, monitoring of, testing for, or contact with lead, lead dust, paint containing lead or lead compounds, and/or lead contained in any other goods, products or materials.
13. Arising out of the actual, alleged, or threatened discharge of *Pollutants*.

For the purposes of this Exception No. 13, *Pollutant* means any solid, liquid, gaseous or thermal irritant or contaminant or hazardous materials, including, without limitation smoke, vapor, soot, fumes, ashes, alkalies, chemicals, petroleum based fuels, biological and etiologic agents or materials, and *Waste*. *Waste* includes material to be recycled, reconditioned or reclaimed. For the purposes of this Exception No. 13, discharge includes initial disposal, placement, discharge, dispersal, release, seepage, migration or escape of *Pollutants* into the air, water or land or discharge, dispersal, release, seepage, migration or escape of *Pollutants* which results in direct or indirect contact between such *Pollutants* and persons or property (real or personal). For the purposes of this Exception No. 13, *Pollutant does not include sewage discharge as a result of an Accident from Member lines or Protected Property*.

Exception No. 13 to assumption of liability will not apply to:

A. Hazardous Response:

Any liability arising out of the activities of a hazardous materials response team after July 1, 1993 while performing within the scope of its official duties. Protection afforded under this paragraph 13(A) to hazardous materials response teams shall also be only to the extent not otherwise excluded in this *Agreement* and regardless of whether the hazardous materials response team activity is, or is deemed to be, a subsequent or intervening event to such exclusion otherwise applicable.

B. Hostile Fire:

*Bodily Injury, Property Damage, or Clean Up Costs* for a *Pollution Incident*, arising out of heat, smoke, or fumes from a *Hostile Fire*. As used herein, *Hostile Fire* means a fire deliberately set which breaks out from where it is intended to be or otherwise becomes uncontrollable. Provided, however, there shall be no protection where the *Hostile Fire* arises from, or involves, any site or location used by any *Member*, contractor, or subcontractor for the handling, storage, disposal, processing or treatment of *Waste*. This assumption of liability will not apply to (i) *Bodily Injury, Property Damage or Clean Up Costs* in excess of ten thousand dollars (\$10,000) per *Pollution Incident*.

C. Firefighting Activities:

*Bodily Injury, Property Damage, or Clean Up Costs* for a *Pollution Incident*, arising out of firefighting activities, including training burns, intentional demolition burns for purpose of limiting a fire, or the discharge of *Pollutants* for the purpose of controlling a fire. This assumption of liability will not apply to (i) *Bodily Injury, Property Damage or Clean Up Costs* in excess of ten thousand dollars (\$10,000) per *Pollution Incident*.

D. *Automobile, Mobile Equipment* or Fire Department Emergency Vehicle:

*Clean Up Costs* resulting from an engine or fuel storage compartment of an (i) *Automobile*, (ii) *Mobile Equipment* or (iii) fire department emergency vehicle in each case arising out of and in the course of the use of such a vehicle within the scope of duties for the *Member*, and, additionally,

in the case of such fire equipment while engaged in a hostile fire response. This assumption of liability will not apply to (i) any clean up costs caused or arising out of or contributed to by a **Pollution Incident** that commenced prior to July 1, 2000, (ii) clean up costs expected or intended from the standpoint of the **Member**, (iii) such **Automobile, Mobile Equipment** or fire department emergency vehicle that is not listed together with its value on schedules on file with PLT and for which the specific contribution has not been paid, or (iv) clean up costs in excess of ten thousand dollars (\$10,000) per **Pollution Incident**.

E. Pesticide Application:

**Bodily Injury, Property Damage, or Clean Up Costs** for a **Pollution Incident**, arising out of the deliberate application of pesticides or herbicides at **Member** owned golf courses and **Recreation Fields**. **Recreation Fields** means land improved as a playing field for recreational activities and maintained as a natural surface. For protection to apply hereunder, the **Member** must have a valid certificate of registration for such activity issued by the State of New Hampshire Department of Agriculture. This assumption of liability will not apply to (i) **Bodily Injury, Property Damage or Clean Up Costs** in excess of ten thousand dollars (\$10,000) per **Pollution Incident**.

F. Road Salt Application:

**Bodily Injury, Property Damage, or Clean Up Costs** for a **Pollution Incident**, arising out of the deliberate application of road salt to streets, parking lots, and sidewalks as part of a **Member's** maintenance operations. This protection does not apply to a **Pollution Incident** arising from disposal, transportation, handling, storage, discharge, dispersal, release, seepage, migration or escape of the road salt **Pollutant**. This assumption of liability will not apply to (i) **Bodily Injury, Property Damage or Clean Up Costs** in excess of ten thousand dollars (\$10,000) per **Pollution Incident**.

For the purposes of this exception No. 13:

**Clean Up Costs** means expenses for the removal or neutralization of **Pollutants** as above defined.

**Pollution Incident** means an emission, discharge, release or escape of **Pollutants** into or upon the land, the atmosphere or any watercourse or body of water, provided that such emission, discharge, release or escape results in **Environmental Damage**. The entirety of any such emission, discharge, release or escape shall be determined to be one **Pollution Incident**.

