



**NEW MEXICO
COUNTIES**
33 STRONG

**New Mexico County Insurance Authority
(NMCIA)**

Multi-Line and Law Enforcement Program

COVERAGE AGREEMENT

Effective: January 1, 2020-January 1, 2021

New Mexico County Insurance Authority
Multi-Line and Law Enforcement Program

2020 Coverage Agreement

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**New Mexico County Insurance Authority
Multi-Line and Law Enforcement Program**

Member Coverage Agreement

January 1, 2020

Part I

A. General Coverage Declarations

The New Mexico County Insurance Authority (NMCIA) Pool (the "Pool") is a risk sharing arrangement among New Mexico county governments. The **Pool** was formed pursuant to the provisions of the Joint Powers Act, Section 11-1-1 et. seq. NMSA 1978, as amended, and through the Bylaws and Joint Powers Agreement signed by its members. The purposes of the **Pool** is to provide a multi-line program for property and casualty coverages, and a law enforcement program and to assist members in controlling costs by providing specialized governmental risk management services and systems.

The purpose of this Coverage Agreement is to describe the property, liability and law enforcement coverages provided to its **Named Members** through the **Pool**. The coverages, deductibles and limitations are unique to the **Pool** and may not be available elsewhere through private or commercial insurance.

It is the intent of the **Pool** to provide the property, liability and law enforcement coverages outlined in this Coverage Agreement to each **Named Member** and those who work for them or on their behalf in accordance with the laws of the State of New Mexico. This Coverage Agreement was created to eliminate misunderstandings regarding coverage; to avoid coverage disputes; to clarify responsibilities during the claims handling process; and to provide the **Named Members** with a document that easily identifies what is and is not covered.

B. Limits

Property

Deductible: See Endorsement 7

See Attachment 1 for Limits, Terms, Conditions, Coverages, Exclusions

Crime

See Attachment 2 for Limits, Terms, Conditions, Coverages, Exclusions

THE FOLLOWING COVERAGES ARE PROVIDED ON A CLAIMS MADE BASIS

Liability and Automobile Liability

<p>Liability Coverage Section A – General Liability Section B – Employment Practices Liability Section C – Public Officials & Errors and Omissions Section D – Employee Benefits Liability:</p> <p>Automobile Liability</p>	<p>Third-party liability including Bodily Injury, Property Damage, Personal Injury, Wrongful Acts and Errors & Omissions.</p> <p>Third-party liability including Bodily Injury, Property Damage</p>
<p>Form:</p>	<p>Claims-Made</p>

Coverage Parts	Limit	Terms
<p>State Tort Claims Act Limits</p> <p>Aggregate</p>	<p>\$ 400,000</p> <p>\$ 200,000</p> <p>\$ 750,000</p> <p>\$ 300,000</p> <p>\$ 1,050,000</p>	<p>Bodily Injury, Personal Injury Per Person/Per Occurrence Property Damage per property address/Per Occurrence Total liability limit for Bodily Injury, Personal Injury and Property Damage combined, Per Occurrence Medical Expenses /Per Occurrence Combined Limit/Per Occurrence</p>
<p>Out of State, Federal and Sovereign Nations Coverage, including Public Officials Errors & Omissions and Employee Benefits Liability and Employment Practices Liability</p>	<p>\$5,000,000 per Occurrence/ (reinsurance liability subject to \$10,000,000 annual aggregate per member; and reinsurance liability is limited to a \$20,000,000 all members combined annual aggregate)</p>	

Premises Medical	\$ 10,000 \$ 150,000	Per Person Per Occurrence
Sexual Abuse Defense Civil Defense Costs Only	\$50,000 per perpetrator/\$100,000 per County/annual aggregate, subject to \$500,000 annual aggregate applicable to all members.	
Sexual Abuse Shared Liability	75% Pool / 25% Member split of settlement or judgment payments between Pool and Named Member after the application of the deductible Per Occurrence	
Injunctive Relief Defense	\$10,000 per claim for defense costs ONLY	
Strip Searches	\$250,000 per occurrence/\$1,000,000 pool aggregate for any cost or liability arising from a lawsuit or other proceeding brought on behalf of a class of claimants that alleges unlawful strip searches. This sublimit applies even if the lawsuit alleges negligence or other wrongdoing in the establishment of policies, procedures or guidelines concerning strip searches, or negligence or other wrongdoing in the hiring, employment, training, supervision or monitoring of any person.	
IPRA Defense	Sublimit \$75,000	Plaintiff's Attorney's Fees and Costs Per Person/Per Occurrence
Automobile Medical Payments	\$ 10,000 \$ 150,000	Per Person Per Occurrence
Automobile First Party Deductibles	See Endorsement 7	
Liability and Automobile Liability Coverage Deductibles	See Endorsement 6	Per Occurrence
Whistleblower Protection Act	Sublimit \$100,000	The double back pay portion of a judgment rendered by a court or jury. Per Occurrence
The above Coverages and Limits are subject to the New Mexico Tort Claims Act where applicable.		
The above Coverages and Limits are per Occurrence , except where otherwise noted.		

Law Enforcement Liability

Coverage Law Enforcement Liability	Third-party liability including Bodily Injury, Personal Injury and Property Damage	
Form:	Claims Made	
Coverage Parts	Limit	Terms
State Tort Claims Act Limits	\$ 400,000	Bodily Injury, Personal Injury Per Person Property Damage per Property Address Total liability limit for Bodily Injury, Personal Injury and Property Damage combined, Per Occurrence Medical Expenses Combined Limit Except as otherwise limited by Endorsements LE-4, LE-5 and LE-6
	\$ 200,000	
	\$ 750,000	
Aggregate	\$ 300,000	
	\$ 1,050,000	
Out of State, Federal and Sovereign Nations Coverage	\$5,000,000 per occurrence/ (reinsurance liability subject to \$10,000,000 annual aggregate per member; and reinsurance liability is limited to a \$15,000,000 all members combined annual aggregate)	Except as otherwise limited by Endorsements LE-4, LE-5 and LE-6
Member's Deductible	See Endorsement LE-3	Per Occurrence

<p>Sexual Abuse Defense Civil Defense Costs Only</p> <p>Sexual Abuse Shared Liability</p>	<p>\$50,000 per perpetrator/\$100,000 per County/annual aggregate, subject to \$500,000 annual aggregate applicable to all Members</p> <p>75% Pool / 25% Member split of settlement or judgment payments between Pool and Named Member after the application of the deductible Per Occurrence</p>
<p>Strip Searches</p>	<p>\$250,000 per occurrence/\$1,000,000 pool aggregate for any cost or liability arising from a lawsuit or other proceeding brought on behalf of a class of claimants that alleges unlawful strip searches. This sublimit applies even if the lawsuit alleges negligence or other wrongdoing in the establishment of policies, procedures or guidelines concerning strip searches, or negligence or other wrongdoing in the hiring, employment, training, supervision or monitoring of any person.</p>
<p>The above Coverages and Limits are subject to the New Mexico Tort Claims Act where applicable.</p> <p>The above Coverages and Limits are per Occurrence, except where otherwise noted.</p>	

C. Named Member: See Schedule A

Address: See Schedule A

Agreement Period

From: January 1, 2020 To: January 1, 2021
at 12:01 a.m. local time at the **Named Member's** address shown above.

**D. Retroactive Date:
March 21, 2001, unless otherwise endorsed.**

Part II – Coverage Conditions

A. Limits of Liability

1. The **Pool's** liability for **Money Damages** as the result of any one **Occurrence** is limited as described in the Limits of Coverage of this **Agreement** less the amount of the **Member's** deductible.

For the purpose of determining the limit of liability, all **Money Damages** arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one **Occurrence**.

2. **The Pool Will Pay With Respect to any Claim or Suit It Defends**

- a. All expenses the **Pool** incurs, including all claims expenses as defined in General Definitions, Part IV, "**Claims Expenses**".
- b. The cost of bonds to release attachments and appeal bonds required in any suit the **Pool** defends, but only for bond amounts within the applicable Limit of Insurance. The **Pool** does not have to furnish these bonds.
- c. All reasonable expenses incurred by the **Member** at the **Pool's** request to assist the **Pool** in the investigation or defense of the **claim** or suit. Such expenses do not include salaries of officials or employees of the **Member**.
- d. All costs assessed against the **Member** in the suit, unless otherwise excluded.
- e. Pre-judgment interest awarded against the **Member** on that part of the judgment the **Pool** pays. If the **Pool** makes an offer to pay the applicable Limit of Insurance, the **Pool** will not pay any pre-judgment interest based on that period of time after the offer.
- f. All interest on the full amount of any judgment that accrues after entry of the judgment and before the **Pool** has paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Insurance.
- g. Expenses incurred by the **Member** for first aid to others at the time of an **occurrence**, for **bodily injury** to which this **Agreement** applies.

3. **Deductible** - at the option and discretion of the **Pool**, the **Pool** may pay all or part of the deductible amounts to effect settlement and upon notification to the **Named Member**. **Named Member** shall promptly reimburse the **Pool** for all such expenditures.

4. **Attorney Fees** -Defense attorneys fees and costs are within the policy limits.

B. Contribution Payments

Contributions are determined by the **Pool Board** based upon current underwriting information.

C. Territorial Scope

This coverage applies to **Occurrences** worldwide for which any **Claim** is made or suit is brought and maintained in the United States.

D. Clash Coverage

In the event a **Claim** is brought which could fall under more than one coverage section of this **Agreement**, regardless of the number of claimants or defendants, only one coverage section will apply, and only one occurrence limit shall apply. The coverage section with the highest limit will be the applicable coverage section.

E. Arbitration

In the event the **Member** and the **Pool** are unable to agree on any matter concerning this **Agreement**, including but not limited to coverage issues, the dispute shall be resolved through arbitration, not litigation. Either party may issue a written demand for arbitration within 90 days of the event triggering the arbitration request. The **Member** and the **Pool** shall agree on the selection of an arbitrator. If they cannot agree within 30 days, either party shall select an arbitrator and the two arbitrators shall select a third arbitrator to constitute a panel. Each party will pay the attorneys' fees and expenses it incurs and share the expenses of the arbitrator(s) equally. The **Member's** portion of the arbitrator's fee shall not accrue to or be payable by the **Pool**.

Both parties shall agree upon the location of the arbitration; if they cannot agree, the selected arbitrator shall determine the location. Local (State District Court) rules as to arbitration procedure and evidence will apply. The arbitrator's decision will be binding and that judgment may be entered in any court of competent jurisdiction. Any decision of the arbitrator(s) shall be non appealable and binding on all parties.

F. Termination/Suspension of Coverage/Withdrawal

Any **Named Member** may withdraw from the **Pool** at the end of any fiscal year (January 1 to December 31 each year) by giving at least 120 days prior written notice to the **Pool Board**. The withdrawn **Named Member** is not entitled to any reimbursement of contributions that are paid or become payable in the future, and shall continue to be obligated to make payment for which an obligation arose prior to withdrawal. In addition, the withdrawn **Named Member** shall forfeit all rights to any future distribution of equity.

A **Named Member** may be expelled in accordance with the **Pool's** Bylaws and Joint Powers Agreement.

