

## Updates or Changes to the 2024 Public Entity Liability (PEL) Coverage Document

*Please note, this document is provided as information for Members and Brokers. This summary cannot bind or change coverage – the form governs all coverage provisions. Please refer to the form itself and carefully review it to understand coverage.*

### 1. Changes to coverage

The limits for **Additional Coverage B** (Pre-Loss Legal Assistance) are increased to \$5,000 (from \$3,500) per **Occurrence** or **Wrongful Act**, not to exceed \$10,000 (from \$7,500) for each Coverage Period.

Reimbursement of defense costs for **Additional Coverage G, Part G.I.** (Injunctive Relief Defense Reimbursement) and **Part G.II.** (Non-Monetary Relief Defense Reimbursement) are increased to \$75,000 for any one Coverage Period when the **Named Member** tenders the section of the attorney to the **Pool**. Further, these coverage provisions are amended to clarify that the defense must be tendered to the Pool at the time of the commencement of the action in order to qualify for the higher reimbursement of \$75,000. Also, Action or Suit replaced with “action” because the former is a defined term under the Coverage Document and does not properly apply to non-monetary or injunctive relief.

**Additional Coverage K** (Public Relations Expenses) is added, as follows:

The Pool will reimburse the **Named Member**, if approved by the **Claims Administrator** in advance of payment thereof, for the services of a public relations consulting firm for the purpose of averting or mitigating damage to the Named Member’s reputation or brand caused by any potential **Occurrence** or **Wrongful Act** that could lead to a future **Claim, Action or Suit** under this Coverage Document occurring within the Coverage Period. The most the **Pool** will reimburse a **Named Member** for such services is \$25,000 each Coverage Period. The public relations consulting firm shall be approved by the **Claims Administrator**, who, when considering the firm for approval, shall take into account the nature and severity of the event, as well as the cost and quality of the proposed services. Except for a reimbursement for public relations service that are approved in advance under this paragraph, the **Pool** will not be liable for any other costs, expenses, **Loss, Damages**, or liabilities the **Named Member** may incur as the result of negative publicity.

**Additional Coverage L** (Counseling Services) is added, as follows:

The Pool will reimburse the reasonable expenses for **Counseling Services** which are actually incurred for persons affected by any potential **Occurrence** that could lead to a future **Claim, Action or Suit** under this Coverage Document occurring within the Coverage Period.

The most the **Pool** will reimburse for **Counseling Services** is \$5,000 per affected person and \$50,000, in the aggregate, for any one **Occurrence**. The obligation of the **Pool** to reimburse reasonable expenses in excess of any other insurance coverage or benefit that is available to the affected person. The **Pool** will pay only those expenses incurred within one year from the date of the initial **Occurrence**. The **Pool** will make these payments regardless of fault. These payments will not exceed the applicable limit of liability.

As used in this Additional Coverage L, **Counseling Services** means a service provided by a doctor, therapist, counselor, social worker, or other qualified professional who is licensed to diagnose, or to provide therapy, counseling, or other appropriate professional treatment of mental and behavioral health.

## 2. Changes made to provide necessary clarifications

**Coverage E** (Auto Uninsured/Underinsured Motorists Liability) is amended to clarify that Coverage E applies by removing confusing language and double negatives.

**Coverage F** (Medical Payments) and **Coverage G** (Auto Medical Payments) are amended to create parallel reasonable medical and funeral expenses provisions.

**Coverage G** (Auto Medical Payments) is further amended to clarify who is covered, removing confusing phrasing for the first subsection B.1.:

B. Who is covered under this Coverage G:

1. A **Member** while **Occupying** or, while a pedestrian, when struck by, any **Auto** when the **Member** is in the course of employment by the **Named Member** unless the employee is entitled to workers' compensation benefits for the **Occurrence**;

**Coverage G** (Auto Medical Payments) is further amended to codify the current interpretation that coverage does not apply to **Bodily Injury** while **Occupying a Covered Auto** used in any race, professional or not, by striking "professional".