**Environmental Damage** means the injurious presence of **Pollutants** in or upon the land, the atmosphere or any watercourse or body of water.

14. For any damage to or loss or destruction of land, soil, groundwater, or surface water.
15. Intended by or which would be expected by (i) the **Member**, or (ii) a reasonable person standing in the position of the person or entity against whom the **Claim** is asserted. For purposes of this Exception, an injury will be regarded as expected from the standpoint of the **Member** if the **Member** acts intentionally in a manner substantially certain to cause injury, even if the resulting injury was not specifically intended or expected by the **Member**.

This exception does not apply to **Bodily Injury or Property Damage** resulting from the alleged use of unreasonable force to protect persons or property, or in the conduct of other law enforcement operations, or to **Claims** arising out of **Corporal Punishment**, unless such force or **Corporal Punishment** is maliciously inflicted or administered in violation of criminal law. In the event of alleged unreasonable force, or **Corporal Punishment** maliciously inflicted or administered in violation of criminal law, PLT may, at its option, provide a defense to the individual employee, official, or **Volunteer**. PLT shall pay

any amounts for which the *Member* is found liable, subject to the limits hereof, resulting from the *Claim* otherwise assumed under this *Agreement*, but will not pay any amounts on behalf of the accused individual if that individual is found liable and the *Member* is not found to be vicariously liable for the individual's conduct.

16. Asserted against the alleged perpetrator of a rape, sexual molestation or physical or sexual abuse. If the alleged perpetrator denies the allegations, PLT may, at its option, provide a defense to the alleged perpetrator. PLT shall pay any amounts for which the *Member* is found liable, subject to the limits hereof, resulting from the *Claim* otherwise assumed under this *Agreement*, but will not pay any amounts on behalf of the alleged perpetrator for which the alleged perpetrator is found liable and the *Member* is not found to be vicariously liable for the perpetrator's conduct. All *Bodily Injury* caused by a rape, sexual molestation or physical or sexual abuse shall be deemed to be one *Occurrence* whether committed by the same perpetrator or two or more perpetrators acting in concert and without regard to the duration of such conduct and/or the number of incidents of rape, sexual molestation or physical or sexual abuse taking place. Regardless of the number of *Terms* over which the conduct takes place, the limit of protection available on the first date of exposure to such conduct, as set forth on the applicable *Summary of Amounts of Protection*, shall be the limit of protection for such *Occurrence*. For purposes of this paragraph 16, the definition of *Member* shall not include the person(s) who is the alleged perpetrator or perpetrators.
17. Brought against the employer *Member* for *Bodily Injury* to an employee (or borrowed employee) of the employer *Member* arising out of or in the course of employment by the employer *Member*, whether the employer *Member* may be liable as an employer or in any other capacity, and to any obligation to indemnify, share *Damages* with or repay someone else who may pay *Damages* because of the injury.
18. Caused or contributed to by emissions of any kind of energy or radiation by electric transmission lines.
19. Caused or contributed to by nuclear reaction, radiation or contamination.
20. Arising in whole or in part, either directly or indirectly, out of or related in any way to the existence of, removal of, disposal of, exposure to, handling of, inhalation or ingestion of, contamination by, monitoring of, testing for, or contact with mold, mold spores, mildew and/or fungus.
21. For loss due to *War* or *Terrorism*.
22. Arising out of inverse condemnation, adverse possession, dedication by adverse use or eminent domain, application of impact or linkage fees, nuisance, trespass, or takings resulting from the application of any Federal, State or local statute, ordinance, rule or regulation. This exception does not apply to *Claims* for physical trespass or intrusion by an individual onto property of others.
23. Alleging a breach or a violation of a collective bargaining agreement.
24. Alleging or arising out of sexual harassment.
25. Arising out of or related in any way to *Advertising Injury*, copyright, trademark, trade dress, patent infringement, or plagiarism.
26. Arising out of the use of trampolines or any other rebounding device in excess of \$275,000 per person per *Occurrence* or \$925,000 by any number of persons per *Occurrence*.
27. Arising out of the creation, implementation, administration, management, failure, termination and/or extinguishment of any *Employee Benefits Program*, except as protection is otherwise provided under Section III C of this *Agreement*.

28. Alleging any failure to effect or maintain any insurance or bond.
29. For any cost, expense, financial, or non-financial obligation incurred or imposed to alter, modify or enhance any **Member** property of any kind or type to comply with the Americans With Disabilities Act 42 U.S.C. 12101 et. seq. or any similar federal or state law.
30. For an **Occurrence** that takes place before the **Term of this Agreement**.
31. For any contractually assumed liability, unless in PLT's sole discretion protection is afforded through a PLT issued Certificate of Coverage.

