

JIF Policy No. MCM91001-012-17

Renewal of: 91001-012-16

**DECLARATIONS**

- Item A. Member Town** Township of West Windsor  
Mailing Address: 271 Clarksville Road  
Princeton Junction, NJ 08550
- Item B. Coverage Period:**  
Effective Date: January 1, 2017, Expiration Date: January 1, 2018, each at 12:01 A.M.  
Standard Time at the address of the **Member Town** as stated herein.
- Item C. Limits Of Liability:**  
\$300,000 per **occurrence combined single limit**.
- Item D. Coverages:**  
Part I - Commercial General Liability Insurance  
Part II - Law Enforcement Professional Liability Insurance
- Item E. Deductible:** \$ 5,000 per occurrence.  
\$25,000 annual aggregate.  
(Aggregate includes Automobile Liability)
- Item F. Endorsements:** Attached at issuance:  
Real Property-Liability-Fire Endorsement  
Nuclear Energy Liability Exclusion Endorsement (Broad Form)  
Employee Benefits Liability Insurance Endorsement  
Skateboard Facility Coverage Endorsement (where applicable)  
Disinfectants Release Hazard Endorsement  
Institutional Exposure (where applicable)  
Additional Entities  
Additional Insured-Owner and Other Interest  
Premises Medical Payments  
Deductible Liability Clause  
JIF Additional Insured Endorsement
- Item G. Notice Of Claim:**  
To be given to: Mid Jersey Municipal Joint Insurance Fund  
c/o Risk and Loss Managers, Inc.  
51 Everett Drive, Suite B-40  
West Windsor, NJ 08550
- Item H. Assessment:**  
The DECLARATIONS are issued with and form a part of the **Joint Insurance Fund Casualty Insurance Policy**.

By



Authorized Representative

**CASUALTY INSURANCE POLICY****TABLE OF CONTENTS****SECTION I - POLICY INSURING AGREEMENT****SECTION II - POLICY EXCLUSIONS****SECTION III - POLICY CONDITIONS****SECTION IV - WHO IS AN INSURED****SECTION V - POLICY DEFINITIONS****SECTION VI - COVERAGE PART I: COMMERCIAL GENERAL LIABILITY INSURANCE**

- INSURING AGREEMENT
- ADDITIONAL EXCLUSIONS
- ADDITIONAL DEFINITIONS

**SECTION VII - COVERAGE PART II: LAW ENFORCEMENT PROFESSIONAL LIABILITY INSURANCE**

- INSURING AGREEMENT
- ADDITIONAL EXCLUSIONS
- ADDITIONAL DEFINITIONS

**POLICY ENDORSEMENTS**

- REAL PROPERTY-LIABILITY-FIRE
- NUCLEAR ENERGY LIABILITY EXCLUSION
- EMPLOYEE BENEFITS LIABILITY INSURANCE
- SKATEBOARD FACILITY COVERAGE (where applicable)
- DISINFECTANTS RELEASE HAZARD
- INSTITUTIONAL EXPOSURE (where applicable)
- ADDITIONAL ENTITIES
- ADDITIONAL INSURED-OWNER AND OTHER INTEREST
- PREMISES MEDICAL PAYMENTS
- DEDUCTIBLE LIABILITY CLAUSE
- JIF ADDITIONAL INSURED

**SECTION I - POLICY INSURING AGREEMENT**

In consideration of the agreement to become a part of the **Mid Jersey Municipal Joint Insurance Fund (JIF)**, and subject to all of its terms including this insuring agreement, **we** agree with **you** as follows:

This Policy is composed of the following: DECLARATIONS, POLICY INSURING AGREEMENT, POLICY EXCLUSIONS, POLICY CONDITIONS, WHO IS AN INSURED, POLICY DEFINITIONS, any ENDORSEMENTS made a part thereof, and the following COVERAGE PARTS:

COVERAGE PART I.	COMMERCIAL GENERAL LIABILITY INSURANCE
COVERAGE PART II.	LAW ENFORCEMENT PROFESSIONAL LIABILITY INSURANCE

The provisions of one COVERAGE PART do not apply to the insurance afforded under any other COVERAGE PART, unless otherwise stated.

Words and phrases that appear in **bold** have special meanings. Refer to the DECLARATIONS and/or the DEFINITIONS for these special meanings.

Read the entire Policy carefully to determine rights, duties and what is and is not covered.

Throughout this Policy the words **you**, **your**, and **Member Town** are used interchangeably. They mean the **Member Town** shown in the DECLARATIONS, Item A., and other persons or organizations qualifying as such under the WHO IS AN INSURED provision of the respective coverage parts that comprise this Policy. The words **we**, **us**, and **our** refer to the **Mid Jersey Municipal Joint Insurance Fund (JIF)** providing this insurance.

## SECTION II - POLICY EXCLUSIONS

There are EXCLUSIONS applicable to each coverage part contained within the COVERAGE PARTS. The following EXCLUSIONS are applicable to both COVERAGE PARTS. This insurance does not apply to:

a. **Workers' Compensation and Similar Statutes**

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

b. **Fines, Penalties**

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

c. **Punitive, Exemplary Damages**

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

d. **Non-Monetary Relief**

Any demands or actions seeking relief or redress in any form other than money damages; and for fees or expenses in relation to demands or actions seeking such relief or redress, including liability dealing with injunctive relief to improve the living conditions of any person incarcerated or held in custody.

e. **Pollution**

Any **claim** involving:

- (1) Any actual or alleged or threatened discharge, dispersal, release, escape, seepage, or leakage of any **pollutant** of any kind, nature, quantity or composition whatsoever;
- (2) A violation of, or noncompliance with, any governmental rule, regulation, or law applicable to any **pollutant**, or any contribution by the **Member Town** to any such CONDITION or violation;
- (3) Any request, direction, order, enforcement proceeding, or other activity by any governmental agency, body, board, or instrumentality whatsoever seeking to impose any duty, responsibility, or liability on the part of the **Member Town** to conduct tests, monitoring, cleanup, removal, containment, treatment, detoxification, or neutralization of any **pollutants**.

For purposes of this EXCLUSION, the term **pollutant** shall mean any element, material, or matter whatsoever of any kind, shape, form, or size, which is, or becomes as a result of intended or unintended use, escape, release, seepage, discharge or dispersal, any solid, liquid, gaseous, or thermal irritant or contaminant, including but not limited to smoke, vapor, soot, fumes, acids, alkalis, chemicals, waste or hazardous waste, whether or not such materials are to be recycled, reconditioned, or reclaimed, or whether or not such **pollutant** is discharged, dispersed, released, escapes, seeps, or leaks suddenly, slowly, accidentally, intentionally, or otherwise.

However, this EXCLUSION does not apply to **bodily injury, property damage or personal injury** caused by heat, smoke or fumes from a **hostile fire**. As used in this EXCLUSION, the term **hostile fire** means one that becomes uncontrollable and breaks out from where it was intended to be.

f. **Asbestos**

**Bodily Injury, personal injury, advertising injury or property damage** arising directly or indirectly out of, resulting from, caused by or contributed to by:

- (1) The use of, sale of, installation of, removal of, abatement of, distribution of, containment of, or exposure to asbestos, asbestos products, asbestos-containing material, asbestos fibers, or asbestos dust;
- (2) Any alleged act, error, omission or duty involving asbestos, its use, exposure, presence, existence, detection, removal, elimination or avoidance;
- (3) The actual, alleged or threatened presence, existence, detection, elimination, or avoidance of asbestos in any environment, building or structure whatsoever, or any material or product containing, or alleged to contain asbestos;
- (4) The actual or threatened abatement, mitigation, removal or disposal of asbestos, asbestos containing material, asbestos fiber or asbestos dust;
- (5) Any loss, cost or expense incurred to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize exposure to asbestos, asbestos products, asbestos fibers, or asbestos dust;
- (6) Any obligation, request, demand, order, or statutory or regulatory requirement that you or others test for, monitor, clean up, remove, contain, treat, neutralize, protect against or in any other way respond to the actual, alleged or threatened presence or any material or product containing, or alleged to contain asbestos;
- (7) Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with parts (1) through (6) above, or Any obligation of the Insured to indemnify any party in connection with subparagraphs (1) through (6) above.

g. **Eminent Domain, Condemnation**

Any liability of the **Member Town** arising out of or in any way connected with the operation of the principles of eminent domain, condemnation proceedings or inverse condemnation, adverse possession, or dedication by adverse use; or other judicial determination that a taking of private property has occurred or has resulted from the action or inaction of the **Member Town**.

h. **Employer's Liability**

**Bodily injury or personal injury** to:

- (1) Any **employee** of the **Member Town**, including any authorized volunteer subject to New Jersey Workers' Compensation under Title 34, arising out of and in the course of:
  - (a) Employment by the **Member Town**; or
  - (b) Performing duties related to conduct of the **insured's** business; or
- (2) The spouse, child, parent, brother or sister of that **employee** as a consequence of paragraph (1) above. This EXCLUSION applies:
  - (a) Whether the **insured** may be liable as an employer or in any other capacity; and
  - (b) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

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

i. **Employment Liability**

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

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

j. **Aircraft, Auto or Watercraft**

**Bodily injury, property damage, personal injury or advertising injury** arising out of the ownership, maintenance, use or entrustment to others of any aircraft, **auto** or watercraft owned or operated by or rented or loaned to any **insured**. Use includes operation and **loading or unloading**.

This EXCLUSION does not apply to:

- (1)
  - (a) A watercraft you own that is 50 feet or less;
  - (b) A watercraft you do not own that is less than 50 feet long; and is not being used to carry persons or property for a charge;
  - (c) All watercraft commandeered by the **Member Town** for emergency purposes.
- (2) Parking an **auto** on, or on the ways next to premises you own or rent, provided the **auto** is not owned by or rented or loaned to you or the **insured**;
- (3) **Bodily injury** or **property damage** arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of **mobile equipment**.

For the purposes of this exclusion watercraft includes ferry vessels.

k. **Contractual Liability**

**Bodily injury, property damage, personal injury or advertising injury** for which the **insured** is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This EXCLUSION does not apply to liability for damages:

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

l. **Liquor Liability**

**Bodily injury, personal injury or property damage** for which the **Member Town** or its **indemnatee** may be held liable as a person or organization engaged in the business of selling or serving alcoholic beverages. However, this EXCLUSION does not apply with respect to the liability of the **Member Town** or its **indemnatee** arising out of the giving, selling or serving of alcoholic beverages at functions usual or common to the **Member Town**. For purposes of this EXCLUSION, functions usual or common to the **Member Town** do not include the giving, selling or serving of any alcoholic beverages to the general public in connection with the catering operations for profit of the **Member Town**, including but not limited to Police or Fire Departments, auxiliaries or reserves.

m. **Violation of Statute**

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

- (1) The willful violation of penal statute or ordinance committed by or with the knowledge or consent of the **Member Town**, or
- (2) Acts or fraud committed by or at the direction of the **Member Town** with affirmative dishonesty or actual intent to deceive or defraud.

n. **Electromagnetic Fields**

**Bodily injury, property damage or personal injury and advertising injury** arising out of electromagnetic fields, other electrical or magnetic waves or radiation.

o. **Receivership**

**Bodily injury, property damage or personal injury and advertising injury** arising out of the acts of any state or federal officials, agency or court of any receiver, conservator, liquidation, trustee, rehabilitator or similar official who takes control or supervisors, manages or liquidates the **Member Town** shown in the DECLARATIONS, Item A.

p. **ERISA And Similar Laws**

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

q. **War**

**Bodily injury or property damage** due to war, whether or not declared, or any act or **CONDITION** incident to war. War includes civil war, insurrection, rebellion or revolution.

r. **Professional Services**

**Bodily injury, property damage, personal injury or advertising injury** arising out of the rendering or failure to render any professional services by any physician, dentist, or other medical professional, attorney, architect, actuary, engineer, surveyor, professional planner, auditor, accountant or other professional while acting in the scope of his professional duties; but this **EXCLUSION** does not apply to the **Member Town**, its full time engineers employed on staff and full-time surveyor employed on staff by the **Member Town**, nurses, emergency medical technicians (EMTs), paramedics, fire companies, first aid squads, rescue squads, or emergency response teams while acting in the scope of their duties on behalf of the **Member Town**.