The **Pool Board** may decline to offer renewal coverage on a particular line of coverage, or a portion of a line of coverage, at the end of any fiscal year upon 120 days notice to the affected member.

The **Pool Board** may suspend coverage of a **Named Member** for failure to make any payments due to the **Pool** or for other failings outlined in the **Pool's** Bylaws and Joint Powers Agreement. The **Named Member** shall be given a reasonable opportunity, of not less than 30 days to remedy the alleged failure.

G. Claims Process

1) Members shall immediately notify the **Pool's** claims administrator in writing, but in no event not later than ten (10) business days from the date of knowledge of an **Occurrence**, which may result or is likely to result in a **Claim**. Notice shall include how, when and where the **Occurrence** took place; the names, addresses and telephone numbers of any injured persons and witnesses; and the nature and location of any injury or damage arising out of the **Occurrence**. Notice of an **Occurrence** is not notice of a **Claim**.

- 2) If a **Claim** is received by any **Member**, the **Member** shall immediately record the specifics of the **Claim** and the date received and shall immediately notify the **Pool's** claims administrator in writing, but in no event not later than ten (10) business days.
- 3) The **Member** shall:
 - a. Immediately send the **Pool's** claims administrator copies of any demands, notices, summonses or legal papers received in connection with the **Claim** or suit; and
 - b. Authorize the claims administrator to obtain records and other information; and
 - c. Assist the **Pool**, upon its request, in the enforcement of any right against any person or organization which may be liable to the **Member** because of injury or damage to which this **Agreement** may also apply.
 - d. **Named Member** shall pay deductibles to NMCIA within 30 days of receipt of invoice.
- 4) No **Member** shall voluntarily make a payment, assume any obligation or incur any expense, other than for first aid or other bona fide emergency, without the **Pool's** written consent or in any way bind or obligate **NMCIA**.
- 5) The **Member** shall promptly take at its own expense, except as otherwise provided in this **Agreement**, all reasonable steps to prevent additional injury or damage from or arising out of the same or similar conditions at the same location where the initial injury or damage occurred. Any such expense shall not be recoverable under this **Agreement**.
- 6) A **Member** shall also fully cooperate with the **Pool's** investigation, settlement or defense including if asked to enforce any right against anyone or any organization that may be liable to a **Member** because of a covered injury or damage.
- 7) **Named Member** acknowledges and agrees that **NMCIA** has the sole authority to make representations, voluntarily make payments, assume obligations, or incur expenses.
- 8) **Members** shall not discuss any **Claim** with anyone other than **NMCIA**, defense counsel, anyone **NMCIA** deems necessary to the proper administration or defense of a **Claim**, or as required by law or contract.
- 9) Failure to comply with any of the above 1 through 8 shall constitute a breach of this **Agreement** and may result in sanctions being taken against the **Member** including without limitation a **Claim** denial and no further obligation for the **Pool** to defend or indemnify the **Member** for this **Claim**.

H. **Due Diligence**

The **Member** shall use due diligence and take all reasonable and practical steps to avoid or diminish any loss of or damage to the property insured.

I. **Inspections, Audits and Verification of Values**

The **Pool** or its authorized representatives may inspect the premises used by the **Members** and audit **Member's** books or records at any time during the term of this **Agreement** or within three (3) years after its expiration or termination. There is no time limit for auditing the **Member's** books or records with respect to **Claims** under this **Agreement**.

J. Other Insurance

If **Member** has other insurance, or is named as an additional insured on another policy against loss or damage covered under this **Agreement**, the **Pool** is liable under the terms of this **Agreement** only as excess of coverage provided by another insurance policy. However, this clause does not apply to the purchase of excess insurance or reinsurance above the excess limits of insurance stated in this **Agreement**.

K. Subrogation, Salvage and Recovery

The **Pool** shall be subrogated to all rights which the **Member** may have against any person or other entity in respect to any **Claim** or payment made under this **Agreement** and the **Member** shall execute all papers required by the **Pool** and shall cooperate with the **Pool** to secure the **Pool's** rights. If any reimbursement is obtained, or salvage or recovery made by the **Member** or the **Pool** on account of any loss covered by the **Pool**, the net amount of such reimbursement, salvage or recovery, after deducting the actual cost of obtaining or making the same, shall be first applied to the following order:

1. To the amount of loss which has been paid by the excess insurer or reinsurer and which exceeds the applicable excess limits;
2. To reduce the **Pool's** loss until the **Pool** is fully reimbursed;
3. To reduce the **Named Member's** loss because of the application of the deductible.

L. Waiver of Subrogation

This coverage shall not be invalidated if the **Member**, by written agreement, has waived or shall waive its right of recovery from any party for loss or damage covered hereunder; provided that any such waiver is made prior to the **Occurrence** of the loss or damage and with the prior written approval of the **Pool**.

M. Fraudulent Claims

If a **Member** makes a **Claim** knowing the **Claim** to be false or fraudulent, coverage shall become void and the **Claim** shall be denied.

N. Optional Extended Reporting Period

In the event of expulsion, withdrawal or non-renewal of this **Agreement** by the **Pool** or the **Member**, the **Member**, upon payment of an additional contribution to be determined by the **Pool**, shall have the right to extend the period in which a **Claim** which arose during the **Agreement** period, may be reported by the **Named Member** against the **Pool**. Such extended reporting period shall be for a period to be determined by the **Pool** after the expiration date of this **Agreement**, and is only for reporting claims that occurred during the **Agreement** period. The rights contained in this paragraph shall terminate, however, unless written notice of such election, together with the additional contribution due is received by the **Pool** within thirty (30)

days after the effective date of cancellation or non-renewal. The additional contribution for the optional extended reporting period shall be fully earned at the inception of the optional extended reporting period. The optional extended reporting period is not cancelable. This clause and the rights contained herein shall not apply to any cancellation resulting from non-payment of contribution.

The extended reporting period does not apply to **Claims** that are covered under any subsequent coverage which a **Member** purchases or that would have been covered but for exhaustion of the amount of coverage applicable to those **Claims**.

The optional extended reporting period does not reinstate or increase the Limits of Coverage.

O. Multiple Claims or Claimants

The making of more than one **Claim** or the bringing of suits by more than one person or organization shall not operate to increase Limits of Coverage. Two or more **Claims** arising out of a single **Wrongful Act** or series of related **Wrongful Acts** shall be considered first made during the coverage period, or extended reporting period if purchased, in which the earliest **Notice of Claim** arising out of such **Wrongful Act** or related **Wrongful Acts** was first made and all such **Claims** shall be subject to the same Limits of Coverage.

P. Non-Waiver Of Rights

Failure by the New Mexico County Insurance Authority **Pool** to enforce any provision of this **Agreement** shall not be interpreted as a waiver of such provision or any other provision or any existing or future rights or privileges under this **Agreement**. The terms and conditions of this **Agreement** may be strictly enforced at any time despite any past or subsequent failure to do so by the **Pool**.

Part III – General Coverage Exclusions

The following exclusions apply to all coverages described in this **Agreement**. This **Agreement** does not provide coverage for:

1. Loss, damage or any type of **Claim**, including mysterious disappearance, caused by or resulting from fraudulent or dishonest acts committed by the **Member**, whether working alone or with others, except as provided in Section VI - Crime;
2. Expenses from any cost, civil fine, penalty, sanctions or expense against any **Member** for any compliance or enforcement action from any federal, state or local governmental regulatory agency, court or any alternative dispute resolution process;
3. Any **Claim** for front pay, back pay or other incidents of compensation or benefits due no matter how characterized to a **Named Member's** employees unless provided otherwise by sublimit or endorsement;
4. Any **Claim** arising from **Law Enforcement Activities**, except as provided in Part IX -- Law Enforcement Coverage;
5. Any **Claim** arising out of hospital, nursing home or clinic malpractice, malpractice by a physician, medical doctor, osteopath, chiropractor, resident,

extern, intern, psychiatrist, pharmacist, dentist, orthodontist, periodontist, or psychologist.

6. Any obligation for which the **Member** may be held liable under any workers' compensation, occupational disease, unemployment compensation, disability benefits law, employers' liability or under any similar law or to bodily injuries to any employee or to any liability for indemnity or contribution brought by any party for bodily injuries to any employee.
7. Any **Claim** arising from administrative proceedings, declaratory and/or injunctive relief, except as otherwise provided by endorsement.
8. Any **Claim or Suit** arising from any criminal penalties imposed, or provided for, pursuant to any federal, state, or local law, statute, ordinance, or regulation, however characterized.
9. Except as otherwise provided by endorsement, any **Claim** arising out of the operation of the principles of eminent domain, condemnation proceedings or claims, inverse condemnation proceedings or claims, regulatory taking by whatever name called, land use actions, zoning, rezoning or failure to zone, whether that liability accrues directly against the **Member** or by virtue of any agreement entered into, by or on behalf of the **Member**. Claims alleging civil rights violations arising out of any of the listed proceedings are also excluded. However, liability coverage under this **Agreement** is provided for monetary damages arising from a decision by the **Member** or its officers, agents or employees to issue or not issue building or construction permits, certificates of occupancy, business licenses, alcoholic beverage licenses or other permits and licenses that the **Member** is authorized by law to issue.
10. **Bodily Injury, Personal Injury, Property Damage** or any type of damage whatsoever to the property of the **Member** due to war, either directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, any weapon of war employing atomic fission or radioactive force whether in time of peace or war, hostilities (whether war was declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority.
11. **Bodily Injury, Personal Injury, Property Damage** . Except as otherwise provided by endorsement, any **Claim** arising out of **Bodily Injury, Personal Injury, Property Damage** or any type of damage whatsoever, including the loss of use or any other type of loss or damage caused by the discharge, dispersal, release, escape, migration, or seepage of any solid, liquid, gaseous or thermal irritant, contaminant, or pollutant, including soil, silt, sedimentation, smoke, soot, vapors, fumes, acids, alkalis, chemicals, electromagnetic fields (EMFs), hazardous substances, hazardous materials, waste materials, "low-level radioactive waste", "mixed waste" and medical, red bag, infectious or pathological wastes, on, in, into, or upon land and structures thereupon, the atmosphere, surface water, or groundwater.
12. **Bodily Injury, Personal Injury, Property Damage** or any other type of damage whatsoever, directly or indirectly caused by the presence of asbestos or lead in any form. This exclusion applies to **Claims** alleging wrongful acts or public officials' errors or omissions resulting in the presence of asbestos or lead.
13. **Intentional Acts.** Any **Claim** or **Suit** for:

- a. **Bodily Injury** or **Property Damage** that is intended or expected from the standpoint of the **Member**, even if the **Bodily Injury** or **Property Damage** is of a different kind or degree, or is sustained by a different person, than intended. This exclusion shall not apply to **Bodily Injury** or **Property Damage** resulting from the use of reasonable force to protect persons or property, including excessive force claims under **Law Enforcement Liability**. However, if any law enforcement **Member** is found or adjudicated to have, or admits to, or pleads no contest to, committing a criminal act, the **Pool** will have no obligation to provide a defense or pay **Money Damages** on behalf of such **Member**; or
 - b. **Personal Injury** caused by or at the direction of a **Member** with the knowledge that the act would violate the rights of another; or
 - c. **Wrongful Acts**, errors or omissions that are dishonest, fraudulent, criminal or malicious.
14. Any **Claim** or **Suit** for criminal proceedings and criminal defense costs, except as specifically provided in this **Agreement**, including but not limited to those:
- a. Arising from any criminal charges or proceedings against any **Member**;
 - b. Arising out of any malfeasance of office or willful and deliberate violation of any statute, regulation or ordinance;
 - c. Arising from any other dishonest or fraudulent acts committed by any **Member**, whether working alone or with others.
15. Loss or damage caused by or resulting from moth, vermin, termites or other insects, inherent vice, latent defect, wear, tear or gradual deterioration, evaporation, contamination, rust, wet or dry rot, mold, **Fungi**, **Organic Pathogen**, dampness or atmosphere, smog, extremes of temperature or loss or damage by settling for any reason, including movement of any kind, shrinkage or expansion in building or foundation, floor or ceiling.
16. Any **Claim** arising out of **Cyber Liability**, except as provided in Part X – Cyber Liability Coverage;
17. Any **Claim** arising out of the ownership, maintenance, loading or unloading, entrustment to others, use or operation of any aircraft, airfields, runways, hangars, buildings or other properties in connection with aviation activities, and any liability arising out of the maintenance, operation or use of watercraft over 26 feet in length or watercraft used to carry persons or property for a charge. This exclusion applies even if the **Claims** against any **Member** allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by the **Member**.
18. Any **Claim** or **Claims** for **Bodily Injury** or **Personal Injury** relating to:
- a. Human Immune Deficiency Virus (HIV);
 - b. Acquired Immune Deficiency Syndrome Related Complex (ARC);
 - c. Acquired Immune Deficiency Syndrome (AIDS);
 - d. Any virus, complex or syndrome that is related to the foregoing;

EXCEPT this exclusion does not apply to any actual or alleged discrimination based on the actual or alleged contraction of any of the foregoing as covered under Part VII (B) – Public Officials Errors and Omissions.

19. Any **Claim** based upon the **Member's** failure to comply with the Federal Employee Retirement Income Security Act of 1974 (ERISA), including subsequent amendments or any similar federal, state or local law or regulations;
20. Any **Claim** arising out of investment activities or the administration of self-insurance funds, except as covered in Part VI – Crime or Part VII, Item C., Employee Benefits Liability;
21. **Bodily Injury, Personal Injury, Property Damage** or any type of damage whatsoever resulting directly or indirectly from atomic or nuclear incidents, the hazardous properties of nuclear material, the preparation or operation of any site or location used in the storage of or disposal of nuclear material or nuclear waste, atomic or nuclear reaction, radiation, or radioactive contamination, however caused or characterized, including any loss or damage by fire resulting therefrom.
22. Any investigatory, disciplinary or criminal proceedings against an individual **Member or Named Member**, except that the **Pool** may at its own option assign counsel in the defense of any such investigatory, administrative or disciplinary proceeding. Should the **Pool** elect to assign counsel that shall not constitute a waiver or estoppel of any rights the **Pool** may have pursuant to the terms, conditions, exclusions, and limitations of this **Agreement**.
23. Any **Claim** arising out of a breach of contract other than an employment contract. Employment contracts do not include collective bargaining agreements.
24. Any **Claim** seeking relief or redress, in any form other than **Money Damages**, and for fees or expenses relating to **Claims**, demands or actions seeking relief in any form other than **Money Damages**, unless otherwise provided by endorsement. This exclusion includes but is not limited to all costs incurred to comply with injunctive relief ordered under the Americans with Disabilities Act but shall not apply to **Claims** for monetary damages under the Americans with Disabilities Act.
25. Medical or hospital expenses or costs incurred by the **Named Member** in providing or furnishing medical aid or treatment to an inmate or detainee at a jail or correctional facility as a result of the **Named Member's** statutory or constitutional obligation to furnish medical or hospital care to an inmate or detainee within its physical custody.
26. Any **Claim** for which the **Member** is entitled to indemnity and/or payment by reason of having given notice of any circumstances which might give rise to a **Claim** under any agreement or agreements the term of which has commenced prior to the inception date of this **Agreement**.
27. **Sexual Abuse**. Any act or the participation in any act, whether alleged criminally or civilly of **Sexual Abuse** of any person by any **Member**; except as otherwise provided by Endorsement 8. This exclusion does not apply to **Claims** against any **Member** alleging negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that **Member**.

28. Punitive Damages.
29. Any **Claim**, including, but not limited to, a counter-claim or cross-claim by a **Member** against any other **Member**, whether or not the **Members** are related to the same **Named Member**, for anything other than Property Damage and Employment Practices Liability.
30. Any **Claim** related to the operation or administration of a detention center when said detention center is operated or administered by anyone other than a **Named Member** is excluded from **Law Enforcement Liability** coverage (Part IX, supra) under this **Agreement**. This exclusion does not apply when a **Named Member** participates in the operation or administration of the detention center through a Joint Powers Agreement with other local governments **and** the detention center's employees are employees of the **Named Member**.
31. Any cost, **Money Damages**, civil fine or penalty against any **Member** for any compliance or enforcement action regarding any tax, including allegations of over-assessment of taxes;
32. **Money Damages** assessed under the Inspection of Public Records Act that are required by statute to be paid from funds of the public body.
33. All loss, cost or expense arising out of or related to, either directly or indirectly, any "Terrorist Activity" as defined herein, and any action taken to hinder, defend against or respond to any such activity. This exclusion applies regardless of any other cause or event that in any way contributes concurrently or in any sequence to the loss, cost or expense.
 - a. "Terrorist Activity" shall mean any deliberate, unlawful act that:
 - i. is declared by any authorized governmental official to be or to involve terrorism, terrorist activity or acts of terrorism; or
 - ii. includes, involves, or is associated with the use or threatened use of force, violence or harm against any person, tangible or intangible property, the environment, or any natural resources, where the act or threatened act is intended, in whole or in part, to
 1. promote, further or express opposition to any political, ideological, philosophical, racial, ethnic, social or religious cause or objective; or
 2. influence, disrupt or interfere with any government related operations, activities or policies; or
 3. intimidate, coerce or frighten the general public or any segment of the general public; or
 4. disrupt or interfere with a national economy or any segment of the national economy; or
 - iii. includes, involves, or is associated with, in whole or in part, any of the following activities, or the threat thereof:
 1. hijacking or sabotage of any form of transportation or conveyance, including but not limited to spacecraft, satellite, aircraft, train, vessel, or motor vehicle;
 2. hostage taking or kidnapping;

3. the use or threatened use of, or release or threatened release of any nuclear, biological, chemical or radioactive agent, material, device or weapon;
 4. the use of any bomb, incendiary device, explosive or firearm;
 5. the interference with or disruption of basic public or commercial services and systems, including but not limited to the following services or systems: electricity, natural gas, power, postal, communications, telecommunications, information, public transportation, water, fuel, sewer or waste disposal;
 6. the injuring or assassination of any elected or appointed government official or any government employee;
 7. the seizure, blockage, interference with, disruption of, or damage to any government buildings, institutions, functions, events, tangible or intangible property or other assets; or
 8. the seizure, blockage, interference with, disruption of, or damage to tunnels, roads, streets, highways, or other places of public transportation or conveyance.,
- b. Any of the activities listed in section a. (iii) above shall be considered "Terrorist Activity" except where the **Named Member** can demonstrate to the **Pool** that the foregoing activities or threats thereof were motivated solely by personal objectives of the perpetrator that are unrelated, in whole or in part, to any intention to
- i. promote, further or express opposition to any political, ideological, philosophical, racial, ethnic, social or religious cause or objective; or
 - ii. influence, disrupt or interfere with any government related operations, activities or policies; or
 - iii. intimidate, coerce or frighten the general public or any segment of the general public; or
 - iv. disrupt or interfere with a national economy or any segment of a national economy.
34. Any **Claim** arising out of the igniting or discharging of fireworks in conjunction with any display, demonstration or show on privately owned property. Fireworks include but are not limited to firecrackers and all aerial or ground displays.

Part IV – General Definitions

"Accident" means an event or **Occurrence**, including continuous and repeated exposure to the same general harmful conditions, which occurs on or after the retroactive dates attached to this **Agreement** and which results in **Bodily Injury, Personal Injury or Property Damage**. If the **Bodily Injury, Personal Injury** or and **Property Damage** result from the same **Occurrence**, it shall be treated as resulting from one **Accident**.

"Agreement" or **"Coverage Agreement"** means the **Coverage Agreement** created to describe the property, liability and law enforcement coverages provided to the **Named Members** of the **Pool**.

"Automobile" means any motor vehicle intended or designed for travel on public roads, and trailers or semi-trailers, including their equipment and any other equipment permanently attached to it, but **Automobile** does not include **Mobile Equipment**. However, self-propelled vehicles with the following types of permanently attached equipment are considered **Automobiles**: equipment designed primarily for snow removal; equipment designed primarily for road maintenance, but not construction or resurfacing; equipment designed primarily for street cleaning; cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and air compressors, pumps, and generators, including spraying, welding building cleaning, geophysical exploration, lighting, and well servicing equipment.

"Bodily Injury" means physical injury (including death) to any person, and any mental anguish or shock, sickness, disease, disability or death associated with or arising from that physical injury. **Bodily Injury** also includes battery.

"Claim" is a demand for **Money Damages** resulting from an **Occurrence** for which a **Member** seeks coverage under this **Agreement**.

"Claims Expense" includes hospital, medical and funeral charges and all sums paid as fees, charges and legal costs, premiums on attachment or appeal bonds, interest, expenses for doctors, lawyers, nurses and investigators, and for litigation, settlement, adjustment and investigation of **Claims** and lawsuits which are paid as a consequence of any **Occurrence** covered by this **Agreement**. **This Agreement does not cover any claim for front pay, back pay or other incidents of compensation or benefits due to a Named Member's employees.**

"Cyber Liability" means any liability resulting from the unauthorized access, unauthorized use, receipt or transmission of a malicious code or denial of service attack, arising out of a **Member's** business operations which:

1. Alters, copies, misappropriates, corrupts, destroys, disrupts, deletes, damages or prevents, restricts or hinders access to, a Computer System, including data stored on a third party's Computer System;
2. Results in the disclosure of private or confidential information stored on a Computer System;
3. Results in identity theft

Whether any of the foregoing is intentional or unintentional, malicious or accidental, fraudulent or innocent, and regardless of whether the perpetrator is motivated by profit.

As used herein, Computer System shall mean computers and associated input and output devices, data storage devices, networking equipment, and back up facilities:

1. operated by and either owned by or leased to the **Member**; or
2. systems operated by a third party service provider and used for the purpose of providing hosted computer application services to the **Member** or for processing, maintaining, hosting or storing the **Member's** electronic data, pursuant to a written agreement or contract with the **Member** for such services.

“Deductible” means the amount the **Named Member** is legally obligated to reimburse the Pool before the Pool incurs liability. The deductible applies to all costs, fees and expenses incurred by the Pool for any claim.

“Employee Benefit Programs” means group life insurance, group accident or health insurance, pension plans, profit sharing plans, employee savings and investment plans, employee stock subscription plans, travel or vacation plans, workers' compensation, unemployment insurance, social security, disability benefits insurance, employee welfare benefit plans and welfare plans, and any other similar employee benefit programs.