**B. PROTECTION FOR THIRD PARTY CLAIMS FOR LOSS (OTHER THAN BODILY INJURY OR PROPERTY DAMAGE) FROM WRONGFUL ACTS**

Subject to all other exceptions, exclusions, limitations, terms and conditions of this **Agreement**, PLT assumes the liability of the **Member** for **Claims** first reported by the Member to PLT during the **Term of this Agreement** up to the stated limit as set forth in the **Summary of Amounts of Protection** seeking **Damages** resulting from a **Wrongful Act** of the **Member** which takes place during the **Term of this Agreement** or during the **Term** of prior **Agreements** maintained continuously by the **Member** with PLT.

**EXCEPTIONS**

*This Section III B of this Agreement does not provide protection and no liability is assumed for **Third Party Claims** resulting from a **Wrongful Act**:*

1. (i) Seeking relief or redress in any form other than monetary **Damages**; (ii) fees, costs or expenses which are expended, incurred, or become the obligation of the **Member** by reason of any such **Claim**; (iii) fees, costs, or expenses of the **Member** for investigation, preparation, presentation or similar activities in connection with a **Claim** not at the request of PLT (and if at the request of PLT, only to the extent specifically provided in this **Member Agreement** at GENERAL PROVISIONS; MEMBER COOPERATION); (iv) remedial or corrective action of a **Member** with respect to a loss; or (v) any fines, penalties, or similar assessments or charges of any **Member**.
2. For **Bodily Injury**, except that this paragraph 2 (notwithstanding the definition of **Bodily Injury** contained in this **Agreement**) shall not exclude mental anguish or emotional distress as compensatory **Damages** for a violation of civil rights and which is not otherwise excluded elsewhere under this paragraph B of Section III of this **Agreement**.
3. For **Property Damage**, including, without limitation, to land, soil, groundwater, or surface water.
4. For punitive **Damages** or liberal compensatory **Damages** sometimes referred to as, without limitation, exemplary or enhanced **Damages**, awarded by any court in excess of one hundred thousand dollars (\$100,000).
5. Arising out of inverse condemnation, adverse possession, dedication by adverse use or eminent domain, application of impact or linkage fees, nuisance, trespass, or takings resulting from the application of any Federal, State or local statute, ordinance, rule or regulation. This exception does not apply to **Claims** for physical trespass or intrusion by an individual onto property of others.
6. For that portion of a **Claim**, which is otherwise protected under this **Agreement**, that exceeds one hundred thousand dollars (\$100,000) for back pay, future pay, or similar **Claims**, including any alleged loss of benefits, even if designated as liquidated **Damages** or as part of damage **Claims**.

7. (a) For unequal pay or brought under the Equal Pay Act and (b) **Claims** which if paid would constitute payment for services already received by the **Member**, or which if paid would indemnify the **Member** for legal obligations of the **Member** to pay third persons (such as the payment of welfare benefits, commissions, bonuses, overtime, incentive pay, accrued unused paid time off, severance pay, expense reimbursements, or similar obligations) when the failure to perform such obligations is the basis for the **Wrongful Act** alleged.
8. Arising out of the creation, implementation, administration, management, failure, termination, and/or extinguishment, of any **Employee Benefits Program**, except as protection is otherwise provided under Section III C of this **Agreement**.
9. Arising out of the issuance of municipal debt or improperly collected taxes.
10. Based upon or attributable to the **Member**, its employees or **Volunteers** gaining any profit, advantage or remuneration to which they are not entitled.
11. Brought about or contributed to by fraud, and/or malice; however, PLT will defend **Claims** brought about or contributed to by the foregoing until such time that the fraud, and/or malice is factually proven.
12. For any claims, including for increased expense, arising from damage to, destruction of, or interference with: claims or lawsuits; contractual advantage, whether existing or expected; any other expectation of profit, gain or economic advantage; or for claims of diminution in the value of any property.
13. Brought under the Telecommunications Act of 1996; however, PLT will provide a defense for such **Claims** subject to a limit of twenty-five thousand dollars (\$25,000) for each lawsuit.
14. Arising out of an actual or alleged breach of a contractual obligation by the **Member**, but this exception shall not apply to any **Claim** based upon a breach or alleged breach of individual employment contracts between the **Member** and an employee of the **Member**. **Damages** from such **Claims** remain subject to other exceptions under this **Wrongful Act** protection.
15. Alleging a breach or a violation of a collective bargaining agreement.
16. Arising out of violation of a penal statute or other violation of criminal law.
17. Arising out of publication or utterance concerning any person, organization or business enterprise or its products or services made by any protected person with knowledge of its falsity; provided, however, that knowledge of the falsity of a publication or utterance shall not be applicable in this exception to attorneys who are full-time employees of the **Local Government Center**, or its successor.
18. Asserted against the alleged perpetrator of sexual harassment. If the alleged perpetrator denies the allegations, PLT may, at its option, provide a defense to the alleged perpetrator. PLT shall pay any amounts for which the **Member** is found liable, subject to the limits stated in the **Summary of Amounts of Protection**, resulting from the **Claim** otherwise assumed under this **Agreement**, but will not pay any amounts on behalf of the alleged perpetrator for which the alleged perpetrator is found liable and the **Member** is not. For purposes of this paragraph 18, the definition of **Member** shall not include the person who is the alleged perpetrator or perpetrators.
19. Arising out of **War** or **Terrorism**.