Also, this EXCLUSION does not apply to the volunteers of the **Member Town's** fire companies, first aid squads, rescue squads, and emergency response teams for **bodily injury, property damage, advertising injury or personal injury** arising out of the rendering or failure to render medical emergency services at the scene of a medical emergency immediately following the occurrence of such emergency.

s. **Damage to Property**

Except where provided by ENDORSEMENT, **property damage** to:

- (1) Property the **Member Town** owns, rents or occupies;
- (2) Premises the **Member Town** sells, gives away, abandons, if the **property damage** arises out of any part of those premises;
- (3) Property loaned to **you**;
- (4) That particular part of real property on which the **Member Town** or any contractors or subcontractors working directly or indirectly on behalf of the **Member Town** are performing operations, if the **property damage** arises out of those operations;
- (5) That particular part of any property that must be restored, repaired or replaced because work of the **Member Town** was incorrectly performed on it; or
- (6) Property in the care, custody or control of the **Member Town**, or as to which the **Member Town** is for any purpose exercising physical control.

This EXCLUSION does not apply to **property damage** to:

- (a) Property of persons in custody;
- (b) Property under lawful control, confiscated, and/or impounded by the **Member Town**; or
- (c) Boats anchored, or docked, including contents thereof at **Member Town** owned docks and/or boat ramps, unless otherwise specifically excluded under provisions (1) through (5) above.

t. **Lead**

**Bodily Injury, personal injury, advertising injury, or property damage** arising directly or indirectly out of, resulting from, caused by or contributed to by, regardless of any other cause or event that contributed concurrently or in any sequence to that injury or damage:

1. Any toxic or pathological properties of lead, lead components or lead contained in any materials;
2. Any cost or expense to abate, mitigate, remove, or dispose of lead, lead compounds, or materials containing lead;
3. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with parts (1) or (2) above; or
4. Any obligation to share damages with or repay someone else whom must pay damages in connection with parts (1), (2) or (3) above.

### SECTION III - POLICY CONDITIONS

All COVERAGE PARTS included in this Policy are subject to the following POLICY CONDITIONS, unless otherwise stated.

#### 1. LIMITS OF LIABILITY

- a. The **Limits of Liability** shown on the DECLARATIONS fix the most **we** will pay regardless of the number of:
  - (1) **Insureds** under this Policy;
  - (2) **Claims** made or **suits** brought; or
  - (3) Persons or organizations making **claims** or bringing **suits**.
- b. The most **we** will pay for all damages including all sums under the SUPPLEMENTARY PAYMENTS provision because of **bodily injury, property damage, personal injury, or advertising injury**, arising from an **occurrence** shall not exceed the **Limits of Liability** stated on the DECLARATIONS as the **combined single limit**.
- c. **Any liability for damage because of bodily injury or personal injury resulting from non-employment harassment, shall be deemed to have occurred at the time of the initial non-employment harassment and all such bodily injury or personal injury 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 number of incidents of non-employment harassment taking place thereafter. The insurance provided does not apply to any Insured who is found by a court of law to have committed a criminal act of non-employment harassment. For purpose of this insurance, the term non-employment harassment means unwelcome or offensive verbal or physical conduct, including sexual advances, requests for sexual favors, or other verbal, visual or physical conduct of a sexual nature against anyone other than a prospective, present or former employee of the Insured.**

#### 2. SEPARATION OF INSURED

Except with respect to the **Limits of Liability** and any rights or duties specifically assigned to the **Member Town** shown in the DECLARATIONS, Item A., this insurance applies:

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

#### 3. SUPPLEMENTARY PAYMENTS

- a. **We** will pay, within the applicable **limit of liability**, with respect to any **claim we** investigate or settle, or any **suit** against an **insured** we defend:
  - (1) All expenses **we** incur.
  - (2) Up to \$250 for cost of bail bonds required because of accident or traffic law violations arising out of the use of any vehicle to which **bodily injury** coverage INSURING AGREEMENT applies. **We** do not have to furnish these bonds.
  - (3) The cost of bonds to release attachments, but only for bond amounts within the applicable **Limits of Liability**. **We** do not have to furnish these bonds.

- (4) All reasonable expenses incurred by the **insured** at **our** request to assist **us** in the investigation or defense of the **claims** or **suit**, including actual loss of earnings up to \$250 a day because of time off from work.
  - (5) All costs taxed against the **insured** in the **suit**.
  - (6) Prejudgment interest awarded against the **insured** on that part of the judgment **we** pay. If **we** make an offer to pay the applicable **Limits of Liability**, **we** will not pay any prejudgment interest based on that period of time after the offer.
  - (7) All interest on the full amount of any judgment that accrues after entry of the judgment and before **we** have paid, offered to pay or deposited in court the part of the judgment that is within the applicable **Limits of Liability**.
- b. If **we** defend an **insured** against a **suit** and an **indemnatee** of the **insured** is also named as a party to the **suit**, **we** will defend that **indemnatee** if all of the following CONDITIONS are met:
- (1) The **suit** against the **indemnatee** seeks damages for which the **insured** has assumed the liability of the **indemnatee** in a contract or agreement that is an **insured contract**;
  - (2) This insurance applies to such liability assumed by the **insured**;
  - (3) The obligation to defend, or the cost of the defense of, that **indemnatee**, has also been assumed by the **insured** in the same **insured contract**;
  - (4) The allegations in the **suit** and the information we know about the **occurrence** are such that no conflict appears to exist between the interests of the **insured** and the interests of the **indemnatee**.

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

#### 4. INSPECTIONS AND SURVEYS

**We** have the right but are not obligated to:

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

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

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

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

5. EXAMINATION OF YOUR BOOKS AND RECORDS

**We** may examine and audit **your** books and records as they relate to this Policy and up to three years afterwards.

6. LEGAL ACTION AGAINST US

No person or organization has a right under this Policy:

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

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

7. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

If any **Member Town** has rights to recover all or part of any payment **we** have made under this Policy, those rights are transferred to **us**. Any **Member Town** must do nothing after **loss** to impair them. At **our** request, any **insured** will bring **suit** or transfer those rights to **us** and help **us** enforce them.

8. CHANGES

This Policy contains all the agreements between **you** and **us** concerning the insurance afforded. If the terms are changed, the changes must be shown in an ENDORSEMENT issued by **us** and made a part of this Policy.

9. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY

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

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

custody of that **insured's** property will have that **insured's** rights and duties but only with respect to that property.

## 10. ARBITRATION

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

At the option of either the affected **member(s)** or the **Fund**, the arbitration shall be conducted by three arbitrators unaffiliated with the **Fund** who each shall have been employed for at least ten years in the property casualty industry in an area generally related to the controversy, or who shall have been employed for at least ten years as an attorney practicing in insurance related matters. The **Executive Committee** may establish a list of persons who are eligible to serve as arbitrators. The affected **member(s)** may select the arbitrators from the approved list. In the absence of consent by the affected **member(s)**, the arbitrators will be randomly selected by the **Secretary** from the list. If there is no list of approved arbitrators, on a case by case basis the **Executive Committee** shall designate at least five persons who meet the aforementioned qualifications from which the affected **member(s)** shall select the arbitrators. In the absence of consent by the affected **member(s)**, the arbitrators shall be randomly selected by the **Secretary** from the designated persons. The **member(s)** and the **Fund** shall split the fees of the arbitrators and shall bear their own costs in prosecuting/defending the arbitration. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof.

## 11. AUTHORIZATION CLAUSE, PAYMENT OF ASSESSMENTS AND NOTICES

By acceptance of this Policy, the **Member Town** named on the DECLARATIONS, Item A., agrees to act on behalf of all **insureds** with respect to the giving and receiving of notice of **claim**, the payment of **Assessments** and the receiving of any return **Assessments** that may become due under this Policy, the negotiation, agreement to and acceptance of **ENDORSEMENTS**, and the

giving or receiving of any notice provided for in this Policy, and the **Insureds** agree that the **Member Town** shown in the DECLARATIONS, Item A., shall act on their behalf. Notice to **you** at the business address of the **Member Town** shown in the DECLARATIONS, Item A., shall also constitute notice to all **insureds** under this Policy.

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

**Mid Jersey Municipal Joint Insurance Fund**  
c/o Risk and Loss Managers, Inc.  
51 Everett Drive, Suite B-40  
West Windsor, NJ 08550-5374  
Attention: Administrator

12. TERMS OF POLICY CONFORMED TO STATUTES

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

13. CANCELLATION

Any cancellation is expressly subject to the requirements of the laws of the State of New Jersey and all rules and regulations adopted thereunder, including those regulations currently codified in N.J.A.C. 11:15-2 and N.J.S.A. 40A:10-36 et seq. and as hereafter amended. This Coverage may be canceled only in accordance with the provisions for withdrawal, termination or non-renewal from the **Mid Jersey Municipal Joint Insurance Fund** as set forth in the aforesaid statutes, rules and regulations and the **Mid Jersey Municipal Joint Insurance Fund's** by-laws adopted thereunder.

14. ELIGIBILITY

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

15. ACCEPTANCE

By acceptance of this Policy **you** agree that this Policy embodies all agreements existing between **you** and the **JIF** or any of its agents relating to this Policy.

## 16. SERVICE OF SUIT

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

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

Attention: Administrator

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

## 17. WHERE THIS POLICY APPLIES

**We** cover **occurrences** anywhere in the world with respect to coverage afforded by this Policy arising out of the activities of any **insured** permanently domiciled in the United States of America, its territories, possessions, Puerto Rico or Canada, provided the original **suit** for damages is brought within the United States of America, its territories or possessions.

## 18. DUTIES IN THE EVENT OF OCCURRENCE, CLAIM OR SUIT

The following duties apply:

- a. **You** must see to it that **we** are notified promptly of an **occurrence**, or an offense, which may result in a **claim**. To the extent possible, notice should include:
  - (1) How, when and where the **occurrence** or offense took place;
  - (2) The names and addresses of any injured persons and witnesses; and

- (3) The nature and location of any injury or damage arising out of the **occurrence** or offense.
- b. If a **claim** is made or a **suit** is brought against any **insured**, **you must**:
  - (1) Immediately record the specifics of the **claim** or **suit** and the date received; and
  - (2) Notify **us** as soon as practicable.
- c. **You** and any other involved **insured** must:
  - (1) Immediately send **us** copies of **any** demands, notices, summonses or legal papers received in connection with the **claim** or **suit**;
  - (2) Authorize **us** to obtain records and other information;
  - (3) Cooperate with **us** in the investigation, settlement or defense of the **claim** or **suit** at our request, submit to examination and interrogation by **us** under oath if necessary, attend hearings, depositions and trials and assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses, and in the conduct of **suits**, as well as in the giving of a written statement or statements to **us**; and
  - (4) Assist **us**, upon **our** request, in the enforcement of any right against any person or organization which may be liable to any **insured** because of injury, damage, **bodily injury, property damage, personal injury** or **advertising injury** to which this Policy may also apply;
- d. No **insured** will, except at that **insured's** own expense, voluntarily make any payment, assume any obligation, or incur any expense, other than for first aid, without first obtaining **our** consent.