“Employment Practices Liability Wrongful Act” means an allegation of improper:

1. Refusal to employ;
2. Termination of employment;
3. Practices, policies, acts or omissions such as coercion, demotion, failure to promote, evaluation, supervision, reassignment, discipline, humiliation, libel, slander, defamation of character, harassment (however characterized), including violations of civil rights including discrimination by the **Member**, which are employment related;
4. Selection, supervision or dismissal of any **Member**.
5. Retaliation

“Fungi” shall mean any form of fungus including, but not limited to, yeast, mold, mildew, rust, smut, mushroom, spores, mycotoxins, odors, or any other substances, products, or byproducts produced by, released by, or arising out of the current or past presence of **Fungi**.

“Law Enforcement Activities” means the activities of any **Member** while acting as a law enforcement official, officer, reserve officer, detention officer, employee, or volunteer of a law enforcement agency or department or detention facility of the **Named Member**. **Law Enforcement Activities** also includes any activities of any **Member** in the hiring, training, supervising, or in any way related to a **Claim** or **Suit** involving **Law Enforcement Activities** whether or not the claimed offender is a law enforcement official, officer, reserve officer, detention officer, employee, or volunteer of a law enforcement agency or department or detention facility of the **Named Member**. **Law Enforcement Activities** do not include employment practice violations even if they involve law enforcement personnel. **Law Enforcement Activities** include the rendering or failure to render medical care to inmates or detainees at a county detention facility. With regard to **Claims** involving **Automobiles**, the cause of action or nature of the **Claim** will determine whether Law Enforcement, **Automobile** Liability or General Liability coverage applies.

“Law Enforcement Liability” means liability incurred due to law enforcement activities, specifically for actions for which immunity is waived under the New Mexico Tort Claims Act, and or for civil rights violations.

“Member” means not only the **Named Member** County but also any official, trustee, director, officer, partner or employee of the **Named Member** while acting within the scope of his or her duties as such; any volunteer acting for or on behalf of the **Named Member**, provided that individual has been authorized to act on behalf of the **Named Member** by an official, director or supervisory officer of the **Named Member**; and any person or

organization, to whom the **Named Member** is obligated by virtue of written contract or agreement to provide coverage such as is offered by this **Agreement**, but only in respect to operations by or on behalf of the **Named Member**. Also, for **Automobile Liability**, see Part VIII, **Definitions**.

"Mobile Equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

1. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
2. Vehicles maintained for use solely on or next to premises the **Named Member** owns or rents;
3. Vehicles that travel on crawler treads;
4. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted power cranes, shovels, loaders, diggers or drills or to road construction or resurfacing equipment such as graders, scrapers or rollers;
5. Vehicles not described above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types: air compressors, pumps and generators including spraying, welding, building, cleaning, geophysical exploration, lighting and well servicing equipment or cherry pickers and similar devices used to raise or lower workers;
6. Vehicles not described above which are maintained primarily for purposes other than the transportation of persons or cargo.

"Money" means currency, coins, and bank notes in current use and having a face value; and Travelers checks, register checks and money orders held for sale to the public, but **Money** does not include **Securities**.

"Money Damages" means all sums recoverable by law from any liability covered under this **Agreement** excluding punitive damages if awarded, but not including any sums awarded for plaintiff's attorney fees under 42 U.S.C., Section 1988 in any case in which monetary damages are not sought or not awarded. **"Money Damages"** include jury awards, settlements, attorneys' fees and costs, but do not include front or back pay, overtime pay or other benefits that are routinely paid by a **Named Member** to its employees.

"Named Member" means the County named on Endorsement #1 of this **Coverage Agreement**.

"Notice of Claim" means the following:

1. The **Member** receives or is served with any demands, notices, lawsuits, summonses, or legal papers in connection with a **Claim**, or the **Member** is aware of a first party claim; and
2. The **Member** provides written notice of the claim to the **Pool** in accordance with the Claims Process contained in Part II, Coverage Conditions.

"Occurrence" means an **Accident, Wrongful Act** or a happening or event or a continuous and repeated exposure to conditions, including but not limited to, those which result in **Bodily Injury, Property Damage** or **Personal Injury**. All **Bodily Injury, Personal Injury** or

Property Damage attributable, directly or indirectly, to a single cause or a series of similar causes shall be deemed one **Occurrence**, irrespective of the period of time or area over which such losses occur. There may be multiple **Claims** or claimants involved in one **Occurrence**; however only one deductible applies per **Occurrence**.

"Organic Pathogen" means any bacterium, virus, fungus, mold, mildew, mycota, myco-toxins, spore, or any biogenic aerosols, or any by-product or infestation produced by such pathogen.

"Personal Injury" means mental anguish, shock, sickness, disease, disability or wrongful eviction arising out of malicious prosecution, humiliation, invasion of rights of privacy, (except those arising out of **Cyber Liability** as defined in this coverage document), libel, slander or defamation of character; also piracy and any infringement of copyright or of intellectual property, and erroneous service of civil papers. **Personal Injury** also means false arrest, false imprisonment and/or detention and violation of civil rights, which means discrimination based on age, sex, race, ethnic background, national origin, religion, handicap or disability, and deprivation of rights, privileges, or immunities secured by the Constitution of the United States or of New Mexico.

"Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapors, soot, fumes, acids, alkalis, chemicals, liquids, solids, gases, thermal pollutants, sounds, waste and all other irritants or contaminants. "Waste" includes materials to be recycled, reconditioned or reclaimed.

"Pool" means the New Mexico County Insurance Authority Self-Insurance Pool.

"Pool Annual Aggregate" means the **Pool's** total liability for **Money Damages** resulting from all **Claims** first made against the **Named Members** during the **Agreement** period and shall not exceed the amount stated in the Declarations as aggregate regardless of the time when such **Claim** is paid. In the event the **Named Member** exercises the right to purchase the Optional Extended Reporting Period, Part II, Section N the aggregate limit for the Optional Extended Reporting Period, Part II, Section N shall be no more than that which remains of the aggregate limit from the immediately preceding **Agreement** period.

"Premises" means the entirety of the **Named Member's** property which is owned or occupied by the **Named Member** in conducting its business operations.

"Premises Medical Payments/Automobile Medical Payments" means reasonable expenses for first aid at the time of an **Accident**, necessary medical, surgical, x-ray and dental services, ambulance, hospital, professional nursing and funeral services. **Premises Medical Payments** does not apply to expenses incurred in treating inmates while in the care and/or custody of a **Named Member**.

"Property Damage" means direct damage to or destruction or loss of tangible property, including all resulting loss of use of property. This definition applies to Parts VII and VIII of this **Agreement**. **Property Damage** excludes damage to the property owned by the **Named Member** but includes damage to property of others in the care, custody or control of the **Named Member** or property purchased by the **Named Member** under a contract which provides that the title remain with the sellers until payments are completed, in which case the **Pool's** liability is limited to the amount of payments outstanding.

"Retaliation" means any actual or alleged response of a **Member** to:

1. The disclosure or threat of disclosure by a **Member** to a superior or to any governmental agency of any act of the **Named Member** where such act is alleged to be in violation of any federal, state, local or foreign law, whether common or statutory, or any rule or regulation promulgated thereunder;
2. The actual or attempted exercise by a **Member** of any right that such **Member** has under law, including rights under any workers' compensation law, the Family and Medical Leave Act, the Americans with Disabilities Act or any other law relating to employee rights;
3. The filing of any claim under the Federal False Claims Act or any similar federal, state, local or foreign whistleblower or whistleblower provision of any law; or
4. Any legally protected employee work stoppage or slowdown

"Scope of Duty" means performing any duties a public employee is requested, required or authorized by the **Named Member**, regardless of the time and place of performance.

"Securities" means all negotiable instruments or contracts representing either money or other property and includes revenue and other stamps in current use, tokens and tickets, but does not include **Money**.

"Sexual Abuse" means any actual, attempted or alleged criminal sexual conduct, verbal or written conduct using visual images, including such conduct by electronic means, towards a person by another person, or persons acting in concert, which causes physical and/or mental injury. **Sexual Abuse** includes: sexual molestation, sexual assault, sexual exploitation or sexual injury. **Sexual Abuse** does not include **Sexual Harassment**.

"Sexual Harassment" means any actual, attempted or alleged unwelcome sexual advances, requests for sexual favors or other conduct of a sexual nature towards a person by another person, or persons acting in concert, which causes physical and/or mental injuries. **Sexual Harassment** includes:

1. The above conduct when submission to or rejection of such conduct is made either explicitly or implicitly a condition of a person's employment, or a basis for employment decisions affecting a person; or
2. The above conduct when such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creating an intimidating, hostile or offensive work environment.

Sexual Harassment does not include **Sexual Abuse**.

"Strip Search" means the visual or physical examination of an individual's naked body, anus or vagina for weapons, drugs or other contraband and includes any search that requires the subject to remove or arrange some of all of their clothing to permit inspection of the breasts (women only), buttocks, genitalia, anus or vagina."

"Wrongful Act" means any actual or alleged error or mis-statement, omission, act or neglect or breach of duty due to misfeasance, malfeasance, and non-feasance, including any **Employment Practice Liability Wrongful Act**, or **Law Enforcement Liability Wrongful Act**, Discrimination, and Violation of Civil Rights by the **Member**, resulting in **Bodily Injury**, **Personal Injury** or **Property Damage**. All **Claims** based on or arising out of the same **Wrongful Act** or a series of related **Wrongful Acts** by one or more **Member** shall be deemed one **Occurrence**. Only one **Coverage Agreement**, one **Deductible**, and one limit of coverage is applicable to any one **Wrongful Act**.

Part V – Property

Property coverage is set forth in the 2020 NMCIA Property Coverage Agreement .

For purposes of this Part V, Property, the following definitions and conditions shall apply:

A. DEFINITIONS.

“Property” or **“Property of the Named Member”** means all real and personal property, including leasehold improvements or betterments which the **Named Member** owns, property which the **Named Member** holds on consignment or agrees to cover by any contractual agreement normal to its operations, and the **Named Member’s** own property in the course of construction, repair or renovation

“Vacant Property” means property that meets one or more of the criteria below for a period in excess of sixty (60) days:

1. A building that does not contain enough contents to conduct customary operations; or
2. Has been designated to be demolished or is pending a request for demolition; or
3. Has less than 50% of the total square footage of the entire building occupied for an active purpose, and that in the instance of space utilized as “storage,” the square footage requirement is fulfilled by it being in continuous use; or
4. Does not have the same degree of fire protection, theft protection, or utility services as existed prior to the cessation of normal operations.

B. SPECIFIC CONDITIONS

Any property classified as **Vacant Property** will not be afforded coverage from the following standard causes of loss for the period of vacancy:

1. Vandalism
2. Theft
3. Attempted theft
4. Sprinkler leakage
5. Glass breakage
6. Water damage
7. Any time element coverages
8. Any demolition coverages

C. VALUATION

For any property classified as **Vacant Property**, coverage shall not exceed the Actual Cash Value of the property.

Part VI – Crime

Crime coverage is set forth in the crime policy provided by Hiscox Insurance Company, policy number UC21252236.20.