20. Arising out of the actual, alleged or threatened discharge of **Pollutants**. For the purposes of this provision, the term **Pollutant** means any solid, liquid, gaseous or thermal irritant or contaminant or hazardous materials, including, without limitation smoke, vapor, soot, fumes, ashes, alkalis, chemicals, petroleum-based fuels, biological and etiologic agents or materials, and **Waste**. **Waste** includes material to be recycled, reconditioned or reclaimed. For the purposes of this provision the term discharge includes initial disposal, placement, discharge, dispersal, release, seepage, migration or escape of **Pollutants** into the air, water or land or discharge, dispersal, release, seepage, migration or escape of **Pollutants** which results in direct or indirect contact between such **Pollutants** and persons or property (real or personal).
21. Arising out of or related in any way to **Advertising Injury**, copyright, trademark, trade dress, patent infringement, or plagiarism, except for such **Claims** arising out of **Member** sanctioned publications.
22. Alleging failure to properly award bids.
23. Arising out of **Corporal Punishment**.
24. Arising in whole or in part, either directly or indirectly, out of or related in any way to the existence of, use of, sale of, installation of, removal of, distribution of, storage of, disposal of, exposure to, handling of, inhalation or ingestion of, contamination by, monitoring of, testing for, or contact with asbestos, asbestos products, products containing asbestos, asbestos fibers, and/or asbestos dust.
25. Arising in whole or in part, either directly or indirectly, out of or related in any way to the existence of, use of, sale of, installation of, removal of, distribution of, storage of, disposal of, exposure to, handling of, inhalation or ingestion of, contamination by, monitoring of, testing for, or contact with lead, lead dust, paint containing lead or lead compounds, and/or lead contained in any other goods, products or materials.
26. Arising in whole or in part, either directly or indirectly, out of or related in any way to the existence of, removal of, disposal of, exposure to, handling of, inhalation or ingestion of, contamination by, monitoring of, testing for, or contact with mold, mold spores, mildew and/or fungus.
27. Alleging any failure to effect or maintain any insurance or bond.
28. For any cost, expense, financial, or non-financial obligation incurred or imposed to alter, modify or enhance any **Member** property of any kind or type to comply with the Americans With Disabilities Act 42 U.S.C. 12101 et. seq., or any similar federal or state law.
29. Arising out of or related in any way to rape, sexual molestation or physical or sexual abuse.
30. For any contractually assumed liability, unless in PLT's sole discretion protection is afforded through a PLT issued Certificate of Coverage.

### C. **EXTENSION OF PROTECTION – EMPLOYEE BENEFITS PROGRAM**

Subject to all other exceptions, exclusions, limitations, terms and conditions of this **Agreement**, PLT assumes the liability of the **Member**, up to the stated limit as set forth in the **Summary of Amounts of Protection**, for **Third Party Claims** for **Damages** sustained in the **Administration of the Member's Employee Benefits Program** and caused by an **Occurrence** that takes place during the **Term of this Agreement**.

For the purposes of this Section III C, **Administration of the Member's Employee Benefits Program** means:

- (i) Providing information to employees or their beneficiaries as to their rights or interest with respect to any employer **Member** sponsored **Employee Benefits Program**, provided that such conduct is authorized by the employer **Member**;

- (ii) Handling records in connection with any employer *Member* sponsored *Employee Benefits Program*, provided that such conduct is authorized by the employer *Member*;
- (iii) Effecting, continuing or terminating any employee's participation in any employer *Member* sponsored *Employee Benefits Program*, provided that such conduct is authorized by the employer *Member*.

## EXCEPTIONS

*This Section III C of this Agreement does not provide protection and no liability is assumed for Third Party Claims:*

1. Arising out of any failure of any investment to perform as represented.
2. Arising out of any advice given to any employee to participate or not participate in stock subscription plans.
3. Arising out of (i) the investment or non-investment of funds, (ii) the decision to invest or not invest funds, (iii) any advice given regarding the investment or non-investment of funds, and/or (iv) any advice given to participate or not participate in any investment plan or program, whether or not sponsored by the employer *Member*.
4. For that portion of any *Claim* which if paid would indemnify the employer *Member* for legal obligations of the employer *Member* to make payments under an *Employee Benefits Plan* when the failure to make such payments is the basis, in whole or in part, for the *Wrongful Act* alleged.
5. Based upon the Employee Income Retirement Security Act of 1974, as amended (ERISA) or the Public Employees Retirement Act, as amended (PERA), or any similar provisions of any Federal, state or local statutory or common law.
6. Brought about or contributed to by fraud, malice or violation of criminal law.
7. For *Bodily Injury* or *Property Damage*.
8. (i) Seeking relief or redress in any form other than monetary *Damages*; (ii) fees, costs or expenses which are expended, incurred, or become the obligation of the employer *Member* by reason of any such *Claim*; (iii) fees, costs, or expenses of the *Member* for the investigation, preparation or presentation of or similar activities in connection with a *Claim* not at the request of PLT (and if at the request of PLT, only to the extent specifically provided in this *Member Agreement* at GENERAL PROVISIONS; *MEMBER COOPERATION*); (iv) remedial or corrective action of a *Member* with respect to a loss; or (v) any fines, penalties, or similar assessments or charges of any *Member*.
9. For the amount of each *Claim* in excess of the limit of liability contained in RSA 507-B:4, except (i) where the specific limits of RSA 507-B:4 do not apply, (ii) the limit of RSA 507-B is found to be unconstitutional, or (iii) to the extent that PLT fails to raise RSA 507-B:4 as a defense.
10. Arising out of failure of performance of contract by the *Member* or by any insurer or fiduciary, including failure of any *Employee Benefits Program*.
11. Arising out of unfair or unlawful discrimination.
12. Arising out of the *Member's* failure to comply with any law concerning workers' compensation, unemployment insurance, social security, disability benefits, retirement benefits, deferred compensation plans, or any similar law.