For the purposes of this clause, notice to the **insured Member Town's** Fund Commissioner does not constitute notice to **us**.

## 19. OTHER INSURANCE

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

### a. Primary Insurance

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

### b. Excess Insurance

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, or contingent:
  - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for **your work**;
  - (b) That is Fire insurance for premises rented to **you** or temporarily occupied by **you** with permission of the owner;
  - (c) That is insurance purchased by **you** to cover **your** liability as a tenant for **property damage** to premises rented to **you** or temporarily occupied by **you** with permission of the owner; or



- (d) If the loss arises out of the maintenance or use of aircraft, **autos** or watercraft to the extent not subject to an EXCLUSION.
- (2) Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional **insured**.

When this insurance is excess, **we** will have no duty to defend the **insured** against any **suit** if any other insurer has a duty to defend the **insured** against that **suit**. If no other insurer defends, **we** will undertake to do so, but **we** will be entitled to the **insured's** rights against all those other insurers.

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

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

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

c. Method of Sharing

If all of the other insurance permits contribution by equal shares, **we** will follow this method also. Under this method, each insurer contributes equal amounts until it has paid its applicable **Limits of Liability** or none of the loss remains, whichever comes first.

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

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

20. BANKRUPTCY

Bankruptcy or insolvency of the **Member Town** shown in the DECLARATIONS, Item A., or of its successor will not relieve us of our obligations under this Policy.

21. LIBERALIZATION

If **we** revise this Policy to provide **more** coverage without additional premium charge, **your** Policy will automatically provide the additional coverage as of the day the revision is effective in **your** state.

## SECTION IV - WHO IS AN INSURED

1. Each of the following is an **Insured** whether in the singular or plural, while acting solely within the course and scope of his or her duties and responsibilities on behalf of the **Member Town**:
  - a. The **Member Town** named in the DECLARATIONS, Item A;
  - b. The **Member Town's** Governing Body, Departments, Units, Commissions, Boards, operating by or under **your** jurisdiction and included within your fiscal budget on file with the Department of Community Affairs;
  - c. **Your** duly elected or appointed officials and members of **your** governing body;
  - d. While acting within the scope of their duties or on behalf of the **Member Town**:
    - (1) **Your** full-time **employees**;
    - (2) Part-time **employees**, except for part-time engineers; and
    - (3) Authorized auxiliaries or volunteers responsible to the governing body or to its commissions, boards or other units responsible to the governing body or to its commissions, boards or other units;
  - e. The estates, heirs, legal representatives or assigns of the persons or organization in a. to d. above;
  - f. Any person or organization with whom **you** agreed, pursuant to a written or oral **insured contract**, or by Resolution or Ordinance of the Governing Body of the **Member Town** shown in the DECLARATIONS, Item A., made prior to any loss to provide insurance such as is afforded under this Policy, but only with respect to **your** operations, **your work**, or facilities owned or used by **you**.

This provision applies only:

- (1) If the injury or damage occurs subsequent to the execution of such **insured contract**, Resolution or Ordinance of the Governing Body of the **Member Town** and
- (2) While such **insured contract**, Resolution or Ordinance of the Governing Body of the **Member Town** is in force, or until the end of the **Coverage Period**, whichever is earlier; and
- (3) To any person or organization not an **insured** under any ENDORSEMENTS forming a part of this Policy.

With regard to 1.c. and 1.d., none of these duly elected or appointed officials and members of the Governing Body and **employees** is an **Insured** for **bodily injury**, **personal injury** and **advertising injury** to the **Member Town** and/or **you**, or to a co-duly elected or appointed official-or to a co-member of the Governing Body or to a co-employee while in the course of his or her employment or performing duties related to the conduct of your business; or to the spouse, child, parent, brother or sister of that co-employee as a consequence thereof; but this EXCLUSION does not apply to an **insured** who is a volunteer member of the **Member Town's** fire company, first aid squad, rescue squad, emergency response team or a similar organization sponsored for insurance by the **Member Town**.

2. In addition to the foregoing, none of the following are **insureds**:
  - a. Lessors of equipment with respect to injury or damage arising out of such lessor's sole negligence;
  - b. Owners, managers, or lessors of land or premises, with respect to:
    - (1) Any **occurrence** or offense which takes place after **you** cease to lease such land, or **you** cease to be a tenant in that premises; or
    - (2) Structural alterations, new construction or demolition operations performed by or on their behalf.
3. Each of the following is not an **insured** unless approved for coverage by the **JIF** Executive Committee:
  - a. Special Improvement Districts/Business Improvement Districts;
  - b. Quasi - Entities;
  - c. Fire Districts, non-profit First Aid Squads and Fire Companies;
  - d. Any other **governmental entity** constituted as separate from the **Member Town** named in the DECLARATIONS, Item A., which includes, but is not limited to:
    - (1) Parking Authorities
    - (2) Transit Authorities
    - (3) Housing Authorities
    - (4) Utility Authorities
    - (5) Boards of Education
    - (6) Colleges
    - (7) Airport Authorities
    - (8) Port Authorities
    - (9) Natural Gas Suppliers

No other separate **governmental entity** is an **insured**.

## SECTION V - POLICY DEFINITIONS

When used in this Policy the following DEFINITIONS apply to all COVERAGE PARTS, unless otherwise stated:

1. **Additional insured** means that person, party, or entity, partnership, joint venture, limited liability company or other organization designated in an amendatory ENDORSEMENT or through Certificate of Insurance, issued by the Underwriting Manager of the **JIF**, but coverage is afforded only to the extent provided therein subject to the **Limits of Liability** stated on the ENDORSEMENT and/or certificate of insurance.
2. **Auto/automobile** means a land motor vehicle, trailer or semi-trailer designed for travel on public roads including any attached machinery or equipment, but does not include **mobile equipment**.
3. **Claim** means a demand received by any **insured** for damages alleging injury or damage to persons or property including the institution of a **suit** for such damages against any **insured**.
4. **Combined single limit** means the most **we** will pay in one **occurrence** for all damages including all sums under the SUPPLEMENTARY PAYMENTS CONDITION because of any **bodily injury, property damage, personal injury, or advertising injury**.
5. **Employee** includes a **leased worker** and **temporary worker**. **Employee** shall not include any person working on a retainer and/or as an independent contractor.
6. **Governmental entity** means a state, county, municipality, governmental body, department or unit, other than what is named in the DECLARATIONS, Item A., and is legally constituted.
7. **Indemnatee** means a person, firm or organization to which **you** are obligated by contract or agreement to provide indemnity for loss and or defense costs.
8. **Insured** means the persons and entities qualifying as such under **SECTION IV - WHO IS AN INSURED**, as designated therein.
9. **Insured contract** means:
  - a. A contract for lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, or explosion to premises while rented to **you** or temporarily occupied by **you** with permission of the owner is not an **insured contract**;
  - b. A sidetrack agreement;
  - c. Any easement or license agreement;
  - d. An obligation, as required by ordinance, to indemnify a **governmental entity**, except in connection with work for a **governmental entity**;
  - e. An elevator maintenance agreement;

- f. That part of any other contract or agreement pertaining to **your** business (including an indemnification of a **governmental entity** in connection with work performed for a municipality and mutual aid assistance contracts) under which **you** assume the tort liability of another party to pay for **bodily injury** or **property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

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

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- (2) Under which the **insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the **insured's** rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities; or
- (3) Under which the **insured** assumes liability for serving or furnishing alcoholic beverages.

Items (1) and (2) above do not apply to architects, engineers or surveyors who are employed full time by the **Member Town**.

10. **Joint Insurance Fund** means the **Mid Jersey Municipal Joint Insurance Fund (JIF)** organized and created pursuant to the provisions of L. 1983, C. 1983, C. 372 (N.J.S.A. 40A:10-36).
11. **Leased worker** means a person leased to **you** by a labor leasing firm under an agreement between **you** and the labor leasing firm, to perform duties related to the conduct of **your** business; **leased worker** does not include a **temporary worker**.
12. **Loading and unloading** means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or **auto**;
  - b. While it is in or on an aircraft, watercraft or **auto**; or
  - c. While it is being moved from an aircraft, watercraft or **auto** to the place where it is finally delivered;

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

13. **Member Town** means the entity shown in the DECLARATIONS, Item A., and the persons and entities qualifying as such under **SECTION IV - WHO IS AN INSURED**.
14. **Mobile equipment** means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
  - b. Vehicles maintained for use solely on or next to premises **you** own or rent;
  - c. Vehicles that travel on crawler treads;
  - d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:
    - (1) Power cranes, shovels, loaders, diggers or drills; or
    - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
  - e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
    - (1) Air compressors, pumps and generators, including spraying, welding, building, cleaning, geophysical exploration, lighting and well servicing equipment; or
    - (2) Cherry pickers and similar devices used to raise or lower workers;
  - f. Vehicles not described in a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo; however, self-propelled vehicles with the following types of permanently attached equipment are not **mobile equipment** but will be considered **autos**:
    - (1) Equipment designed primarily for:
      - (a) Snow removal;
      - (b) Road maintenance, but not construction or resurfacing; or
      - (c) Street cleaning.
    - (2) Cherry pickers and similar devices mounted on **automobile** or truck chassis and used to raise or lower workers; and
    - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
15. **Mid Jersey Municipal Joint Insurance Fund** means the **Joint Insurance Fund (JIF)** organized and created pursuant to the provisions of L. 1983, C. 1983, C. 372 (N.J.S.A. 40A:10-36).
16. **Occurrence** means an event, including continuous or repeated exposure to conditions which results in **bodily injury** or **property damage** sustained by any person or organization.
17. **Personal and Advertising Injury** means injury, including consequential **bodily injury** and mental anguish or mental suffering associated with or arising from **bodily injury** or **personal and advertising injury**, arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
  - b. Malicious prosecution;
  - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
  - d. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - e. Oral or written publication of material that violates a person's right of privacy;
  - f. The use of another's advertising idea in **your** advertisement; or
  - g. Infringing upon another's copyright, trade dress or slogan in **your** advertisement.
18. **Pollutants** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
19. **Property damage** means:
- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
  - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the **occurrence** that caused it.
20. **Suit** means a civil proceeding in which damages because of **bodily injury, property damage, personal injury or advertising injury** to which this insurance applies are alleged. **Suit** includes:
- a. An arbitration proceeding in which such damages are claimed and to which the **insured** must submit or does submit with **our** consent; or
  - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the **insured** submits with **our** consent.
21. **Temporary worker** means a person who is furnished to you to substitute for a permanent **employee** on leave or to meet seasonal or short-term workload conditions.
22. **Your work** means:
- a. Work or operations performed by **you** or on **your** behalf; and
  - b. Materials, parts or equipment furnished in connection with such work or operations.
- Your work** includes:
- a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your work**; and
  - b. The providing of or failure to provide warnings or instructions.

**SECTION VI - COVERAGE PART I:  
COMMERCIAL GENERAL LIABILITY INSURANCE**

**1. INSURING AGREEMENT**

- a. **We** will pay those sums that the **insured** becomes legally obligated to pay as damages because of **bodily injury** or **property damage** to which this insurance applies caused by an **occurrence**.
- b. **We** will pay those sums that the **insured** becomes legally obligated to pay as damages because of **personal** and **advertising injury** to which this insurance applies.