Part VII – Liability

SECTION A – GENERAL LIABILITY

I. CLAIMS MADE COVERAGE AGREEMENT

A. What the Pool Will Pay

CLAIMS MADE COVERAGE AGREEMENT: PAYMENT AND DEFENSE

In consideration of the **Named Member's** contribution and subject to the terms, exclusions and definitions in this **Agreement**, the **Pool** agrees to pay on behalf of the **Member** all sums which the **Member** shall become legally obligated to pay as a result of **Money Damages** by reason of the negligent act(s) committed by the **Member** stated in a **Claim**, to which this coverage applies, which results in **Personal Injury, Bodily Injury** or **Property Damage** arising out of an **Occurrence**.

PROVIDED ALWAYS that the following are true:

1. **Notice of Claim** occurs during the **Agreement** Period or during the Optional Extended Reporting Period, if applicable; and
2. The negligent act for which **Claim** is first made happened on or after the applicable retroactive date set forth in this **Agreement** and before the end of the **Agreement** period; and
3. The **Member** had no knowledge or reason to believe at the inception of the first **Agreement** Period or any extensions or renewals thereof that any negligent act was likely to result in a **Claim** being made against any **Member**.

B. Defense

1. Subject to all of the provisions contained in this **Agreement**, the **Pool** has the right and duty to defend any **Claim** arising out of the categories of conduct enumerated above brought against the **Member**, alleging a negligent act and seeking **Money Damages** on account thereof, even if a **Claim** is groundless, false or fraudulent. The **Pool** shall have the right to incur **Claims Expenses** and to make such investigation and settlement of any **Claim** or suit as may be deemed expedient by the **Pool** and the **Pool** may settle any **Claim** at its sole discretion and without the consent of the **Member**, although the **Pool** will endeavor to seek the input of the **Member**. The determination by the **Pool** as to any settlement and as to the reasonableness of settlements and **Claims Expenses** shall be conclusive on the **Member**. The **Pool** shall have the right, but not the obligation, to appeal any judgment adverse to the **Member**.

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

(b) If, in the sole discretion of the **Pool**, employing the services of attorneys, investigators, or other persons to perform work and incur expenses on behalf of any **Member** or the **Pool** is deemed appropriate to protect **Pool** interests prior to the formal existence of a **Claim**, the **Pool** has the right, but not the duty, to employ such persons as a **Pool** operational expense.
3. The **Pool** shall have the right, but not the duty, to monitor and participate in the defense of any investigatory, administrative or disciplinary proceeding relating to any **Member**. Should the **Pool** elect to defend, monitor or participate under this provision, such election shall not constitute a waiver of any rights the **Pool** may have pursuant to any of the provisions of the **Coverage Agreement**.

II. EXCLUSIONS APPLICABLE TO SECTION A – GENERAL LIABILITY

In addition to the general exclusions of this **Agreement**, this part does not apply to:

- A. Any **Claim** for **Money Damages**, whether direct or consequential, or for any cause of action which is covered under any other section of this **Agreement**.
- B. Damage or destruction of property owned by the **Named Member**.
- C. The withdrawal, inspection, repair, replacement, or loss of use of the **Named Member's** products or work completed by or on behalf of the **Named Member** or of any property of which such products or work form a part, if such products, work or property are withdrawn from the market or from use because of any known or suspected defect or deficiency therein.
- D. **Bodily Injury, Property Damage, Personal Injury** or any other damages whatsoever caused by the maintenance, operation, use, loading or unloading, or entrustment of an **Automobile**. This exclusion applies even if the **Claims** against and **Member** allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that **Member**.

SECTION B – EMPLOYMENT PRACTICES LIABILITY

I. CLAIMS MADE COVERAGE AGREEMENT

A. What the Pool Will Pay

The **Pool** agrees, subject to the limitations, terms and conditions of this **Agreement**, to provide a defense and pay on behalf of the **Member** all **Money Damages** that the **Member** shall become legally obligated to pay by reason of any **Employment Practices Liability Wrongful Act** arising out of any **Claim** first made during the period of this **Agreement**.

PROVIDED ALWAYS that the following are true:

1. **Notice of Claim** occurs during the **Agreement** Period or during the Optional Extended Reporting Period, if applicable; and
2. The **Employment Practices Liability Wrongful Act** for which a **Claim** is first made happened on or after any applicable retroactive date set forth in this **Agreement** and before the end of the **Agreement** period; and
3. The **Member** had no knowledge or reason to believe at the inception of the first **Agreement** Period or any extensions or renewals thereof that any **Employment Practices Liability Wrongful Act** was likely to result in a **Claim** being made against any **Member**.

The **Pool** will pay on behalf of the **Member Money Damages** and expenses incurred by the **Pool**, the cost of attachment or similar bonds (but without any obligation on the part of the **Pool** to apply for or furnish such bonds), and costs, charges and expenses incurred in connection with any governmental investigation provided that a **Claim** is brought against the **Member** for an **Employment Practices Liability Wrongful Act** that is or was a subject of a governmental investigation, and that **Claim** is otherwise covered by this **Agreement**.

B. Defense

1. Subject to all of the provisions contained in this **Agreement**, the **Pool** has the right and duty to defend any **Claim** brought against the **Member** alleging an **Employment Practices Liability Wrongful Act** and seeking **Money Damages** on account thereof, even if a **Claim** is groundless, false or fraudulent. The **Pool** shall have the right to incur **Claims Expenses** and to make such investigation and settlement of any **Claim** or suit as may be deemed expedient by the **Pool** and the **Pool** may settle any **Claim** at its sole discretion and without the consent of the **Member**, although the **Pool** will endeavor to seek the input of the **Member**. The determination by the **Pool** as to any settlement and as to the reasonableness of settlements and **Claims Expenses** shall be conclusive on the **Member**. The **Pool** shall have the right, but not the obligation, to appeal any judgment adverse to the **Member**.
2. (a) Upon written request to the **Pool** by a **Member** for pre-**Claim** involvement of the **Pool** prior to the formal existence of a **Claim**, the **Pool** has the right, but not the duty, to designate attorneys, investigators, or other persons to perform work and incur expenses on behalf of the **Member** where the **Pool** anticipates a **Claim**.

(b) If, in the sole discretion of the **Pool**, employing the services of attorneys, investigators, or other persons to perform work and incur expenses on behalf of any **Member** or the **Pool** is deemed appropriate to protect **Pool** interests prior to the formal existence of a **Claim**, the

Pool has the right, but not the duty, to employ such persons as a **Pool** operational expense.

3. The **Pool** shall have the right, but not the duty, to monitor and participate in the defense of any investigatory, administrative or disciplinary proceeding relating to any **Member**. Should the **Pool** elect to defend, monitor or participate under this provision, such election shall not constitute a waiver of any rights the **Pool** may have pursuant to any of the provisions of the **Agreement**.

II. EXCLUSIONS APPLICABLE TO EMPLOYMENT PRACTICES LIABILITY

In addition to the general exclusions of this **Agreement**, this section shall not apply to any **Claim** made against the **Member**:

- A. For actual or alleged **Bodily Injury**, sickness, disease or death of any person, or damage or destruction of any tangible or intangible property including loss of use thereof, whether or not such property is physically injured; provided, however, that this exclusion shall not apply to mental anguish, emotional distress or humiliation;
- B. For any actual or alleged violation of the responsibilities, obligations or duties imposed by the Employee Retirement Income Security Act of 1974, the National Labor Relations Act, the Worker Adjustment and Retraining Notification Act, the Consolidated Omnibus Budget Reconciliation Act of 1985, the Occupational Safety and Health Act, all as amended, or any rules or regulations promulgated thereunder, or similar provisions of any common or statutory federal, state or local law; provided, however, this exclusion does not apply to any such **Claim** alleging violations of the Equal Pay Act or **Retaliation**;
- C. For any actual or alleged **Sexual Abuse**. However, with respect to civil defense only, the **Pool** will provide defense and indemnification to any **Member** alleged to have committed an act of **Sexual Abuse**; provided that, in no event shall further defense or indemnity be provided where a judgment or other final adjudication should establish, or it is otherwise determined, that the **Member** committed or participated in any act of **Sexual Abuse**
- D. Alleging, based upon, arising out of, attributable to, directly or indirectly resulting from, in consequence of, or in any way involving any dishonest, deliberately fraudulent or criminal act; provided, however, that with respect to civil proceedings only, this exclusion shall not apply unless and until there is a final judgment against such **Member** as to such conduct. If such excluded conduct is established through a final judgment, the **Member** shall reimburse the **Pool** for any costs, charges and expenses;
- E. Alleging, based upon, arising out of, attributable to, directly or indirectly resulting from, in consequence of, or in any way involving, any actual or alleged responsibility, obligation or duty of any **Member** pursuant to any

workers compensation, unemployment insurance, social security, disability benefits or pension benefits or similar law; provided, however, this exclusion shall not apply to any such **Claim** alleging **Retaliation**; or

- F. For that portion of any **Money Damages** covered under any other coverage section of this **Agreement**.

III. SPECIFIC CONDITIONS – PART VII – LIABILITY

A. Employment Practices Liability Deductible

The **Pool's** liability for **Money Damages** as the result of any one **Employment Practices liability Occurrence** is limited as described in the Limits of Coverage of this **Agreement** less the amount of the **Named Member's Employment Practices Liability** deductible as set forth in the Endorsements.

For the purpose of determining the limit of liability, all **Money Damages** arising out of continuous or repeated exposure to substantially the same general conditions shall be considered as arising out of one **Occurrence**.

SECTION C – PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY

I. CLAIMS MADE COVERAGE AGREEMENT

A. What the Pool Will Pay

The **Pool** agrees, subject to the limitations, terms and conditions of this **Agreement**, to provide a defense and pay on behalf of the **Member** all **Money Damages** that the **Member** shall become legally obligated to pay by reason of any Public Officials Errors and Omissions Liability **Wrongful Act** arising out of any **Claim** first made during the period of this **Agreement**.

PROVIDED ALWAYS that the following are true:

1. **Notice of Claim** occurs during the **Agreement** Period or during the Optional Extended Reporting Period, if applicable; and
2. The Public Officials Errors and Omissions Liability **Wrongful Act** for which a **Claim** is first made happened on or after any applicable retroactive date set forth in this **Agreement**; and before the end of the **Agreement** period; and
3. The **Member** had no knowledge or reason to believe at the inception of the first **Agreement** Period or any extensions or renewals thereof that any Public Officials Errors and Omission Liability **Wrongful Act** was likely to result in a **Claim** being made against any **Member**.

The **Pool** will pay on behalf of the **Member Money Damages** and expenses incurred by the **Pool**, the cost of attachment or similar bonds (but without any obligation on the part of the **Pool** to apply for or furnish such bonds), and costs, charges and expenses incurred in connection with any governmental investigation provided that a **Claim** is brought against the **Member** for a Public Officials Errors and Omissions Liability **Wrongful Act** that is or was a subject of a governmental investigation, and that **Claim** is otherwise covered by this **Agreement**.