13. Arising out of payroll activities, including, but not limited to, payroll deductions and other payroll adjustments; provided, however, that protection will be afforded for such activities up to a maximum of five thousand dollars (\$5,000) per person and two hundred fifty thousand dollars (\$250,000) per *Occurrence*.
14. For punitive *Damages* or liberal compensatory *Damages* sometimes referred to as, without limitation, exemplary or enhanced *Damages*, awarded by any court in excess of one hundred thousand dollars (\$100,000).
15. Arising out of an alleged breach or violation of a collective bargaining agreement.
16. Based upon or attributable to the *Member*, its employees or *Volunteers* gaining any profit, advantage or remuneration to which they are not entitled.
17. Intended by or which would be expected by (i) the *Member*, or (ii) a reasonable person standing in the position of the person or entity against whom the *Claim* is asserted.
18. For an *Occurrence* that takes place before the *Term of this Agreement*.
19. For any contractually assumed liability, unless in PLT's sole discretion protection is afforded through a PLT issued Certificate of Coverage.

#### **D. EXTENSIONS OF PROTECTION – LEGAL FEES**

PLT will pay legal fees as described below, at a rate no greater than the defense counsel rate approved by PLT in accordance with its Litigation Management Policy, but will not otherwise protect, reimburse, or indemnify the *Member*. Protection under this Section III.D does not apply to any contractually assumed liability.

For purposes of this Section III.D *Incident* means attorney's fees under one of the below paragraphs incurred during the *Term of this Agreement*, and a series of related *Incidents* shall be considered one *Incident* for purposes of determining the amount of protection available.

Legal fees provided under this Section III.D shall be subject to a deductible amount of five thousand dollars (\$5,000) per *Incident*, which shall be paid by the *Member*. Upon exhaustion of the applicable deductible, legal fees provided under this Section III.D, paragraphs 1 through 5 shall be limited to one hundred thousand dollars (\$100,000) per *Incident* per *Member* and three hundred thousand dollars (\$300,000) in the aggregate per *Member* per *Term* for legal fees incurred during the *Term of this Agreement*. Upon exhaustion of the deductible, legal fees provided under this Section III.D, paragraphs 6 and 7 shall be limited to twenty-five thousand dollars (\$25,000) per *Incident* per *Member* and one hundred thousand dollars (\$100,000) in the aggregate per *Member* per *Term* for legal fees incurred during the *Term of this Agreement*. Payment of legal fees under this section shall be made only if incurred during the *Term of this Agreement*. Payment of legal fees shall cease upon termination of membership in PLT even if the per *Incident* and aggregate limits have not been met. If a *Third Party Claim(s)* subject to protection under this *Agreement* and arising out of the same core facts that form the basis for legal fees paid under this Section III.D is brought against the *Member*, the fees paid shall reduce the limits of protection available for defense of that *Third Party Claim(s)*.

Legal fees shall be paid as described above for the following:

1. Provided that protection would otherwise be afforded under this *Agreement* but for the provisions of Section III.B, Exception No. 14, PLT will pay legal fees incurred by the *Member* in defense of any *Third Party Claim* alleging breach of a contract for goods or services provided or to be provided to a *Member*.