**We** shall have the right and duty to defend any **suit** against the **Member Town** seeking damages on account of such **bodily injury, property damage, personal injury** or **advertising injury** even if any of the allegations of the **suit** are groundless, false or fraudulent, and may make such investigation and settlement of any **claim** or **suit** as **we** deem expedient, but **we** shall not be obligated to defend any **suit** after the applicable **Limits of Liability** have been exhausted by payment of judgments, settlements or legal costs associated with any **suit** covered hereunder; all legal costs and other SUPPLEMENTARY PAYMENTS are included within the applicable **Limits of Liability**.

**2. ADDITIONAL EXCLUSIONS**

All the POLICY EXCLUSIONS in **SECTION II** apply.

In addition to the POLICY EXCLUSIONS in **SECTION II**, this insurance does not apply to:

a. **Law Enforcement**

Any **claim** that is covered under **SECTION VII - COVERAGE PART II: LAW ENFORCEMENT PROFESSIONAL LIABILITY INSURANCE** portion of this Policy.

b. **Breach of Contract**

This insurance does not apply to **personal** and **advertising injury**:

- (1) For which the **insured** has assumed liability in a contract or agreement. This EXCLUSION does not apply to liability for damages that the **insured** would have in the absence of the contract or agreement; or
- (2) Arising out of a breach of contract.

c. **Statements In Advertisements**

With regard to **personal injury** and **advertising injury**, this insurance does not apply to **personal injury** and **advertising injury**:



- (1) Arising out of a breach of contract, except an implied contract to use another's advertising idea in **your advertisement**;
- (2) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in **your advertisement**;
- (3) Arising out of the wrong description of the price of goods, products or services stated in your **advertisement**.

d. **Expected or Intended Injury or Criminal Conduct**

- (1) With respect to **bodily injury** or **property damage** expected or intended from the standpoint of the **insured**, or criminal conduct, this insurance does not apply to **bodily injury** or **property damage**. With the exception of **claims** or **suits** otherwise excluded by EXCLUSION a., this EXCLUSION does not apply to **bodily injury** or **property damage** resulting from the use of reasonable force to protect persons or **property**.
- (2) With regard to **personal** and **advertising injury**, this insurance does not apply to **personal** and **advertising injury**:
  - (a) Caused by or at the direction of the **insured** with the knowledge that the act would violate the rights of another and would inflict **personal** and **advertising injury**;
  - (b) Arising out of oral or written publication of materials, if done by or at the direction of the **insured** with knowledge of its falsity;
  - (c) Arising out of oral or written publication of material whose first publication took place before the beginning of the Policy period;
  - (d) Arising out of a criminal act committed by or at the direction of any **insured**.

e. **Institutional/Operational Exposures**

Any liability for **bodily injury**, **property damage** or **personal** and **advertising injury** arising out of the ownership, maintenance or operation of any:

- (1) Airports, Amusement Parks, Blasting Operations, Natural Gas Supply;
- (2) Hospitals and Clinics, Nursing Homes and AIDS Treatment Centers; however, this EXCLUSION does not apply to coverage provided by the Professional Services EXCLUSION r. under **SECTION II – POLICY EXCLUSIONS** or as provided in **SECTION IV - WHO IS AN INSURED**;
- (3) Marinas; however, this EXCLUSION does not apply to liability for **bodily injury**, **property damage** or **personal injury** (other than damage to boats anchored, docked or stored at the marina, contents of such boats, or other property in the care, custody or control of the marina) if (i) such injury or damage arises from conditions existing on premises owned, occupied or controlled by the **Member Town**, or operations conducted on such premises, and (ii) such injury or damage is not caused or contributed to by watercraft owned by others and anchored, docked or stored at the marina or operated on waters controlled by the marina.

For purposes of this EXCLUSION, **marinas/marina operations** means (a) repair, alterations, maintenance or restoration, (b) storage, (c) mooring at slips, spaces or buoys rented by the **Member Town**; except when this is the sole service being provided by the **Member Town**, (d) hauling at or launching not in connection with operations (a) and (b) above, (e) fueling and miscellaneous servicing of a transient nature with respect to pleasure crafts covered by this Policy which are being operated by the **Member Town** or **your employees** in conjunction with the above operations or which may break away from **your** premises.

For purposes of this EXCLUSION, **marina/marina operations** does not mean **Member Town** owned docks and boat ramps;

- (4) Mechanical Amusements Devices required to be licensed by State of New Jersey;
- (5) Penal Institutions; however, this EXCLUSION does not apply to liability arising out of holding cells, of the **Member Town**;
- (6) Racetracks, Ski Facilities, Zoos.
- (7) All Terrain Vehicle ("ATV") Parks or facilities.

For purposes of exclusion e., (1) and (4) the following definitions are added:

**Amusement Parks** are defined as any permanent or temporary indoor or outdoor facility or park where mechanical amusement devices and rides are available for use by the general public; however, the definition of **amusement parks** does not include non-mechanical amusement devices such as swings, slides, monkey bars.

**Mechanical Amusement Devices** are defined as any amusement ride required to be licensed by the State of New Jersey which includes any mechanical device or devices, including but not limited to water slides exceeding 15 feet in height, which carry or convey passengers along, around, or over a fixed or restricted route or course for the purpose of giving its passengers amusement, pleasure, thrills or excitement; and any passenger or gravity propelled ride when located in an amusement area or park in which there are other amusement rides, including small mounted kiddie rides, inflatable bounces and other inflatable attractions.

### 3. ADDITIONAL DEFINITIONS

All the **POLICY DEFINITIONS** in **SECTION V** apply.

In addition to the **POLICY DEFINITIONS** in **SECTION V**, the following definitions apply to this **COVERAGE PART**:

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

**Bodily injury** means **bodily injury**, sickness or disease including mental anguish or mental suffering associated with or arising from **bodily injury** sustained by a person, including death resulting from any of these at anytime.

**Occurrence(s)** means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

## SECTION VII - COVERAGE PART II: LAW ENFORCEMENT PROFESSIONAL LIABILITY INSURANCE

### 1. INSURING AGREEMENT

- a. We will pay on behalf of the **Member Town** all sums which the **Member Town** shall become legally obligated to pay as damages because of **bodily injury** or **property damage**, to which this insurance applies caused by an **occurrence**, and arising out of the performance of the duties of the **Member Town** to provide law enforcement.
- b. We will pay those sums that the insured becomes legally obligated to pay as damages because of **personal injury** and **advertising injury**, arising out of the performance of the duties of the **Member Town** to provide law enforcement.

We shall have the right and duty to defend any **suit** against the **Member Town** seeking damages on account of such **bodily injury**, **property damage**, **personal injury** and **advertising injury** even if any of the allegations of the **suit** are groundless, false or fraudulent, and may make such investigation or settlement of any **claim** or **suit** as we deem expedient, but we shall not be obligated to defend any **suit** after the applicable **Limits of Liability** have been exhausted by payment of judgments, settlements or legal costs associated with any **suit** covered hereunder; all legal costs and other SUPPLEMENTARY PAYMENTS are included within the applicable **Limits of Liability**.

### 2. ADDITIONAL EXCLUSIONS

All the POLICY EXCLUSIONS in SECTION II apply.

### 3. ADDITIONAL DEFINITIONS

All the POLICY DEFINITIONS in SECTION V apply. In addition to the POLICY DEFINITIONS in SECTION V, the following definitions apply to this COVERAGE PART:

**Bodily injury** means **bodily injury**, sickness or disease including mental anguish or mental suffering associated with or arising from **bodily injury** sustained by a person, including death at any time resulting from any of these at anytime, with addition of **personal injury** or **advertising injury** and any mental anguish or mental suffering associated with or arising from such **bodily Injury**, sickness or disease caused by any errors, omissions or negligent acts arising out of the performance of any **insured's** official duties as a public **employee**, law enforcement official or officer in regular course of public employment by or as an authorized volunteer of the **Member Town**.

**Occurrence(s)** means an event, including continuous or repeated exposure to conditions which results in **bodily injury**, **property damage**, **personal injury** or **advertising injury** sustained by any person or organization and arising out of the performance of law enforcement activities of the **Member Town**.

**POLICY ENDORSEMENT**  
**REAL PROPERTY-LIABILITY-FIRE**

This ENDORSEMENT modifies such insurance as is afforded by the provisions of the Policy relating to the following:

**SECTION VI - COVERAGE PART I:**  
**COMMERCIAL GENERAL LIABILITY INSURANCE**

**You** agree with **us** that the **Coverage 1. a. - Property Damage** applies to **property damage** to buildings and structures or portions thereof rented to the **Member Town** and described in the ENDORSEMENT, if such **property damage** arises out of fire, subject to the following additional provisions:

1. With respect to the insurance provided by this ENDORSEMENT, all of the EXCLUSIONS and ENDORSEMENTS of **SECTION VI - COVERAGE PART I: COMMERCIAL GENERAL LIABILITY INSURANCE**, other than the **NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT**, are deleted and replaced by the following:

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

2. The **Limits of Liability** stated in this ENDORSEMENT applies separately to the insurance under this ENDORSEMENT and is in lieu of any other limit stated in the Policy.

**Limits of Liability:** See DECLARATIONS, Item C.

Subject to the above provision concerning the per **occurrence** limit, the most **we** will pay for all damages including all sums under the SUPPLEMENTARY PAYMENTS provision because of **bodily injury, property damage, personal injury or advertising injury** shall not exceed the **limit of liability** stated in the DECLARATIONS as the **combined single limit**.

Description of Property:

On file with the **Mid Jersey Municipal Joint Insurance Fund**.

The coverage provided under this ENDORSEMENT is subject to all of the terms and CONDITIONS of this Policy. All other terms and CONDITIONS of this Policy remain unchanged.

**POLICY ENDORSEMENT****NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT  
(BROAD FORM)**

This ENDORSEMENT modifies such insurance as is afforded by the provisions of the Policy relating to the following:

All the POLICY EXCLUSIONS in this Policy apply. In addition to the POLICY EXCLUSIONS, it is agreed that this Policy does not apply:

1. To **bodily injury**, including sickness, disease, or death or to **property damage**:
  - a. With respect to which an **insured** under this Policy is also an **insured** under a nuclear energy liability Policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an **insured** under any such coverage but for its termination upon exhaustion of its limit of liability; or
  - b. Resulting from the **hazardous properties of nuclear material** and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the **insured** is, or had this Policy not been issued would be entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
2. To immediate medical or surgical relief, first aid, to expenses incurred with respect to **bodily injury**, sickness, disease or death resulting from the **hazardous properties of nuclear material** and arising out of the operation of a **nuclear facility** by any person or organization.
3. To **bodily injury**, including sickness, disease, or death or **property damage** resulting from the **hazardous properties of nuclear material**, if:
  - a. The **nuclear material** (1) is at any **nuclear facility** owned by or operated by or on behalf of, an **insured** or (2) has been discharged or dispersed therefrom;
  - b. The **nuclear material** is contained in **spent fuel** or **waste** at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an **insured**; or
  - c. The **bodily injury**, sickness, disease, or death or **property damage** arises out of the furnishing by an **insured** of services, materials, parts of equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this EXCLUSION (c) applies only to **property damage** to or destruction of property at such **nuclear facility**.