B. Defense

1. Subject to all of the provisions contained in this **Agreement**, the **Pool** has the right and duty to defend any **Claim** brought against the **Member** alleging a Public Officials Errors and Omissions Liability **Wrongful Act** and seeking **Money Damages** on account thereof, even if a **Claim** is groundless, false or fraudulent. The **Pool** shall have the right to incur **Claims Expenses** and to make such investigation and settlement of any **Claim** or suit as may be deemed expedient by the **Pool** and the **Pool** may settle any **Claim** at its sole discretion and without the consent of the **Member**, although the **Pool** will endeavor to seek the input of the **Member**. The determination by the **Pool** as to any settlement and as to the reasonableness of settlements and **Claims Expenses** shall be conclusive on the **Member**. The **Pool** shall have the right, but not the obligation, to appeal any judgment adverse to the **Member**.
2. (a) Upon written request to the **Pool** by a **Member** for pre-**Claim** involvement of the **Pool** prior to the formal existence of a **Claim**, the **Pool** has the right, but not the duty, to designate attorneys, investigators, or other persons to perform work and incur expenses on behalf of the **Member** where the **Pool** anticipates a **Claim**.

(b) If, in the sole discretion of the **Pool**, employing the services of attorneys, investigators, or other persons to perform work and incur expenses on behalf of any **Member** or the **Pool** is deemed appropriate to protect **Pool** interests prior to the formal existence of a **Claim**, the **Pool** has the right, but not the duty, to employ such persons as a **Pool** operational expense.
3. The **Pool** shall have the right, but not the duty, to monitor and participate in the defense of any investigatory, administrative or disciplinary proceeding relating to any **Member**. Should the **Pool** elect to defend, monitor or participate under this provision, such election shall not constitute a waiver of any rights the **Pool** may have pursuant to any of the provisions of the **Agreement**.

II. EXCLUSIONS APPLICABLE TO PUBLIC OFFICIALS ERRORS AND OMISSIONS LIABILITY

In addition to the general exclusions of this **Agreement**, this section shall not apply to any **Claim** made against the **Member**:

- A. Based upon or attributable to their gaining in fact any personal profit or advantage to which they were not legally entitled including remuneration paid in violation of law as determined by the courts.
- B. Based upon or attributable to the rendering or failure to render any opinion, treatment, consultation or service if that opinion, treatment, consultation or service was rendered or failed to have been rendered while the **Member** was engaged in any activity for which they received compensation from any source other than the **Named Member**.
- C. Arising out of estimates of probable costs or cost estimates being exceeded or for faulty preparation of bid specifications or plans or to injury to,

destruction or disappearance of any tangible Property (including Money) or the loss of use thereof.

- D. Arising out of the failure to supply a specific amount of electrical power or fuel arising out of the interruption of the electrical power or fuel supply.
- E. Arising out of or in any way involving any employee benefit plan of the **Named Member**.
- F. For any **Claim** covered under Section A, General Liability or Section B, Employment Practices Liability.
- G. Damage or destruction of property owned by the **Named Member**.
 - 1. Arising from:
 - a. Procurement of goods or services;
 - b. Construction contracts;
 - c. Architectural or engineering contracts; or
 - d. The process of bidding or awarding contracts.

SECTION D – EMPLOYEE BENEFITS LIABILITY

I. CLAIMS MADE COVERAGE AGREEMENT

A. What the Pool Will Pay

In consideration of the **Named Member's** contribution and subject to the terms, exclusions and definitions in this **Agreement**, the **Pool** agrees to pay on behalf of the **Named Member** all sums which the **Member** shall become legally obligated to pay as a result of **Money Damages** sustained by an employee, prospective employee, former employee or the beneficiaries or legal representatives thereof in the **Administration** of the **Named Member's Employee Benefit Programs** as defined in this section and caused by any negligent act, error or omission by the **Named Member** or any other person for whose acts the **Named Member** is legally liable, for **Claims** first made during the **Agreement** Period.

PROVIDED ALWAYS that the following are true:

- 1. **Notice of Claim** occurs during the **Agreement** Period or during the Optional Extended Reporting Period, if applicable; and
- 2. The error, omission or negligent act for which **Claim** is first made happened on or after any applicable retroactive date set forth in this **Agreement** and before the end of the **Agreement** period; and

3. The **Member** had no knowledge or reason to believe at the inception of the first **Agreement** Period or any extensions or renewals thereof that any error, omission or negligent act was likely to result in a **Claim** being made against any **Member**.

B. **Defense**

1. Subject to all of the provisions contained in this **Agreement**, the **Pool** has the right and duty to defend any **Claim** arising out of the categories of conduct enumerated above brought against the **Member**, alleging an error, omission or negligent act and seeking **Money Damages** on account thereof, even if a **Claim** is groundless, false or fraudulent. The **Pool** shall have the right to incur **Claims Expenses** and to make such investigation and settlement of any **Claim** or suit as may be deemed expedient by the **Pool** and the **Pool** may settle any **Claim** at its sole discretion and without the consent of the **Member**, although the **Pool** will endeavor to seek the input of the **Member**. The determination by the **Pool** as to any settlement and as to the reasonableness of settlements and **Claims Expenses** shall be conclusive on the **Member**. The **Pool** shall have the right, but not the obligation, to appeal any judgment adverse to the **Member**.
2. (a) Upon written request to the **Pool** by a **Member** for pre-**Claim** involvement of the **Pool** prior to the formal existence of a **Claim**, the **Pool** has the right, but not the duty, to designate attorneys, investigators, or other persons to perform work and incur expenses on behalf of the **Member** where the **Pool** anticipates a **Claim**.

(b) If, in the sole discretion of the **Pool**, employing the services of attorneys, investigators, or other persons to perform work and incur expenses on behalf of any **Member** or the **Pool** is deemed appropriate to protect **Pool** interests prior to the formal existence of a **Claim**, the **Pool** has the right, but not the duty, to employ such persons as a **Pool** operational expense.
3. The **Pool** shall have the right, but not the duty, to monitor and participate in the defense of any investigatory, administrative or disciplinary proceeding relating to any **Member**. Should the **Pool** elect to defend, monitor or participate under this provision, such election shall not constitute a waiver of any rights the **Pool** may have pursuant to any of the provisions of the **Agreement**.

II. **EXCLUSIONS APPLICABLE TO EMPLOYEE BENEFITS LIABILITY**

In addition to the general exclusions of this **Agreement**, this section shall not apply to any **Claim** made against the **Member** for:

- A. **Bodily Injury** to, or sickness, disease, or death, of any person, or to injury to or destruction of any tangible property, including the loss of use thereof.
- B. **Personal Injury** or **Property Damage**.

- C. Any **Claim** for failure of performance of contract by any insurer, including failure of any **Employee Benefit Program**.
- D. Any **Claim** based upon the **Member's** failure to comply with any law concerning workers' compensation, unemployment insurance, social security or disability benefits.
- E. Any **Claim** based upon:
 - 1. Failure of investment to perform as represented by any **Member**;
 - 2. Advice given by a **Member** to a employee to participate or not to participate in stock subscription plans;
 - 3. The investment or non-investment of funds; or
 - 4. Errors in providing information on the past performance of investment vehicles.
- F. Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state law;
- G. **Money Damages** arising out of employment, employment discrimination, or other employment-related practices;
- H. Any **Claim** arising out of the **Member's** failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

III. DEFINITIONS

The unqualified word "**Administration**" wherever used means:

- A. Giving counsel to employees with respect to the **Employee Benefits Programs**;
- B. Interpreting the **Employee Benefit Programs**;
- C. Handling records in connection with the **Employee Benefits Programs**; and
- D. Effecting the enrollment, termination or cancellation of employees under the **Employee Benefits Programs**; provided all such acts are authorized by the **Named Member**.

Part VIII – Auto Liability

I. CLAIMS MADE COVERAGE AGREEMENT

A. What the Pool Will Pay

The **Pool** agrees to pay for those sums which the **Member** becomes legally obligated to pay as **Money Damages** because of **Bodily Injury** or **Property Damage** arising out of the ownership, maintenance or use of any **Automobile**, subject to the limitations, terms and conditions of this **Agreement**.

PROVIDED ALWAYS that the following are true:

1. **Notice of Claim** occurs during the **Agreement** Period or during the Optional Extended Reporting Period, if applicable; and
2. The **Accident** for which a **Claim** is first made happened on or after any applicable retroactive date set forth in this **Agreement** and before the end of the **Agreement** period; and
3. The **Member** had no knowledge or reason to believe at the inception of the first **Agreement** Period or any extensions or renewals thereof that any Accident was likely to result in a **Claim** being made against any **Member**.

B. Defense

1. Subject to all of the provisions contained in this **Agreement**, the **Pool** has the right and duty to defend any **Claim** arising out of the categories of conduct enumerated above brought against the **Member** alleging an **Accident** and seeking **Money Damages** on account thereof, even if a **Claim** is groundless, false or fraudulent. The **Pool** shall have the right to incur **Claims Expenses** and to make such investigation and settlement of any **Claim** or suit as may be deemed expedient by the **Pool** and the **Pool** may settle any **Claim** at its sole discretion and without the consent of the **Member**, although the **Pool** will endeavor to seek the input of the **Member**. The determination by the **Pool** as to any settlement and as to the reasonableness of settlements and **Claims Expenses** shall be conclusive on the **Member**. The **Pool** shall have the right, but not the obligation, to appeal any judgment adverse to the **Member**.
2. (a) Upon written request to the **Pool** by a **Member** for pre-**Claim** involvement of the **Pool** prior to the formal existence of a **Claim**, the **Pool** has the right, but not the duty, to designate attorneys, investigators, or other persons to perform work and incur expenses on behalf of the **Member** where the **Pool** anticipates a **Claim**.

(b) If, in the sole discretion of the **Pool**, employing the services of attorneys, investigators, or other persons to perform work and incur expenses on behalf of any **Member** or the **Pool** is deemed appropriate to protect **Pool** interests prior to the formal existence of a **Claim**, the

Pool has the right, but not the duty, to employ such persons as a **Pool** operational expense.

II. DEFINITIONS – PART VIII – AUTO LIABILITY

“Hired Autos” means only those “autos” a **Named Member** leases, hires, rents or borrows. This does not include any “auto” a **Named Member** leases, hires, rents or borrows from any of the **Named Member’s** employees or partners or members of their households.

“Member”, wherever used in this **Agreement**, includes not only the **Named Member** but also:

1. Under Part VIII, any person while using an **Automobile** owned by the **Named Member** or a hired **Automobile**, and any person or organization legally responsible for the use thereof, provided the actual use of the **Automobile** is by the **Named Member** or with the **Named Member’s** permission and any official of the **Named Member** with respect to the use of non-owned **Automobiles** in the business of the **Named Member**. This coverage, with respect to any person or organization other than the **Named Member**, *does not apply*:
 - a. to any person or organization or to any or their agents or employees operating an **Automobile** sales agency, repair shop, service station, storage garage or public parking place, with respect to any **Accident** arising out of those operations;
 - b. with respect to any **Hired Autos**, to the owner or lessee, other than the **Named Member**, nor to any agent or employee of that owner or lessee.

“Non-Owned Autos” means only those “autos” a **Named Member** does not own, lease, hire, rent or borrow that are used in connection with the **Named Member’s** business. This includes “autos” owned by a **Named Member’s** employees or members of their households but only while used in the **Named Member’s** business.