2. Provided that protection would otherwise be afforded under this **Agreement** but for the provisions of Section III.B, Exception No. 22, PLT will pay legal fees incurred by the **Member** in defense of any **Third Party Claim** alleging failure to properly award bids.
3. Provided that protection would otherwise be afforded under this **Agreement** but for the provisions of Section III.B, Exception No. 7, PLT will pay legal fees incurred by the **Member** in defense of any **Third Party Claim** which if paid would constitute payment for services already received by the **Member**, or which if paid would indemnify the **Member** for legal obligations of the **Member** to pay third persons (such as the payment of welfare benefits, commissions, bonuses, overtime, incentive pay, accrued unused paid time off, severance pay, expense reimbursements, or similar obligations) when the failure to perform such obligations is the basis for the **Wrongful Act** alleged.
4. Provided that protection would otherwise be afforded under this **Agreement** but for the provisions of Section III.A, Exception No. 28 or Section III.B, Exception No. 27, PLT will pay legal fees incurred by the **Member** in defense of any **Third Party Claim** alleging any failure to effect or maintain any insurance or bond.
5. Provided that protection would otherwise be afforded under this **Agreement** but for the provisions of Section III.A, Exception No. 1 or Section III.B, Exception No. 1, PLT will pay legal fees incurred by the **Member** in defense of any Charge of Discrimination or similar complaint filed with the New Hampshire Human Rights Commission or the Equal Employment Opportunity Commission seeking only non-monetary relief.
6. Provided that protection would otherwise be afforded under this **Agreement** but for the provisions of Section III.A, Exception No. 11 or Section III.B, Exception No. 24, PLT will pay legal fees incurred by the **Member** in defense of any **Third Party Claim** arising in whole or in part, either directly or indirectly, out of or related in any way to the existence of, use of, sale of, installation of, removal of, distribution of, storage of, disposal of, exposure to, handling of, inhalation or ingestion of, contamination by, monitoring of, testing for, or contact with asbestos, asbestos products, products containing asbestos, asbestos fibers, and/or asbestos dust.
7. Provided that protection would otherwise be afforded under this **Agreement** but for the provisions of Section III.A, Exception No. 12 or Section III.B, Exception No. 25, PLT will pay legal fees incurred by the **Member** in defense of any **Third Party Claim** arising in whole or in part, either directly or indirectly, out of or related in any way to removal of, distribution of, storage of, disposal of, exposure to, handling of, inhalation or ingestion of, contamination by, monitoring of, testing for, or contact with lead, lead dust, paint containing lead or lead compounds, and/or lead contained in any other goods, products or materials.
8. PLT will pay up to five thousand dollars (\$5,000) for legal fees incurred during the **Term of this Agreement** for the defense of an attorney who is a **Member** in connection with complaints filed with the New Hampshire Supreme Court Attorney Discipline Office arising out of an **Incident** occurring within the scope of his/her employment with the **Member** employer.

#### **E. OTHER TERMS AND CONDITIONS**

1. Inclusion of its public officials, employees, or **Volunteers** within the definition of **Member** does not create more than one **Member** under this **Agreement** for the purposes of determining limits of protection. Furthermore, regardless of the number of **Claims** made, the number of persons or entities making **Claims**, or the number of persons or entities included in the definition of **Member** against whom such **Claims** are made, the most that PLT will pay for **Damages**, including interest, costs, and legal and related expenses, combined, arising out of an **Occurrence** or **Wrongful Act** is the amount to which liability is

limited under RSA Chapter 507-B. If RSA Chapter 507-B does not apply, the most PLT will pay for *Damages*, including interest, costs, and legal and related expenses, combined, is the amount stated in the *Member's* individual *Summary of Amounts of Protection*. The applicable limits of protection stated in the *Summary of Amounts of Protection* for Sections III.A, III.B and III.C are reduced by the amount of defense costs and related expenses incurred by PLT for each loss. Except for the limits of protection set forth above, PLT will determine applicability of protection separately for each *Member* against whom a *Third Party Claim* is made.

2. PLT will defend any *Claim* involving a lawsuit seeking *Damages* covered by this *Agreement* with counsel chosen, assigned and directed (including replacement thereof) by PLT. The obligation to defend such lawsuits extends only to *Claims* subject to protection or liability assumed under this Agreement, even if *Claims* not covered by this *Agreement* are joined in the same lawsuit. Defense of uncovered *Claims*, for any reason, shall not prevent PLT from disclaiming any payment obligation with respect to such *Claims*. The obligation to defend will end when the limit set forth herein is reached by payments, including legal fees and expenses, made under this *Agreement* or when the lawsuit no longer includes *Claims* covered by this *Agreement*.

#### **F. SETTLEMENT OF THIRD PARTY CLAIMS**

1. PLT shall not settle any *Third Party Claim* without the consent of the *Member*, which consent shall not be unreasonably refused. If the *Member* shall refuse to consent to any settlement or compromise recommended by PLT (in a writing which advises the *Member* of the provisions of this paragraph F) and acceptable to the party asserting the *Claim* and shall elect to contest the *Claim*, then PLT's liability under this *Agreement* shall not exceed and shall be limited to the amount for which the *Claim* or proceedings could have been settled or compromised. An appeal to PLT of the shifting of the responsibility for any amounts in excess of the settlement proposal shall be automatic upon the refusal of the *Member* to consent to the settlement or compromise recommended by PLT. Should PLT refuse to accept responsibility for all or part of any later judgment or settlement in excess of the settlement proposal, the acceptance of which was prevented by the *Member*, any increase in costs because of judgment or settlement, as well as defense costs including attorney's fees incurred subsequent to the appeal, shall be the responsibility of the *Member*.
2. The *Member* shall not settle any *Third Party Claim* for which it seeks protection from PLT without first giving PLT notice of its intent to settle and obtaining PLT's consent, which consent shall not be unreasonably refused. Any settlement that the *Member* enters into without first complying with the provisions of this paragraph shall not be subject to protection under this *Agreement*.