4. As used in this ENDORSEMENT:

**Hazardous properties** includes radioactive, toxic or explosive properties;  
**nuclear material** means **source material**, **special nuclear material** or **byproduct material**;

**Source material**, **special nuclear material**, and **byproduct material** have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

**Spent fuel** means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**;

**Waste** means any waste material (1) containing **byproduct material** and (2) resulting from the operation by any person or organization of any **nuclear facility** included within the definition of **nuclear facility** under paragraph (a) or (b) thereof;

**Nuclear facility** means:

- a. Any **nuclear reactor**,
- b. Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing **spent fuel**, or (3) handling, processing or packaging **waste**,
- c. Any equipment or device used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the **insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- d. Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **waste**, and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

**Nuclear reactor** means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

**Property damage** includes any injury to or destruction of property and all forms of radioactive contamination of property.

The coverage provided under this ENDORSEMENT is subject to all of the terms and CONDITIONS of this Policy. All other terms and CONDITIONS of this Policy remain unchanged.

**POLICY ENDORSEMENT****EMPLOYEE BENEFITS LIABILITY INSURANCE**

This ENDORSEMENT modifies such insurance as is afforded by the provisions of the Policy relating to the following:

**1. INSURING AGREEMENT**

**We** will pay on behalf of the **Member Town** all sums which the **Member Town** shall become legally obligated to pay for damages sustained by an **employee**, whether actively employed, including disabled or retired **employees**, prospective **employee**, former **employee** or the beneficiaries or legal representatives thereof of the **Member Town** arising from errors or omissions in the **administration** of the **Member Town's employee benefit programs**. The liability for damages must be caused by an **occurrence** on or after the effective date of this insurance.

**We** shall have the right and duty to defend any **suit** against the **Member Town** which seeks such damages even if any of the allegations are groundless, false or fraudulent, and may make such investigation and settlement of any **claim** or **suit** as **we** deem expedient, but **we** shall not be obligated to defend any **suit** after the applicable limit of **our** liability has been exhausted by payment of judgments, settlements or legal costs associated with any **suit** covered hereunder; all legal costs and other SUPPLEMENTARY PAYMENTS included within the applicable **Limits of Liability**.

**2. EXCLUSIONS**

All the POLICY EXCLUSIONS in this Policy apply.

In addition to the POLICY EXCLUSIONS, this insurance does not apply to:

a. **Bodily Injury, Personal Injury, Advertising Injury or Property Damage**  
To **bodily injury** to, sickness, disease, or death of any person, **personal injury**, **advertising injury**, or to injury to or destruction of any tangible property, including the loss of use thereof.

b. **Failure of Performance of Contract**

Liability for failure of performance of contract by any insurer, any self-insured entity or any combination thereof, including failure of any **employee benefit program**.

c. **Investment/Non-Investment of Funds**

Any liability based on:

(1) Failure of investment to perform as represented by the **Member Town**;

- (2) Advice given by the **Member Town** to an **employee** to participate or not to participate in **your employee benefits program**;
- (3) The investment or non-investment of funds; and
- (4) Failure of any plan to meet its obligations due to insufficient funds.

d. **ERISA**

Liability based on the Employee Retirement Income Security Act of 1974, Public Law 93-406, commonly referred to as the Pension Reform Act of 1974, the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248 or the Consolidated Omnibus Budget Reconciliation Act of 1986, Pub. L. 99-509 and amendments hereto, or similar provisions of any Federal, State or Local Statutory Law or Common Law, or Internal Revenue Code and its amendments.

3. **ADDITIONAL DEFINITIONS**

All the **POLICY DEFINITIONS** stated above apply.

The following **DEFINITIONS** apply, in addition to **SECTION V - POLICY DEFINITIONS**, to this **ENDORSEMENT**:

**Administration** means:

- a. Giving advice to **employees** with respect to the **employee benefit programs** of their rights and options;
- b. Handling of records in connection with the **employee benefit programs**;
- c. Effecting enrollment, termination or cancellation of **employees** under the **employee benefit programs**; provided all such acts are authorized by the **Member Town**;
- d. Collecting contributions and applying them as called for under the rules of **your employee benefits program**;
- e. Processing **claims** in connection with **your employee benefits program**; or
- f. Preparation of communications to inform **employees** about their benefits.

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

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

**Occurrence** means an error or omission in the **administration** of **your employee benefit programs** by the **Member Town** or by any person or organization for whose acts the **Member Town** is legally liable.

The coverage provided under this **ENDORSEMENT** is subject to all of the terms and **CONDITIONS** of this Policy. All other terms and **CONDITIONS** of this Policy remain unchanged.



**POLICY ENDORSEMENT****SKATEBOARD FACILITY COVERAGE**

This ENDORSEMENT modifies such insurance as is afforded by the provisions of the Policy relating to the following:

**SECTION IV - COVERAGE PART I:  
COMMERCIAL GENERAL LIABILITY INSURANCE**

Additional Premium: \_\_\_\_\_

In consideration for the additional premium shown above, this Policy is hereby amended as follows:

The EXCLUSIONS provision of **SECTION VI - COVERAGE PART I: COMMERCIAL GENERAL LIABILITY INSURANCE**, is hereby amended to include the following EXCLUSION:

- t. To **bodily injury** or **property damage** arising out of the ownership, maintenance, operation, or use of any skateboard facility. However, this EXCLUSION does not apply to the skateboard facility owned by the SEE BELOW located at the following addresses:

**Township of East Brunswick**

Community Skate Park  
Durhams Corner Road  
Piscataway Township, NJ 08816

**Township of Hopewell**

Hoval Skate Park  
201 Washington Crossing-Pennington Road  
Titusville, NJ 08560

**Princeton**

Hilltop Skate Park  
Bunn Drive  
Princeton, NJ 08540

**Robbinsville Township**

Robbinsville Township Skate Park  
1117 Route 130  
Robbinsville, NJ 08691

**Township of West Windsor**

West Windsor Skate Park  
Rt. 571  
West Windsor, NJ 08550

The coverage provided under this ENDORSEMENT is subject to all of the terms and CONDITIONS of this Policy. All other terms and CONDITIONS of this Policy remain unchanged.

**POLICY ENDORSEMENT****DISINFECTANTS RELEASE HAZARD COVERAGE**

This ENDORSEMENT modifies such insurance as is afforded by the provisions of the Policy relating to the following:

We will pay on behalf of the **Member Town** for any liability for

1. Those sums that the **insured** shall be legally or contractually liable to pay as damages on account of **bodily injury** resulting from chlorine or sodium hypochlorite release on the premises of the **Member Town** or at one or more of the locations on file with the Executive Director for the JIF and/or on file with the JIF.
2. Those sums that the **insured** shall be legally or contractually liable to pay as damages on account of **property damage** resulting directly from chlorine or sodium hypochlorite on the premises of the **Member Town** or at one or more of the locations listed above.
3. Those sums that the **insured** shall be legally liable to pay for the cost of removing, nullifying, cleaning up, evaluating, monitoring, containing or controlling any solid, liquid, gaseous or thermal contaminant, irritant or **pollutant** which contaminates or pollutes the property of third parties (including the solid, minerals and water under the property of third parties) and both:
  - (a) Directly emanates from the premises of the **Member Town** or at one or more of the locations listed above; and
  - (b) Results directly from a chlorine or sodium hypochlorite release.

The most **we** will pay under this coverage for 1., 2. and 3. Above is: See DECLARATIONS, Item C.

Provided always that the **Mid Jersey Municipal Joint Insurance Fund** shall have no obligation in respect to those costs incurred by the **Member Town** or for which the **insured** is obligated to pay (by law or otherwise) (1) to abate or investigate any threat of seepage, pollution or contamination of the property of third parties or (2) in respect to the **Member Town's** owned, leased or rented property (including the same, minerals and water under the **Member Town's** owned, leased or rented property); no coverage for preventing or testing, or for damage to the **Member Town's** property.

The coverage provided under this ENDORSEMENT is subject to all of the terms and CONDITIONS of this Policy. All other terms and CONDITIONS of this Policy remain unchanged.

**POLICY ENDORSEMENT****INSTITUTIONAL EXPOSURES**

This ENDORSEMENT modifies such insurance as is afforded by the provisions of the Policy relating to the following:

**SECTION VI - COVERAGE PART I:  
COMMERCIAL GENERAL LIABILITY INSURANCE**

2. **EXCLUSIONS**

e. **Institutional/Operational Exposures**

With respect to items (1) and (4), this exclusion does not apply to exclude coverage for Crystal Springs Water Park, East Brunswick, NJ.

With respect to the Definition of **Amusement Park**, the definition of **Amusement Park** does not include or apply to Crystal Springs Water Park, East Brunswick, NJ.

The coverage provided under this ENDORSEMENT is subject to all of the terms and CONDITIONS of this Policy. All other terms and CONDITIONS of this Policy remain unchanged.

**POLICY ENDORSEMENT**

**ADDITIONAL ENTITIES**

Additional Premium: \_\_\_\_\_

This ENDORSEMENT modifies such insurance as is afforded by the provisions of the Policy relating to the following:

In consideration for the additional premium shown above, this policy is hereby amended as follows:

“It is hereby understood and agreed that the following are included as Insureds:

N/A

The coverage provided under this ENDORSEMENT is subject to all of the terms and CONDITIONS of this Policy. All other terms and CONDITIONS of this Policy remain unchanged.

**POLICY ENDORSEMENT****ADDITIONAL INSURED – OWNERS OR OTHER INTERESTS  
FROM WHOM LAND HAS BEEN PERMITTED**

This ENDORSEMENT modifies such insurance as is afforded by the provisions of the Policy relating to the following:

COMPREHENSIVE GENERAL LIABILITY COVERAGE PART.

**SCHEDULE**

WHO IS INSURED Section is amended to Include as an additional insured the person or organization shown in the Schedule but only with respect to liability arising out of the ownership, maintenance or use of that part of the land permitted to **you** and shown in the Schedule and subject to the following additional exclusions: This insurance does not apply to:

Any **occurrence** that takes place after the person or organization shown in the Schedule ceases to permit **you** that land;

Structural alterations, new construction or demolition operations performed by or on behalf of the person or organization shown in the Schedule.

The coverage provided under this ENDORSEMENT is subject to all of the terms and CONDITIONS of this Policy. All other terms and CONDITIONS of this Policy remain unchanged.

## POLICY ENDORSEMENT

### PREMISES MEDICAL PAYMENTS

This insurance does not apply under Coverage Part II.

We will pay to or for each person who sustains **bodily injury** caused by accident all reasonable medical expense incurred within one year from the date of the accident on account of such **bodily injury**, provided such **bodily injury** arises out of: (a) a condition in the insured premises or (b) operations with respect to which the named insured is afforded Coverage for **bodily injury** liability under this Policy.

The limit of liability for Premises Medical Payments Coverage stated as applicable to "each person" is \$1,000.00 for all medical expense for **bodily injury** to any one person as the result of any one accident, but subject to the above provision respecting "each person" the total liability under Premises Medical Payments Coverage for all medical expenses for **bodily injury** to one or more persons as the result of any one accident shall not exceed \$10,000.00 applicable to "each accident".

When more than one medical payments Coverage afforded by this Policy applies to the loss, the Fund shall not be liable for more than the amount of the highest applicable limit of liability.

#### Additional Definitions

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

**insured premises** mean all premises owned by or rented to the **Local Unit** with respect to which the **Local Unit** is afforded Coverage for **bodily injury** liability under this Policy and includes the ways immediately adjoining on land.

**medical expense** means expenses for necessary first aid, medical, surgical, x-ray and dental services, including prosthetic devices, and necessary ambulance, hospital, professional nursing and funeral services.

#### Exclusions

We will not pay any expenses for **bodily injury**:

- (a) To any insured.
- (b) To an independent contractor or person hired to do work for or on behalf of any insured or a tenant of any insured.
- (c) To a person injured on that part of premises you own or rent that the person normally occupies;
- (d) Included within the "products-completed operations hazard";
- (e) Excluded under Coverage A.