III. EXCLUSIONS THAT APPLY TO PART VIII – AUTO LIABILITY

In addition to the general exclusions of this **Agreement**, this **Agreement** does not cover:

- A. Any **Claim** for **Money Damages** or for any cause of action which is covered under any other section of this **Agreement**.
- B. Uninsured and/or Underinsured Motorists Liability
- C. Any **Claim** for **Money Damages** arising out of the use of a covered **Automobile** by any third party where such use is not related to the operations of the **Named Member’s** business or not authorized for such use by the **Named Member**.

Part IX – Law Enforcement Liability

CLAIMS MADE COVERAGE AGREEMENT: PAYMENT AND DEFENSE

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

A. **What The Pool Will Pay**

The **Pool** agrees, subject to the limitations, terms and conditions of this **Agreement**, to provide a defense and pay on behalf of the **Member** all **Money Damages** that the **Member** shall become legally obligated to pay by reason of any Law Enforcement Liability **Wrongful Act** arising out of an **Occurrence** due to the **Law Enforcement Activities** of a **Member** during the period of this **Agreement**.

PROVIDED ALWAYS that the following are true:

1. **Notice of Claim** occurs during the **Agreement** Period or during the Optional Extended Reporting Period, if applicable; and
2. The error, omission or negligent act for which **Claim** is first made happened on or after the retroactive date set forth in the in this **Agreement** and before the end of the **Agreement** period; and
3. The **Member** had no knowledge or reason to believe at the inception of the first **Agreement** Period or any extensions or renewals thereof that any error, omission or negligent act was likely to result in a **Claim** being made against any **Member**.

B. **Defense**

1. Subject to all of the provisions contained in this **Agreement**, the **Pool** has the right and duty to defend any **Claim** arising out of the categories of conduct enumerated above brought against the **Member**, alleging an error, omission or negligent act and seeking **Money Damages** on account thereof, even if a **Claim** is groundless, false or fraudulent. The **Pool** shall have the right to incur **Claims Expenses** and to make such investigation and settlement of any **Claim** or suit as may be deemed expedient by the **Pool** and the **Pool** may settle any **Claim** at its sole discretion and without the consent of the **Member**, although the **Pool** will endeavor to seek the input of the Member. The determination by the **Pool** as to any settlement and as to the reasonableness of settlements and **Claims Expenses** shall be conclusive on the **Member**. The **Pool** shall have the right, but not the obligation, to appeal any judgment adverse to the **Member**.

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

(b) If, in the sole discretion of the **Pool**, employing the services of attorneys, investigators, or other persons to perform work and incur expenses on behalf of any **Member** or the **Pool** is deemed appropriate to protect **Pool** interests prior to the formal existence of a **Claim**, the **Pool** has the right, but not the duty, to employ such persons as a **Pool** operational expense.
3. The **Pool** shall have the right, but not the duty, to monitor and participate in the defense of any investigatory, administrative or disciplinary proceeding relating to any **Law Enforcement Activity** of the **Member**. Should the **Pool** elect to defend, monitor or participate under this provision, such election shall not constitute a waiver of any rights the **Pool** may have pursuant to any of the provisions of the **Coverage Agreement**.

Part X – Cyber Liability

Cyber liability coverage is set forth in the cyber liability policy provided by XL Group, policy number MTP 0039694 07.

Part XI – Equipment Breakdown

(Boiler and Machinery)

Equipment Breakdown coverage, also known as “boiler and machinery”, is set forth in the equipment breakdown policy provided by Travelers Property Casualty Company of America, policy number BME1 9H183690TIL-20.

Part XII – Environmental Liability

(Pollution)

Environmental Liability coverage, also known as "pollution", is set forth in the environmental liability policy provided by Illinois Union Insurance Company, policy number PPL G4685049A 002.

Part XIII – Storage Tank Liability

(Fuel Tank Pollution)

Storage tank liability coverage, also known as “fuel tank pollution”, is set forth in the storage tank liability policy provided by Illinois Union Insurance Company, policy number UST G71771945 001

Part IX – Excess Liability for Certain Members

Excess liability coverage for certain members is set forth in the excess liability policy for certain members provided by Argonaut Insurance Company, policy number 2902047-04 .

Law Enforcement Liability Program Endorsements

New Mexico County Insurance Authority
Law Enforcement Liability Program

Member Coverage Agreement

Endorsement No. LE - 1

Membership and Retroactive Dates

It is understood and agreed that the following Membership and Retroactive Dates shall apply in respect of the participating **members** as follows:

A. Law Enforcement Liability Program

March 21, 2001

Catron County
Chaves County
Cibola County
Colfax County
Curry County
Dona Ana County
Eddy County
Harding County
Lincoln County
McKinley County
McKinley County Juvenile Detention Center
Mora County
Otero County
Quay County
Roosevelt County
San Miguel County Sheriff's Department
Sandoval County
Santa Fe County
Sierra County
Socorro County
Taos County
Torrance County
Union County
Valencia County

September 1, 2003

Luna County

October 1, 2003

Bernalillo County Sheriff's Department ONLY

Bernalillo County Juvenile Detention Center

January 1, 2004

Guadalupe County
Santa Fe Juvenile Detention Center

January 19, 2004

Cibola County Detention Center

February 1, 2004

Grant County

July 1, 2004

San Miguel County Detention Center

December 1, 2004

De Baca County Dispatch/Communications Center
De Baca County Detention Center

January 1, 2005

Valencia County Detention Center

October 11, 2005

Santa Fe County Detention Center

January 1, 2006

McKinley County Detention Center

July 1, 2006

Bernalillo County Adult Detention Center
De Baca Sherriff's Department

July 1, 2008

Hidalgo County

Subject otherwise to all terms, clauses and conditions of this **Agreement**.

New Mexico County Insurance Authority
Law Enforcement Liability Program

Member Coverage Agreement

Endorsement No. LE - 2

THIS ENDORSEMENT INTENTIONALLY LEFT BLANK

New Mexico County Insurance Authority
Law Enforcement Liability Program

Member Coverage Agreement

Endorsement No. LE - 3

It is hereby agreed that the following deductibles apply:

BERNALILLO	\$100,000
CATRON	\$25,000
CHAVES	\$25,000
CIBOLA	\$25,000
COLFAX	\$25,000
CURRY	\$25,000
DE BACA	\$25,000
DONA ANA	\$100,000
EDDY	\$25,000
GRANT	\$25,000
GUADALUPE	\$25,000
HARDING	\$25,000
HIDALGO	\$75,000
LINCOLN	\$25,000
LUNA	\$25,000
MCKINLEY	\$25,000
MORA	\$25,000
OTERO	\$25,000
QUAY	\$25,000
ROOSEVELT	\$25,000
SAN MIGUEL	\$25,000
SANDOVAL	\$50,000
SANTA FE	\$100,000
SIERRA	\$25,000
SOCORRO	\$25,000
TAOS	\$25,000
TORRANCE	\$25,000
UNION	\$25,000
VALENCIA	\$25,000

New Mexico County Insurance Authority
Law Enforcement Liability Program

Member Coverage Agreement

Endorsement No. LE - 4

No coverage for whole or partial allegations of failure to provide adequate healthcare or mental healthcare to inmates – Counties with No Medical / Mental Health Detention Center Contracts

This **Agreement** does not provide coverage (including the obligation to defend a Member) for any claim with whole or partial allegations of failure to provide adequate healthcare or mental healthcare to inmates of the following **Named Members**:

1. Cibola
2. Guadalupe
3. Harding
4. Lincoln
5. Mora
6. Otero
7. Sierra
8. Torrance
9. Union

Subject otherwise to all terms, clauses and conditions of this **Agreement**.

New Mexico County Insurance Authority
Law Enforcement Liability Program

Member Coverage Agreement

Endorsement No. LE - 5

No Coverage for Detention Center Operation

This **Agreement** does not provide coverage (including the obligation to defend a **Member**) for any claim related to the operation of the Detention Center of the following **Named Members** for the period beginning at the time specified:

Beginning January 1, 2019 at 12:01 a.m.

1. Cibola
2. Guadalupe
3. Harding
4. Lincoln
5. Mora
6. Otero
7. Torrance
8. Union

Subject otherwise to all terms, clauses and conditions of this **Agreement**.

New Mexico County Insurance Authority
Law Enforcement Liability Program

Member Coverage Agreement

Endorsement No. LE - 6

Limited per-occurrence coverage for whole or partial allegations of failure to provide adequate healthcare or mental healthcare to inmates.

This **Agreement** provides only a \$2,000,000 sublimit per occurrence coverage (including defense costs), for any claim with whole or partial allegations of failure to provide adequate healthcare or mental healthcare to inmates of the following **Named Members**:

1. Catron
2. Colfax
3. De Baca
4. Eddy
5. Grant
6. Hidalgo
7. Luna
8. McKinley
9. Quay
10. Sandoval
11. Socorro
12. Taos

Subject otherwise to all terms, clauses and conditions of this **Agreement**.

Multi-Line Program Endorsements

New Mexico County Insurance Authority
Multi Line Program

Member Coverage Agreement

Endorsement No. 1

Named Members and Retroactive Dates

It is understood and agreed that the following **Named Members** comprise the Multi-Line Program and have a Retroactive Date of March 21, 2001:

Bernalillo County
Catron County
Chaves County
Cibola County
Colfax County
Curry County
De Baca County
Dona Ana County
Eddy County
Harding County
Lincoln County
McKinley County
Mora County
Otero County
Quay County
Roosevelt County
San Miguel County
Sandoval County
Santa Fe County
Sierra County
Socorro County
Taos County
Torrance County
Union County
Valencia County

The following **Named Members** have the following retroactive dates:

September 1, 2003

Luna County

January 1, 2004

Guadalupe

January 1, 2005

Grant County

July 1, 2008

Hidalgo County

Subject otherwise to all terms, clauses and conditions of this **Agreement**.

New Mexico County Insurance Authority
Multi Line Program

Member Coverage Agreement

Endorsement No. 2

Coverage for Injunctive Relief

It is hereby understood and agreed that coverage is provided for injunctive relief claims to a limit of \$10,000 for the county's costs and attorneys' fees.

Subject otherwise to all terms, clauses and conditions of this policy.

New Mexico County Insurance Authority
Multi Line Program

Member Coverage Agreement

Endorsement No. 3

Limited Coverage for Land Use Matters

It is hereby agreed and understood this **Agreement** does not provide coverage for any liability arising out of the principles of eminent domain, condemnation proceedings or claims, inverse condemnation or claims, and regulatory taking by whatever name called, land use actions, zoning, rezoning or failure to zone, whether that liability accrues directly against the **Member** or by virtue of any agreement entered into, by or on behalf of the **Member**. Claims alleging civil rights violations arising out of any of the listed proceedings are also excluded.

However a defense will be provided, up to a maximum set forth below per **Named Member** for claims in inverse condemnation, land use actions, zoning, rezoning or failure to zone. The sub-limited amount applies to defense costs of the County only and cannot be applied to pay a settlement, plaintiff's costs or legal fees.