## SECTION IV. UNINSURED AND UNDERINSURED MOTORIST BENEFITS

Protection is afforded hereunder for *Uninsured/Underinsured Motorist Benefits* with limits of protection of one hundred fifty thousand dollars (\$150,000) per person and five hundred thousand dollars (\$500,000) per *Occurrence*.

*Uninsured/Underinsured Motorist Benefits* means compensatory *Damages* that a *Covered Occupant* is legally entitled to recover from the owner or operator of an *Uninsured/Underinsured Motor Vehicle* because of an *Accident*. The owner or operator's liability for these *Damages* must arise out of the ownership, maintenance, or use of the *Uninsured/Underinsured Motor Vehicle*.

*Covered Occupant* means any person occupying a scheduled *Automobile, Mobile Equipment*, fire engine or other emergency vehicle. *Covered Occupant* does not include any person occupying any such vehicle while being transported while under arrest, imprisonment or other legal authority of a *Member* to take involuntary physical custody of the person. "Occupying" means in or upon, entering into or alighting from, the vehicle.

*Uninsured/Underinsured Motor Vehicle* means a motor vehicle for which no *Bodily Injury* liability insurance is available at the time of the *Accident*, or to which *Bodily Injury* liability insurance applies at the time of the *Accident* but the insurance company or self-insurer denies coverage; or is, or becomes insolvent; or has limits of coverage available on a per person basis applicable to *Bodily Injury* to the *Covered Occupant* of less than one hundred fifty thousand dollars (\$150,000) and five hundred thousand dollars (\$500,000) per *Occurrence*. Where applicable liability insurance applies to an *Underinsured Motor Vehicle* is less than these specified amounts, PLT's limits of protection will be reduced by the limits of liability of that applicable insurance.

*Uninsured/Underinsured Motorist Benefits* will not be provided and do not apply:

- (1) If the *Covered Occupant* or his/her legal representative settles his/her *Claim* for *Bodily Injury* against the owner or operator of the uninsured/underinsured vehicle without PLT's written consent;
- (2) To any *Covered Occupant* who uses an *Automobile, Mobile Equipment*, fire engine or other emergency vehicle without a reasonable belief that he/she is entitled to do so;
- (3) To any *Covered Occupant* who fails to reasonably cooperate with PLT's investigation of the accident and/or injuries alleged to have resulted therefrom. Such reasonable cooperation will include providing authorizations in favor of PLT for any and all related records, whether generated before or after the *Accident*; and to submit to medical and/or psychological evaluations by physicians or other therapists of PLT's choosing.

Any judgment for *Damages* arising out of a suit brought without PLT's written consent shall not be binding on PLT. PLT will not make a duplicate payment under this protection for any element of loss for which payment has been made by or on behalf of persons or organizations that may otherwise be legally responsible.

PLT's obligation to make payments under this provision will be reduced by any payments made under Section V; by any payments by or on behalf of persons legally responsible; and by the limits of any uninsured motorist coverage or underinsured motorist coverage available to the *Covered Occupant* from any other source. This protection is excess over any valid and collectible insurance coverage.

When PLT makes payment under this provision, any *Covered Occupant's* right of recovery from any person or organization who may be legally liable for the *Bodily Injury* becomes PLT's up to the amount PLT has paid. Any *Covered Occupant* shall protect these rights, cooperate fully with PLT to enforce them, and by accepting any payment, gives PLT the right to pursue legal action in his or her name to

recover damages from those legally liable. PLT shall be entitled to the proceeds of any settlement or judgment any ***Covered Occupant*** receives from any person or organization that may be legally liable for the ***Bodily Injury***. The ***Covered Occupant*** will hold the reimbursable amount in trust for PLT until actual reimbursement is made.

## **SECTION V. REIMBURSEMENT OF MEDICAL EXPENSES**

Protection under this Section V is subject to all other exceptions, exclusions, limitations, terms and conditions of this *Agreement* and is for medical expenses caused by an *Occurrence* that takes place during the *Term of this Agreement*.

### **A. MEDICAL EXPENSE REIMBURSEMENT TO VOLUNTEERS**

PLT agrees to reimburse *Volunteers* for reasonable medical costs for *Bodily Injury* to the *Volunteer* arising out of an *Occurrence* in the course of the *Volunteer* activity for the *Member*, provided that the medical costs are incurred and the bills for such costs are received by PLT within a two-year period after the *Occurrence*. The reimbursement for medical costs under Section V of this *Agreement* shall be excess to or coordinated with any other coverage available to the *Volunteer* so that no more than 100% of the amount of the medical costs incurred by the *Volunteer* are reimbursed. In the absence of any other available coverage, the protection provided by this section shall be primary.

The maximum amount of reimbursement available under this Section V is ten thousand dollars (\$10,000) per *Occurrence*.