- (f) arising out of
  - (i) the transportation of mobile equipment by an automobile owned or operated by or rented or loaned to any insured; or
  - (ii) the ownership, maintenance, operation, use, loading or unloading of any mobile equipment while being used in any prearranged or organized racing, speed or demolition contest or in any stunting activity or in practice or preparation for any such contest or activity; or
  - (iii) the operation or use of any snowmobile or trailer designed for use therewith.
- (g) arising out of the ownership, maintenance, operation, use, loading or unloading of
  - (i) any automobile or aircraft owned or operated by or rented or loaned to any insured, or
  - (ii) any other automobile or aircraft operated by any person in the course of his employment by an insured.
  - (iii) any watercraft over 50 feet in length.

However, this exclusion does not apply to the parking of an automobile on the insured premises, if such automobile is not owned by or rented or loaned to any insured.

- (h) Due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution.

## POLICY ENDORSEMENT

### DEDUCTIBLE LIABILITY CLAUSE

This ENDORSEMENT modifies such insurance as is afforded by the provisions of the Policy relating to the following:

**We agree that with respect to COMPREHENSIVE GENERAL LIABILITY INSURANCE - PART I AND LAW ENFORCEMENT PROFESSIONAL LIABILITY INSURANCE - PART II**

- (1) Our obligation under the Bodily Injury Liability, Personal Injury, Advertising Injury or Property Damage Liability Coverage to pay damages on your behalf applies only to the amount of damages in excess of any deductible amounts stated in the policy as applicable to such coverage, and the limit of liability shown as being applicable to “each occurrence” for such coverage shall be reduced by the amount of such deductible. The limit of liability shown as “aggregate”, if any, for such coverage shall not be reduced by the application of such deductible amount.
- (2) The deductible amount stated in the schedule apply as follows:  
  
PER OCCURRENCE BASIS - The deductible is on a “**per occurrence**” basis. The deductible amount applies under the Bodily Injury Liability, Personal Injury, Advertising Injury or Property Damage Liability Coverage, respectively, to all damages because of all bodily injury, personal injury or property damage as the result of any one occurrence, regardless of the number of persons or organizations who sustain damages because of that occurrence.
- (3) The terms of the policy, including those with respect to (a) our rights and duties with respect to the defense of suits and (b) your duties in the event of an occurrence apply irrespective of the application of the deductible amount.
- (4) We may pay any part or all of the deductible amount to effect settlement of any claim or suit and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.
- (5) We will consider your deductible satisfied upon payment of the combined annual aggregate deductible of amount on Declaration Page in reimbursement to us for payments made to effect settlement for coverage Parts I, and II.



**POLICY ENDORSEMENT****JIF ADDITIONAL INSURED ENDORSEMENT**

This ENDORSEMENT modifies such insurance as is afforded by the provisions of the Policy relating to the following:

It is understood and agreed that the **Mid Jersey Municipal Joint Insurance Fund** of which the **member town** is a member for the coverage provided under the **Mid Jersey Municipal Joint Insurance Fund** Casualty Insurance Policy COVERAGE PART I COMMERCIAL GENERAL LIABILITY and the **Mid Jersey Municipal Joint Insurance Fund**, are included as **additional insured(s)** for coverage under this policy, and for **limits of liability** of no more than \$200,000 per **occurrence combined single limit** for **bodily injury** and **property damage** as stated in this policy.

This extension of coverage is subject to the following limitation:

It is also understood and agreed that if any **claim** under this policy is also covered by one or more other policies issued by this **Mid Jersey Municipal Joint Insurance Fund**, or by any other policies issued by any other **Mid Jersey Municipal Joint Insurance Fund** member of the **Mid Jersey Municipal Joint Insurance Fund**, then with respect to such **claim**:

- (a) This **Mid Jersey Municipal Joint Insurance Fund** shall not be liable under this policy for a greater proportion of the loss than the applicable **limit of liability** under this policy bears to the total applicable **limits of liability** of all such policies, whether valid or collectible insurance, and
- (b) The maximum amount payable under all such policies shall not exceed the limit of \$200,000; and
- (c) The **Limits of Liability** shown in the DECLARATIONS fix the most we will pay per **occurrence** or in the aggregate regardless of the number of:
  - a. Members
  - b. Insureds
  - c. **Claims** made or **suits** brought; or
  - d. Persons or organizations making **claims** or bringing **suits**.

Nothing contained in this ENDORSEMENT shall be construed to increase the **limit of liability** of this policy.

The coverage provided under this ENDORSEMENT is subject to all of the terms and CONDITIONS of this Policy. All other terms and CONDITIONS of this Policy remain unchanged.

Effective Date: 01/01/02

**POLICY ENDORSEMENT**  
**PAINTBALL FACILITY AND LIABILITY ENDORSEMENT**

This ENDORSEMENT modifies such insurance as is afforded by the provisions of the Policy relating to the following:

**SECTION VI – COVERAGE PART I:**  
**COMMERCIAL GENERAL LIABILITY INSURANCE**

Section VI- COVERAGE PART I: COMMERCIAL GENERAL LIABILITY INSURANCE is hereby amended to include the following EXCLUSION:

**PAINTBALL FACILITY AND PAINTBALL LIABILITY**

To **bodily injury** or **property damage** arising out of the

- (a) Ownership, maintenance, operation, or use of any paintball facility by the **Member Town**, and
- (b) The conduct, operation and/or sponsorship of any paintball activity by the **Member Town**.

However, this EXCLUSION does not apply to **Member Town** when paintball activity takes place on **Member Town** property so long as **Member Town** is not involved in the operation, conduct or sponsorship of such paintball activity.

The coverage provided under this ENDORSEMENT is subject to all of the terms and CONDITIONS of this Policy. All other terms and CONDITIONS of this Policy remain unchanged.

Page

Effective: 6/6/07

Revised: 6/6/07

**POLICY ENDORSEMENT**  
**UNMANNED AIRCRAFT SYSTEMS (UAS)**

**SECTION II – POLICY EXCLUSIONS**

j. Aircraft, Auto or Watercraft

This EXCLUSION does not apply to:

1. Watercraft
  - a. **you** own that are 50 feet or less;
  - b. **you** do not own that are less than 50 feet long, and is not being used to carry persons or property for a charge; or
  - c. commandeered by the **Member Entity** for emergency purposes;
2. Parking an **auto** on, or on the ways next to premises **you** own or rent, provided the **auto** is not owned by or rented or loaned to **you** or the **insured**;
3. **Bodily injury** or **property damage** arising out of the operation of any of the equipment listed in Paragraph f.(2) or f.(3) of the definition of **mobile equipment**; or
4. **Unmanned aircraft system**.

For the purpose of this exclusion, watercraft includes ferry vessels.

The willful failure of any **insured**, or any other person or entity authorized by **you** to operate the **unmanned aircraft system** specifically in **your** business, to comply with any of the following shall void coverage:

1. Federal Aviation Administration (FAA) regulations, certifications, rules, procedures, policies and standards with respect to an **unmanned aircraft system**, including any amendment or addition to such regulations, certifications, rules, procedures, policies and standards;
2. United States Department of Transportation laws and regulations with respect to an **unmanned aircraft system**, including any amendment or addition to such laws and regulations;
3. Any other applicable federal laws and regulations with respect to an **unmanned aircraft system**, including any amendment or addition to such laws and regulations; or
4. Any state and local laws and regulations with respect to an **unmanned aircraft system**, including any amendment or addition to such laws and regulations.

u. UAS Exposures

With respect to any **unmanned aircraft system**, this insurance does not apply to **bodily injury**, **personal injury**, **advertising injury**, or **property damage** arising out of:

1. physical contact by any **unmanned aircraft** with any other aircraft, including airships / blimps or other gas or hot air filled balloons, whether manned or unmanned; or
2. the existence or use of weapons and ammunition attached to or incorporated within any **unmanned aircraft** including as part of the **payload**;

3. an **unmanned aircraft**, including **payload**, in excess of 55 pounds;
4. the operator not holding a remote pilot airman certificate or the operator not being under the direct supervision of a person who does hold a remote pilot certificate;
  - a. however, this exclusion does not apply to the **Member Entity** if the pilot is an independent contractor; or
5. the transportation of property other than the **Payload**.

## SECTION V – COMMON POLICY DEFINITIONS

23. **Unmanned aircraft system** means an **unmanned aircraft** and its associated elements, including the control stations, communication links, data links, navigation equipment, launch / recovery equipment, other support equipment and **payload** that are required for the pilot-in-command together with his or her crewmembers and visual observers to operate safely and efficiently in the national airspace system.

24. **Unmanned aircraft** means an aircraft that is designed and manufactured to be operated without the possibility of being controlled directly by a person from within or on-board the aircraft, and that is owned by the insured.

25. **Payload** means any property installed on, carried on-board, or being loaded onto or unloaded from, an **unmanned aircraft**. **Payload** includes, but is not limited to, cameras or other equipment enhancing the utility of the **unmanned aircraft** or products loaded prior to flight to, dispensed during flight from or removed after flight from, an **unmanned aircraft**.

**Municipal Excess Liability Joint Insurance Fund**  
**9 CAMPUS DRIVE, SUITE 216**  
**PARSIPPANY, NJ 07054**

**EXCESS LIABILITY DECLARATIONS**

Item A. **Member Entity** : **WEST WINDSOR**  
Mailing Address **PO BOX 38**  
**271 CLARKSVILLE ROAD**  
**PRINCETON JUNCTION, NJ 08550**

Item B. **Coverage Period:**

From 1/1/2017 to January 1, 2018 12:01 A.M. standard at the address of the **Member Entity** as stated herein.

Item C. **Limits of Liability:**

- (1) \$1,450,000 per occurrence combined single limit excess of Item E.
- (2) **\$3,250,000** per occurrence and annual aggregate combined single limit excess of item C(1)-  
(Business Automobile Liability is unaggregated)
- (3) **\$2,000,000** per occurrence and annual aggregate combined single limit excess of item C(2)-  
(Business Automobile Liability is unaggregated)
- (4) Excluded per person for medical expense benefits under the New Jersey Personal Injury Protection  
ENDORSEMENT attached to the underlying insurance.

Item D. **Underlying Insurance:**

Which forms a part and is attached to this Excess Liability Policy:  
Joint Insurance Fund

Item E. **Underlying Insurance Limit:**

\$300,000 per occurrence combined single limit for Commercial General Liability, Business  
Automobile Liability, Law Enforcement Professional Liability and Employee Benefits  
Liability Insurance.  
\$250,000 per person for Medical Expense Benefits under the New Jersey Personal Injury Protection  
ENDORSEMENT.

Item F. **Notice Of Claim:**

To be given to:  
Municipal Excess Liability Joint Insurance Fund  
9 Campus Drive, Suite 216  
Parsippany, NJ 07054

Item G. **Assessment:**

Standard Limit Assessment \$63,874  
Optional Limits \$2,000,000  
Optional Assessment \$4,629

Item H. **Endorsements:** Attached at issuance:

This DECLARATIONS page is issued in conjunction with and forms a part of the **Municipal Excess Liability Joint Insurance Fund Excess Liability Policy**.