**III. DEDUCTIBLE LIABILITY** is amended to remove a duplicative sentence, as follows:

- A. The obligation of the **Pool** to pay **Damages** on the behalf of a **Member** applies only to the amount of **Damages** for each **Occurrence** in excess of any deductible amount stated on the Declarations or under Additional Coverages.

**Additional Coverage F** (Data Compromise Including E-Commerce Cyber Liability) is amended to clarify the purpose of the coverage, which excludes damage from the negligence or fault of a third party.

The Ninth Exclusion to **Additional Coverage I** (No-Fault Water Intrusion and/or Sewer Back-up) is amended to reword confusing language relating to the **Named Member's** obligation to protect computer systems.

**VI. EXTENSIONS OF COVERAGE**, Subsection A. (Commandeered Property), Subsection B. (Excess Liability), and Subsubsection C.3. (Prior Acts under Prior Claims Made Policies) are amended to clarify the coverage afforded and are not intended to make substantive changes to these provisions. The amendments to Subsection A. are to reorganize the text for better understanding and context of this coverage extension. The amendments to Subsection B. are to make necessary corrections to references and to provide parallel construction in Subsubsection A.1. as in Subsubsection A.2. (Limits of Liability).

**VII. Exclusions**, Subsubsection B.2., which pertains to exception from the exclusion for contract damages for insured contracts; Subsection F., which pertains to exclusions for liability for damages arising from the operation of day care centers, airfields, and ski lift equipment; and Subsubsection AB.3.a., which pertains to bodily injury and/or property damage arising out of planning, construction, maintenance, operation or use of any nuclear facility amended to provide clarifications and are not intended to make substantive changes to the coverage afforded.

**VIII. CONDITIONS**, Subsubsection G.2. (Duties in the Event of an Occurrence, Wrongful Act, Offense, Claim, Action, or Suit) is amended to clarify the obligation to provide documentation and records by removing confusing and outdated language.

### 3. New or Updated Definitions

**H. Claims Management Committee** means the Claims Management Committee established by the **Pool** Board of Directors. The three-person committee consists of one member each from senior staff of the **Pool** Administrator, **Pool Claims Administrator**, and **Pool** General Counsel.

**I. Commandeered Property** means the property that the **Member** does not own but commandeers, seizes, borrows, or takes over for official use to manage **Emergency Operations**, including but not limited to: real property; motor vehicles; watercraft; all-terrain vehicles; snowmobiles; animals; and other personal property but not including any aircraft or any aircraft parts, accessories or equipment.

Several amendments are provided to definitions pertaining to autos, which are revised for clarity are not intended to modify coverage under the PEL Coverage Document. These changes include the deletion of the imbedded definitions of **Owned Auto**, **Hired Auto**, and **Non-Owned Auto**

within the definition of **Covered Auto**. The definition of **Covered Auto** (definition **K**) is amended accordingly and separate provisions for **Hired Auto** (definition **T**), **Non-Owned Auto** (definition **AB**), and **Owned Auto** (definition **AF**) are inserted as stand-alone definitions.

4. Changes made for formatting, grammar, or consistency

All inconsistent internal references are made uniform, inserting parenthetical titles when internal references that are not in context, making other internal references consistent for better comprehension, and making any necessary corrections to internal reference numbers, letters, or terms.

Other minor, non-substantive grammar or formatting changes are made for purposes of consistency.

5. Changes to update procedures

**VIII. CONDITIONS** is updated by adding **A.** (Transfer of Recovery Rights Against Others to **Pool**) and amending **B.** (Subrogation and Recoveries). These changes are intended to clarify confusing language, codify current practice and interpretation, and provide clear procedures relating to payment recovery, allocation of recovered payments, and subrogation obligations.

**IX.** (Dispute Resolution; Arbitration) is inserted, which incorporates provisions of the Pool IGA/Agreement, and the policy and procedures relating to first party coverage or denial disputes.