### **B. MEDICAL EXPENSE REIMBURSEMENT FOR INMATES**

PLT agrees to pay for reasonable medical costs for *Bodily Injury* to an inmate, arising out of an *Occurrence* during workfare or similar activities of an inmate for, and under the control of, the *Member*, provided that the medical costs are incurred and the bills for such costs are received by PLT within a two-year period after the *Occurrence*. *Inmate*, for the purpose of this Section, shall mean any person released from incarceration as allowed by law for the purpose of working for a *Member* in gainful employment, for the performance of uncompensated public service, or for such other purpose as may be allowed by law.

The reimbursement for medical costs under Section V of this *Agreement* shall be excess to or coordinated with any other coverage available to the *Inmate* so that no more than 100% of the amount of the medical costs incurred by the *Inmate* are reimbursed. In the absence of any other available coverage the protection provided by this section shall be primary.

The maximum amount of reimbursement available under this Section V is two thousand five hundred dollars (\$2,500) per *Occurrence*.

### **C. MEDICAL EXPENSE REIMBURSEMENT FOR VEHICLE ACCIDENTS**

PLT agrees to pay for reasonable medical costs for *Bodily Injury* incurred by any person as a result of an *Occurrence* while occupying, entering or exiting an *Automobile* or *Mobile Equipment*, that is *Protected Property*, or that is authorized for use by a *Member* for a purpose that resulted in the *Occurrence*, provided that the medical costs are incurred and the bills for such costs are received by PLT within a two-year period after the *Occurrence*.

The reimbursement for medical costs under this paragraph C shall be excess to or coordinated with any other coverage available to the injured person so that no more than 100% of the amount of medical costs incurred by the injured person are reimbursed. In the absence of other available coverage, the protection provided by this section shall be primary.

The maximum amount of reimbursement available under this Section V is ten thousand dollars (\$10,000) per person, and fifty thousand dollars (\$50,000) per *Occurrence*.

**D. MEDICAL EXPENSE REIMBURSEMENT FOR VETERINARY CARE OF WORKING DOGS AND WORKING HORSES AND REIMBURSEMENT FOR DEATH IN THE LINE OF DUTY OF WORKING DOGS AND WORKING HORSES**

1. PLT agrees to pay for 50% of the expenses necessarily incurred for veterinary care for working dogs or working horses of a **Member** that are not (i) routine preventive care, (ii) spaying and neutering, (iii) arising from lack of routine or preventative health care according to generally accepted veterinary standards, or (iv) injury resulting from an intentional act of the **Member**, subject to an aggregate limit of one thousand five hundred dollars (\$1,500) per working dog and per working horse during the **Term**.
2. PLT also agrees following death in the line of duty of a **Member's** working dog or working horse, to pay for reasonable and necessary expenses incurred for the purposes of selecting, buying and training a replacement working dog or working horse not exceeding seven thousand five hundred dollars (\$7,500). The replacement working dog or working horse must be purchased within one year following the death in the line of duty of a **Member's** working dog or working horse.
3. The provisions of this paragraph D, will only be applicable to working dogs and working horses of the **Member** listed on a schedule on file with PLT.
4. Veterinary care protection under paragraph 1 of this paragraph D shall be administered upon a single submission of a **Claim** by the **Member** during the applicable **Term** at the earlier to occur of the **Member** incurring expenses at least up to the aggregate limit hereof or, during the last sixty (60) days of the **Term**.

**E. EXCEPTIONS**

1. The protection provided by this Section V does not apply to medical costs incurred because of **Bodily Injury** resulting from or which is caused in whole or in part by:
  - a) intentionally self-inflicted injury, suicide or attempted suicide, whether sane or insane;
  - b) intoxication of or the serious and willful misconduct of the person seeking protection;
  - c) **War** and **Terrorism**; or
  - d) injury sustained while in the armed forces of any country or international authority.
2. The protection provided by this Section V does not apply to:
  - a) repair or replacement of existing dentures, partial dentures, braces, fixed or removable bridges, or other artificial dental restoration;
  - b) repair, replacement, examination for prescriptions or fitting of eyeglasses or contact lenses; or
  - c) repair or replacement of artificial limbs or orthopedic braces.
  - d) any **Member** who fails to reasonably cooperate with PLT's investigation of the accident and/or injuries alleged to have resulted therefrom. Such reasonable cooperation will include providing authorizations in favor of PLT for any and all related records, whether generated before or after the **Occurrence**; and to submit to medical and/or psychological evaluations by physicians or other therapists of PLT's choosing.
  - e) an **Occurrence** that takes place before the **Term of this Agreement**.

3. Protection under this Section V is available only under one of paragraphs A, B, C or D, and is subject to the respective limits of protection under those paragraphs per ***Occurrence*** per person.
4. Paragraphs A, B, C and D shall not apply to any persons who are eligible to receive workers' compensation benefits or payments.
5. Any payments under paragraphs A, B, C and D shall be an offset to any payment obligations under Section IV.