Date of Issue: 01/01/17

*David Grubb*

Authorized Signature

# **EXCESS LIABILITY POLICY**

## **DECLARATION**

### **TABLE OF CONTENTS**

**SECTION I - INSURING AGREEMENT**

**SECTION II - CONDITIONS**

**SECTION III - DEFINITIONS**

**SECTION IV - EXCLUSIONS**

**POLICY ENDORSEMENTS**

## MUNICIPAL EXCESS LIABILITY JOINT INSURANCE FUND POLICY

In consideration of the agreement to become part of the **Municipal Excess Liability Joint Insurance Fund (MEL)** and of the payment of **Assessments** and subject to the DECLARATIONS, INSURING AGREEMENT, CONDITIONS, DEFINITIONS, EXCLUSIONS and any ENDORSEMENTS hereof, the **Municipal Excess Liability Joint Insurance Fund** (herein called the **MEL**) and the **Member Entity** named in Item A. of the DECLARATIONS do hereby agree as follows:

Words and phrases that appear in **bold** have special meanings. Refer to the DECLARATIONS and/or the DEFINITIONS for those special meanings.

Read the entire Policy carefully to determine rights, duties and what is and is not covered.

Throughout this Policy, the words **you**, **your**, and **Member Entity** are used interchangeably. They mean the **Member Entity** shown in the DECLARATIONS, Item A., and other persons or organizations qualifying as such in the **underlying insurance**. The words **we**, **us**, and **our** refer to the **MEL** providing this insurance and are used interchangeably. Words as defined by the **underlying insurance** also are applicable to this Excess Liability Policy.

### SECTION I - INSURING AGREEMENT

Subject to the applicable **Limits of Liability** and other provisions of this Excess Liability Policy, **we** will pay on behalf of the **Member Entity** the **ultimate net loss** resulting from any **occurrence** covered by the **underlying insurance** as scheduled in Item E. of the DECLARATIONS of this Policy. The coverage provided by this Policy shall apply only as excess of and after all **underlying insurance** has been exhausted.

### SECTION II – CONDITIONS

This Excess Liability Policy is subject to the following CONDITIONS, unless otherwise stated.

#### A. GENERAL PROVISIONS

Except as otherwise provided below, the coverage provided by this Excess Liability Policy shall follow the terms and CONDITIONS of the **underlying insurance**, as scheduled in Item E. of the DECLARATIONS of this Policy, including any ENDORSEMENTS attached thereto. In the event of a conflict in the terms and CONDITIONS of this Policy and the **underlying insurance**, the terms and CONDITIONS of this Policy control and supersede any conflicting terms and CONDITIONS of the underlying insurance.

The following provisions of the **underlying insurance** do not apply to the coverage provided by this Policy:

1. Cancellation provisions under the CONDITIONS of the **underlying insurance**;
  2. **Limits of liability** provisions under the CONDITIONS of the **underlying insurance**; and
2. Other insurance provisions of the Casualty Insurance Policy and Business Automobile Insurance Policy and ENDORSEMENTS attached thereto of the **underlying insurance**, where the **underlying insurance** is provided by the **Joint Insurance Fund**.

#### B. DEFENSE AND COSTS

The **MEL** shall not be called upon to assume charge of the investigation, defense or settlement of any **claim** or **suit** brought or proceeding instituted against the **Member Entity** for which a provider of **underlying insurance** is obligated to defend. However, the **MEL** shall have the right and be given the opportunity to associate with the **Member Entity** in the defense or trial of any **claim, suit** or proceeding relative to any event which, in the opinion of the **MEL**, may create liability on the part of the **MEL** under the terms and CONDITIONS of this Excess Liability Policy.

In the event the limit or limits of **underlying insurance** are exhausted, the **MEL** shall have the right and the duty to defend any **claim, suit** or proceeding covered by the terms and CONDITIONS of this Policy, and shall have the right to make such settlement as the **MEL** deems expedient.

However, the **MEL** shall not be obligated to pay any **claim** or judgment or to defend any **suit** after the applicable limit of the **MEL's** liability has been exhausted by the payment of judgments or settlements associated with any **claim** or **suit** covered hereunder. All legal costs and other SUPPLEMENTARY PAYMENTS will not reduce the applicable limit of the **MEL's limits of liability**.

#### C. MAINTENANCE OF UNDERLYING COVERAGE

The **Member Entity** agrees with the **MEL** that the **underlying insurance** shall be maintained in full effect during the term of this Excess Liability Policy.

In the event that any or all of the **underlying insurance** is canceled or nonrenewed for any reason, this Policy will not apply, as excess or otherwise, to any loss that would have been covered under such **underlying insurance** if it had remained in force.

#### D. LIMITS OF LIABILITY



1. The total **limits of liability** under this Excess Liability Policy shall not exceed the amount as shown in Item C of the DECLARATIONS, regardless of:
  - (a) the number of persons or organizations who are insured by the **underlying insurance**;
  - (b) the number of coverages provided by the **underlying insurance**, as listed in Item E of the DECLARATIONS;
  - (c) the number of **claims** made or **suits** brought against the **Member Entity**; or
  - (d) the number of persons or organizations making **claims** or bringing **suits**. This limit of liability shall not apply separately to each component of the **underlying insurance**.
2. As respects the liability of the **MEL** for the amount of coverage under **Item C. (3) Limits of Liability** of the **DECLARATIONS**, it is expressly understood and agreed that in the event of an **occurrence** involving multiple **Member Entities** the most the **MEL** will pay per **occurrence** for all member **Member Entities** involved in the occurrence is \$40,000,000 per occurrence and \$40,000,000 all member **Member Entities** annual aggregate. Therefore, the **Limits of Liability** shall be applied on a pro rata basis in relation to each **Member Entity's** loss to the "all members" per **occurrence** loss until exhausted but under no circumstance shall the limitations exceed the aforementioned limits. This applies only to the limits of liability shown in Item C.(3) that are in excess of \$5,000,000.

.
3. Subject to all of the terms, CONDITIONS and EXCLUSIONS of this Policy and the **underlying insurance**, **our** liability for the following classes of losses shall not exceed the limit of \$700,000:
  - (a) Any liability for **bodily injury, personal injury, advertising injury** or **property damage** arising directly or indirectly out of, resulting from, caused by or contributed to by:
    1. Any fungus(es) or spore(s);
    2. Any solid, liquid, vapor, or gas produced by or arising out of any fungus(es) or spore(s)
    3. Any material, product, building component or building structure that contains, harbors, nurtures or acts as a medium for any fungus(es) or spores(s)
    4. Any intrusion, leakage, or accumulation of water or any other liquid that contains, harbors, nurtures or acts as a medium for **fungus(es)** or **spores(s)**;

5. The actual or threatened abatement, mitigation, removal or disposal of **fungus(es)** or **spore(s)** or any material, product, building component, or building structure that contains, harbors, nurtures or acts as a medium for any fungus(es) or spore(s);
6. Any supervision, instructions, recommendations, warnings or advice given or which should have been given in connection with subparagraphs 1., 2., 3., 4., 5., or 6. above; or
7. Any obligation of the **Insured** to indemnify any party in connection with subparagraphs 1., 2., 3., 4., 5., or 6. above;

For purposes of this extension of coverage, the following definitions apply:

**Fungus(es)** includes, but is not limited to, any form or type of mold, mushroom, or mildew.

**Spore(s)** include any reproductive body produced by or arising out of any **fungus(es)**.

(b) Any liability with respect to Disinfectants Release Hazard Coverage.

4. Not applicable.
5. Our liability for **bodily injury** or **property damage** arising out of collapse, flooding, cracking, settling, seepage, underseepage, spillage, subsidence, landslide or other earth movement of any dam or reservoir owned, operated, maintained, constructed or controlled by any **Member Entity**, whether such **bodily injury** or **property damage** occurs on the premises of the **Member Entity**, downstream from such premises or elsewhere is subject to a **Limit of Liability** of \$4,700,000. However, this provision does not apply to liability for **bodily injury** or **property damage** arising from conditions existing on premises owned, occupied or controlled by the **Member Entity** on which a dam or reservoir is located, or from the operations conducted on such premises, provided such injury or damage is not caused by or contributed to by one or more of the events listed in the immediately preceding sentence in this paragraph. The liability of the **MEL** for coverage provided for any liability arising out of collapse or failure of any **Member Entity** owned dams which are defined as Class III and Class IV in *New Jersey Administrative Code*, Title 7, Department of Environmental Protection, Chapter 20, 7:20-1.8, shall not exceed \$4,700,000 excess of the underlying limit specified in Item E of the DECLARATIONS for all **claims** arising from one **occurrence**.

However, this extension of coverage does not apply should a Class III or Class IV **Member Entity** owned dam be involved in a single **occurrence** with a Class I or Class II **Member Entity** owned dam; therefore, the **limit of liability** shall not exceed the LIMIT OF LIABILITY stated in Item C. (1) of the DECLARATIONS.

6. Any liability of the **MEL** for coverage provided under the **GARAGEKEEPERS LIABILITY ENDORSEMENT** of the **UNDERLYING INSURANCE** shall not exceed \$1,700,000 excess of the underlying insurance limit specified in Item E. of the **DECLARATIONS** for all **claims** arising from one **occurrence**.
7. Any liability of the **MEL** for coverage provided under this Policy for **property damage** arising out of or directly or indirectly relating to combined sanitary/storm water system sewage backup and/or sanitary system sewage backup, escape or release, shall not exceed \$2,000,000 each **occurrence**, excess of the underlying \$1,500,000 each **occurrence**. There is a \$2,000,000 annual aggregate for all **Member Entities** excess of \$1,500,000 each **occurrence**.
8. Any liability of the **MEL** for coverage provided under this Policy for **property damage** arising out of or directly or indirectly relating to any **subsidence**, shall not exceed \$2,000,000 each **occurrence**, excess of underlying \$1,500,000 each **occurrence**. There is a \$2,000,000 annual aggregate for all **Member Entities** excess of \$1,500,000 each **occurrence**.

For purposes of this extension of coverage, **subsidence** means settling, sinking, slipping, falling away, caving in, shifting, eroding, mud flow, rising, tilting, or any other land or earth movement, including earthquake.

9. Any liability of the **MEL** for coverage provided under the **QUASI ENTITIES COVERAGE ENDORSEMENT** of the **UNDERLYING INSURANCE** shall not exceed \$4,700,000 excess of the underlying insurance limit specified in Item E of the **DECLARATIONS** for all **claims** arising from one **occurrence**.
10. Any liability of the **MEL** for any liability for **bodily injury** or **property damage** arising out of the ownership, maintenance or operation or skateboard facilities shall not exceed \$4,700,000 excess of the underlying insurance limit specified in Item E. of the **DECLARATIONS** for all **claims** arising from one **occurrence**. This insurance only applies as excess and only where the local **Joint Insurance Fund** has agreed to provide the **underlying insurance**.
11. With respect to the following extension of coverage, any liability of the **MEL** is limited to \$4,700,000 for all bodily injury, property damage, personal injury and advertising injury from any one occurrence arising out of riot, civil commotion or mob action, or any act or omission in connection with prevention or suppression of a riot, civil commotion or mob action.
12. With respect to the following extension of coverage, any liability of the **MEL** is limited to \$4,700,000 for all bodily injury, property damage, personal injury and advertising injury from any one occurrence arising out of failure to adequately supply gas, water, electricity, steam or solar power.
13. As respects the liability of the **MEL** for the amount of coverage under **Item C. (2) Limits of Liability** of the **DECLARATIONS**, it is expressly understood and agreed that in the event of an **occurrence** involving multiple **Member Entities** the most the **MEL** will pay per **occurrence** for all **Member Entities** involved in the **occurrence** is \$25,000,000 for “other than **Certified Acts of Terrorism**” or “\$10,000,000 for **Certified Acts of Terrorism**”. Therefore, the **Limit of liability** shall be applied on a pro rata basis in relation to each **Member Entity's** loss to the “all members” per **occurrence** loss until exhausted, but under no circumstances shall the limitations exceed the aforementioned limits.

## **E. CANCELLATION**

In the event of cancellation or termination of the **underlying insurance**, this Excess Liability Policy, to the extent of such cancellation or termination, shall cease to apply at the same time without notice to the entity shown in the DECLARATIONS, Item A. However, if such cancellation or termination of the **underlying insurance** is rescinded or the **underlying insurance** is otherwise reinstated, this Policy, to the extent of such reinstatement, shall commence to apply at the same time without notice to the entity shown in the DECLARATIONS, Item A.

#### F. SUBROGATION

In the event of any payment under this Excess Liability Policy, the **MEL** shall be subrogated to all of the **Member Entity's** rights to recover against any person or organization for the **loss** or **costs** for which payment was made and the **Member Entity** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights.

#### G. TERM

This Excess Liability Policy applies only to **occurrences** happening between the effective and expiration dates shown in Item B of the DECLARATIONS of this Policy, unless otherwise canceled.

#### I. LEGAL ACTION AGAINST THE MEL

No action shall lie against the **MEL** with respect to any **occurrence** unless as a CONDITION precedent thereto, the **Member Entity** shall have fully complied with all of the terms of this Policy, nor until the amount of the **Member Entity's** obligation to pay an amount of **ultimate net loss** shall have been finally determined either by judgment against the **Member Entity** after actual trial or by written agreement of the **Member Entity**, the claimant and the **MEL**. The **Member Entity** shall make definite **claim** for any loss for which the **MEL** may be liable within a reasonable time after such final determination. If any subsequent payments are made by the **Member Entity** on account of the same **occurrence**, the **Member Entity** shall make additional **claims** from time to time and these **claims** shall be payable within thirty (30) days after proof in conformity with this Policy. Any person or organization or legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Policy to the extent of the coverage afforded by this Policy. Nothing contained in this Policy shall give any person or organization any right to join the **MEL** as a codefendant in any action against the **Member Entity** to determine the **Member Entity's** liability.

#### J. OTHER INSURANCE/SELF-INSURANCE

Coverage under this Excess Liability Policy is excess over any other insurance or self-insurance (including any self insured retention or deductible therein) available to the **Member Entity** to cover a loss also covered under this Policy, whether such other insurance or self-insurance was provided by the **Member Entity** or furnished to the **Member**

**Entity** by others pursuant to the requirements of a contract, ordinance, or law, unless such other insurance or self-insurance is specifically written to apply in excess of the insurance afforded by this Policy and identifies this Policy by its number. Nothing herein shall be construed to make this Policy subject to any of the terms and CONDITIONS of such other coverage.

#### K. ASSIGNMENT

Assignment of interest under this Excess Liability Policy shall not bind the **MEL** until its consent is endorsed hereon by the **MEL**.

#### L. AUTHORIZATION CLAUSE AND NOTICES

By acceptance of this Excess Liability Policy, the **Member Entity** named on the DECLARATIONS, Item A., agrees that the **Member Entity** shown on the DECLARATIONS, Item A., shall act on behalf of all **insureds** with respect to the giving and receiving of notice of **claim** or cancellation, the payment of **Assessments** and the receiving of any return of **Assessments** that may become due under this Policy. Notice to the **Member Entity** shown on the DECLARATIONS, Item A., at the address of the **Member Entity** as shown in Item A. of the DECLARATIONS shall also constitute notice to all **insureds**.

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

**Municipal Excess Liability Joint Insurance Fund**

9 Campus Drive, Suite 216

Parsippany, NJ 07054-4412

Attention: Executive Director/Administrator

#### M. TERMS OF COVERAGE CONFORMED TO STATUTE

Terms of this Excess Liability Policy which may be in conflict with the statutes of the State of New Jersey are hereby amended to conform to such statutes.

N. **ACCEPTANCE**

By acceptance of this Excess Liability Policy, the **Member Entity** agrees that this Policy embodies all agreements existing between the **Member Entity** and the **MEL** or any of its agents relating to the coverage provided by this Policy.

O. **SERVICE OF SUIT**

It is agreed that in the event of the failure of the **MEL** to pay any amount claimed to be due hereunder, the **MEL** at the request of the **Member Entity** will submit to the jurisdiction of any court of competent jurisdiction within the United States and will comply with all the requirements necessary to give such court jurisdiction, and all matters arising hereunder shall be determined in accordance with the law and practice of such court.

It is further agreed that service of process in such **suit** against the **MEL** may be made upon the **MEL** and that in any **suit** instituted against the **MEL** upon this Policy, the **MEL** will abide by the final decision of such court, or of any appellate court in the event of an appeal. Nothing in this CONDITION constitutes or should be understood to constitute a waiver of the **MEL's** right to commence an action in any court of competent jurisdiction in the United States to remove an action to a United States District Court or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state of the United States. It is further agreed that service of process in such **suit** may be made upon the:

**Municipal Excess Liability Joint Insurance Fund**

9 Campus Drive, Suite 216

Parsippany, NJ 07054-4412

Further, pursuant to any statute of any state, territory or district of the United States which makes provision for such designation, the **MEL** hereby designates the Superintendent, Commissioner or Director of Insurance, or other officer specified for that purpose in the statute, or his successor or successors in office, as its true and lawful attorney upon whom may be served any lawful process in any action, **suit** or proceeding instituted by or on behalf of the **Member Entity** or any beneficiary hereunder arising out of the coverage provided by this Policy and hereby designates the **Municipal Excess Liability Joint Insurance Fund**, 9 Campus Drive, Suite 216, Parsippany, NJ 07054-4412 as the entity to whom said officers are authorized to mail such process or a true copy thereof.

All CONDITIONS contained in **underlying insurance** are incorporated herein as if fully set forth herein at length, except as otherwise provided above.

P. **JOINT INSURANCE FUNDS AS ADDITIONAL INSURED**

It is understood and agreed that the **Joint Insurance Fund**, of which the **Member Entity** is a member for the coverage provided under the **Joint Insurance Fund** underlying Commercial General Liability and Business Automobile Liability insurance policies, and the **Municipal Excess Liability Joint Insurance Fund**, are included as **additional insured(s)** for coverage under this policy and for **limits of liability** of no more than \$4,700,000 per **occurrence** and annual aggregate, where applicable, as stated in this policy.

It is also understood and agreed that if any **claim** under this policy is also covered by one or more other policies issued by the **Municipal Excess Liability Joint Insurance Fund**, or by any other policies issued by any other **Joint Insurance Fund** member of the **Municipal Excess Liability Joint Insurance Fund**, then with respect to such **claim**:

1. This **Municipal Excess Liability Joint Insurance Fund** shall not be liable under this policy for a greater proportion of the loss than the applicable **limit of liability** under this policy bears to the total applicable **limits of liability** of all such policies, whether valid or collectible insurance, and
2. The maximum amount payable under all such policies shall not exceed the limit of \$4,700,000; and
3. The **Limits of Liability** shown in the DECLARATIONS fix the most we will pay per **occurrence** or in the aggregate regardless of the number of:
  - (a) Members
  - (b) Insureds
  - (c) **Claims** made or **suits** brought; or
  - (d) Persons or organizations making **claims** or bringing **suits**.

### SECTION III - DEFINITIONS

**A. Certified Acts of terrorism** means:

Any act that is certified by the Secretary of the Treasury, in concurrence with the Secretary of State and the Attorney General of the United States to be an act of terrorism pursuant to the federal Terrorism Risk Insurance Act. The criteria contained in the Terrorism Risk Insurance Act for a "**Certified Act of Terrorism**" include the following:



1. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
2. The act is a violent act or an act that is dangerous to human life, property, or infrastructure and is committed by an individual or individuals; as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

It is further understood that multiple incidents of an acts of terrorism which occur within a seventy-two hour period and appear to be carried out in concert or to have a related purpose or common leadership shall be considered to be one incident.

- B. Costs** means prejudgment and post-judgment interest, investigation, adjustment and legal expenses, including taxed court costs and assessment on bonds for which the **Member Entity** is not covered by **underlying insurance**, excluding, however, all expenses for salaried employees and counsel on general retainer, all office expenses of the **Member Entity** and regular fees paid to counsel on general retainer.

**Costs** incurred by the **Member Entity** with the prior written consent of the **MEL**, shall be apportioned as follows:

1. If a **claim** or **suit** appears likely to exceed the **underlying insurance** limit or limits, no **costs** shall be incurred by the **Member Entity** without prior consent of the **MEL**.
2. If a **claim** or **suit** is settled before going into court for not more than the **underlying insurance** limit or limits, then no **costs** shall be payable by the **MEL**.
3. If the **Member Entity** elects not to appeal a judgment in excess of the **underlying insurance** limit or limits, the **MEL** may elect to conduct such appeal at its own cost and expense and shall be liable for the taxable court costs and interest incidental thereto, but in no event shall the total liability of the **MEL** exceed its limit or **Limits of Liability**, as stated in the DECLARATIONS of this Policy.

- C. Member Entity** means the entity shown in the DECLARATIONS, Item A., of this Policy and persons and entities qualifying as such under the WHO IS AN INSURED Section of **underlying insurance** including any ENDORSEMENTS made a part thereof.

- D. Municipal Excess Liability Joint Insurance Fund and MEL** means the **Municipal Excess Liability Joint Insurance Fund** organized and created pursuant to the provisions of L. 1983, c. 372 (N.J.S.A. 40A:10-36).

- E. Occurrence** means this policy follows the definition of **occurrence** used in all **underlying insurance** identified in Item E of the DECLARATIONS to this Excess Liability Policy.

- F. Ultimate net loss** means the sums not excluded under EXCLUSIONS and actually paid or payable as damages in the settlement or satisfaction of a **claim(s)** for which the **Member Entity** is liable either by



adjudication or compromise with the written consent of the **MEL** after making proper deduction for all recoveries (other than recoveries from underlying insurance) and salvages. **Ultimate net loss** shall not include **costs**.

- G. Underlying insurance** means either (1) the Casualty Insurance Policy of the **Joint Insurance Fund** or the Business Automobile Insurance Policy scheduled in Item E. of the DECLARATIONS, including all ENDORSEMENTS attached thereto, plus the applicable limits of any other underlying protection (whether insurance or self-insurance including any deductible amount or self-insured retention) collectible or payable by the **Member Entity** or (2) the combined coverage of all Policy or policies of insurance scheduled in Item E of the DECLARATIONS, including all ENDORSEMENTS attached thereto, plus the applicable limits of any other underlying protection (whether insurance or self-insurance including any deductible amount or self-insured retention) collectible or payable by the **Member Entity**. **Underlying insurance** also is intended to include any self-insured retention ENDORSEMENT.

All DEFINITIONS contained in **underlying insurance** are incorporated herein as if fully set forth herein at length, except as otherwise provided herein.

#### **SECTION IV - EXCLUSIONS**

The coverage provided by this Excess Liability Policy does not apply to any of the following:

- A. Any **claim** made against the **Member Entity** allegedly due to, based upon, arising out of or directly or indirectly relating to any **occurrence** excluded from coverage under the provisions of the **underlying insurance**;
- B. Any **claim** (except a **claim** for medical expense benefits) under the New Jersey Personal Injury Protection or any **claim** under the New Jersey Uninsured Motorists or Underinsured Motorists ENDORSEMENTS of the **underlying insurance**;
- C. Any **claim** under the **Public Officials and Employment Liability Coverage** policy.

All EXCLUSIONS contained in **underlying insurance** are incorporated herein as if fully set forth herein at length, except as otherwise provided herein.