The following counties have this coverage in the amounts set forth below:

Bernalillo*	\$40,000/\$100,000
Catron	\$20,000/\$20,000
Chaves	\$20,000/\$20,000
Cibola	\$20,000/\$20,000
Dona Ana*	\$40,000/\$100,000
McKinley	\$20,000/\$20,000
Otero	\$40,000/\$100,000
Roosevelt	\$20,000/\$20,000
San Miguel*	\$20,000/\$20,000
Sandoval	\$20,000/\$60,000
Santa Fe*	\$40,000/\$100,000
Socorro	\$20,000/\$20,000
Taos	\$40,000/\$100,000
Torrance	\$20,000/60,000
Valencia*	\$20,000/\$40,000

*In addition, these members have coverage in accordance with Endorsement #9.

Subject otherwise to all terms, clauses and conditions of this **Agreement**.

New Mexico County Insurance Authority
Multi Line Program

Member Coverage Agreement

Endorsement No. 4

THIS ENDORSEMENT INTENTIONALLY LEFT BLANK

Member Coverage Agreement

Endorsement No. 5

**EXCLUSION OF LOSS TO AND LOSS OF USE OF DATA,
COMPUTER HARDWARE AND SYSTEMS**

Random Attack – Hacking Event or Computer Virus

We will not pay for direct physical loss or damage caused by a random attack, a hacking event or computer virus. Such loss is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

Random Attack means the widespread attack, by a hacking event or computer virus, directed against the computer systems, software, data, or telecommunications systems of multiple organizations or persons who are not part of you, rather than solely at your computer systems, software, data, or telecommunications systems. Such attack is intended for the purpose of fraud, nuisance, or malicious tampering or destruction.

Hacking Event means an attack that allows unauthorized access or use of a computer or telecommunications system by electronically circumventing a security or procedure.

Computer Virus means a piece of code that is maliciously or fraudulently introduced into a computer or telecommunications system. Once introduced, the virus may destroy, alter, contaminate, or degrade the integrity, quality, or performance of data or any computer application software, computer network, or computer operating system and related software.

This exclusion does not apply to any specific attack to your computer equipment otherwise covered in Part V, Property.

Specific Attack means the intentional attack, by a hacking event or computer virus, directed solely at your computer system, software, data or telecommunications system. Such attack is intended for the purpose of fraud, nuisance, or malicious tampering or destruction.

Denial of Services

We do not cover any loss of earnings or extra expense caused by or resulting from denial of services.

Denial of Services means an intentional specific or random attack on your computer system or telecommunications system for the purposes of nuisance, sabotage, malicious tampering which has the effect of:

1. Depleting system resources available through the Internet to authorized external users of your computer system or telecommunications systems; or
2. Impeding Internet access of authorized external users to your computer system or telecommunications system.

Subject otherwise to all terms, clauses and conditions of this **Agreement**.

New Mexico County Insurance Authority
Multi Line Program

Member Coverage Agreement

Endorsement No. 6

It is hereby agreed that the following Liability and 3rd Party Automobile Liability deductibles apply:

BERNALILLO	\$100,000
CATRON	\$5,000
CHAVES	\$10,000
CIBOLA	\$5,000
COLFAX	\$5,000
CURRY	\$5,000
DE BACA	\$5,000
DONA ANA	\$50,000
EDDY	\$10,000
GRANT	\$5,000
GUADALUPE	\$5,000
HARDING	\$10,000
HIDALGO	\$ 75,000
LINCOLN	\$5,000
LUNA	\$10,000
MCKINLEY	\$25,000
MORA	\$5,000
OTERO	\$5,000
QUAY	\$5,000
ROOSEVELT	\$5,000
SAN MIGUEL	\$5,000
SANDOVAL	\$25,000
SANTA FE	\$75,000
SIERRA	\$5,000
SOCORRO	\$5,000
TAOS	\$5,000
TORRANCE	\$5,000
UNION	\$25,000
VALENCIA	\$5,000

Subject otherwise to all terms, clauses and conditions of this **Agreement**.

New Mexico County Insurance Authority
Multi Line Program

Member Coverage Agreement

Endorsement No. 7

It is hereby agreed that the following First Party Automobile and Property Deductibles apply:

	First Party Automobile	Property
BERNALILLO	\$5,000	\$25,000
CATRON	\$2,500	\$2,500
CHAVES	\$2,500	\$2,500
CIBOLA	\$2,500	\$2,500
COLFAX	\$2,500	\$2,500
CURRY	\$2,500	\$2,500
DE BACA	\$2,500	\$2,500
DONA ANA	\$10,000	\$50,000
EDDY	\$2,500	\$2,500
GRANT	\$2,500	\$2,500
GUADALUPE	\$2,500	\$2,500
HARDING	\$2,500	\$2,500
HIDALGO	\$5,000	\$5,000
LINCOLN	\$2,500	\$2,500
LUNA	\$2,500	\$2,500
MCKINLEY	\$2,500	\$2,500
MORA	\$2,500	\$2,500
OTERO	\$2,500	\$2,500
QUAY	\$2,500	\$2,500
ROOSEVELT	\$2,500	\$2,500
SAN MIGUEL	\$2,500	\$2,500
SANDOVAL	\$5,000	\$25,000
SANTA FE	\$25,000	\$10,000
SIERRA	\$2,500	\$2,500
SOCORRO	\$2,500	\$2,500
TAOS	\$2,500	\$2,500
TORRANCE	\$2,500	\$2,500
UNION	\$2,500	\$2,500
VALENCIA	\$2,500	\$2,500

Subject otherwise to all terms, clauses and conditions of this **Agreement**.

Member Coverage Agreement

Endorsement No. 8

This endorsement modifies insurance coverage provided under the **Agreement**:

SEXUAL ABUSE ENDORSEMENT

To the extent insurance coverage is provided by this endorsement, paragraph 27. of Part III – General Coverage Exclusions does not apply.

SCHEDULE

Sexual Abuse Retroactive Date: April 18, 2008

IMPORTANT NOTICE

THIS **SEXUAL ABUSE** LIABILITY ENDORSEMENT PROVIDES COVERAGE ON A **CLAIMS-MADE** BASIS. THE COVERAGE PROVIDED BY THIS ENDORSEMENT IS LIMITED TO ONLY AN **OCCURRENCE** OF **SEXUAL ABUSE** TAKING PLACE ON OR AFTER THE **SEXUAL ABUSE** RETROACTIVE DATE STATED IN THE SCHEDULE AND THEN ONLY FOR THOSE CLAIMS FOR WHICH A **NOTICE OF CLAIM** OCCURS DURING THE AGREEMENT PERIOD OR DURING THE OPTIONAL EXTENDED REPORTING PERIOD, IF APPLICABLE.

THIS ENDORSEMENT IS SUBJECT TO THE TERMS, EXCLUSIONS, DEFINITIONS AND CONDITIONS OF THE **AGREEMENT**, EXCEPT AS OTHERWISE MODIFIED BY THIS ENDORSEMENT. PLEASE REVIEW THE ENDORSEMENT CAREFULLY. ALL WORDS OR PHRASES THAT ARE PRINTED IN BOLD FACE ARE DEFINED IN THE ENDORSEMENT OR ELSEWHERE IN THE **AGREEMENT**.

PART VII – LIABILITY IS AMENDED TO INCLUDE THE FOLLOWING:

I. COVERAGE AGREEMENT – SEXUAL ABUSE

- A. In consideration of the **Named Member's** contribution, the **Pool** will pay all sums that the **Named Member** or a **Named Member's** Manager becomes legally obligated to pay as **Money Damages** because of a settlement or a court judgment findings the **Named Member** or a **Named Member's** Manager vicariously liable, due to the actions of another **Member(s)**, for **Bodily Injury** arising out of, resulting from, caused or contributed to or by, or in connection with, an **Occurrence** of **Sexual Abuse**, or a series of related **Occurrences** of **Sexual Abuse**.

The **Pool's** payment obligation will not exceed the Per **Occurrence** Limit of Coverage shown in **Part I**, section **B. Limits** that is applicable to **Section A – General Coverage Declarations** subject to the Pool Aggregate Limit of Coverage

shown in **Part I**, section **B. Limits** that is applicable to **Part VII, Section A, General Liability; Part VII, Section B, Employment Practices Liability; and Part IX, Law Enforcement Liability**.

All **Claims Expenses** incurred by the **Pool** in investigating or settling any **Claim**, or in defending any suit, against a **Named Member** or a **Named Member's** Manager that is covered by this endorsement's insurance serve to erode, individually or together with any **Money Damages** paid by the **Pool**, the Per **Occurrence** Limit of Coverage shown in **Part I**, section **B. Limits** that is applicable to **Part VII, Section A, General Liability; Part VII, Section B, Employment Practices Liability; and Part IX, Law Enforcement Liability**.

- B. This endorsement's insurance coverage applies to **Bodily Injury** arising out of, resulting from, caused or contributed to or by, or in connection with, an **Occurrence** of **Sexual Abuse** only if:
1. Such **Bodily Injury Occurrence** of **Sexual Abuse** takes place in the coverage territory stated in paragraph C. Territorial Scope of Part II – General Conditions;
 2. Such **Bodily Injury Occurrence** of **Sexual Abuse** takes place on or after the **Sexual Abuse** Retroactive Date shown in the Schedule and before the end of the **Agreement** Period; and
 3. **Notice of Claim** resulting from an **Occurrence** of **Sexual Abuse** occurs during the **Agreement** Period or during the Optional Extended Reporting Period, if applicable.
- C. No other obligation or liability to pay any sum or perform any act or service under this endorsement is covered unless explicitly provided for in this endorsement or elsewhere in the **Agreement**.
- D. Any continuation, change or resumption of an **Occurrence** of **Sexual Abuse** on or after the effective date of this endorsement will be deemed to have been known prior to the effective date of this endorsement. In such case, the limit of liability is sub-limited to \$2,000,000.
- E. All **Bodily Injury** arising out of, resulting from, caused or contributed to or by, or in connection with, any **Occurrence** of **Sexual Abuse** shall be deemed to be a single **Claim**:
1. Whether committed by the same person or two or more persons acting in concert with each other and all breaches of duty giving rise to such acts, and without regard to the number of:
 - a. Persons sexually abused or incidents of **Sexual Abuse**;
 - b. Locations where **Sexual Abuse** took place;
 - c. **Agreement** periods covered by the Pool over which the **Sexual Abuse** took place;
 - d. **Occurrences** of **Sexual Abuse** taking place after the first **Occurrence** of **Sexual Abuse** covered by the **Pool**; provided such subsequent

Occurrences of Sexual Abuse take place during the **Agreement** Period where such **Sexual Abuse** coverage is provided by the **Pool**.

2. With respect to all **Money Damages** and/or **Claims Expenses** related to such **Bodily Injury**, including any subsequent related **Bodily Injury**.
- F. For each single **Claim**, only a single Per **Occurrence** Limit of Coverage that is applicable to **Part VII, Section A, General Liability; Part VII, Section B, Employment Practices Liability; and Part IX, Law Enforcement Liability** will apply. The **Agreement** Period in which the first **Occurrence of Sexual Abuse** insured by the **Pool** takes place will determine the applicable Per **Occurrence** Limit of Coverage.

II. EXCLUSIONS

The following exclusions apply to this endorsement and are in addition to those exclusions stated in Part III – General Coverage Exclusions and **Part VII, Section A, General Liability, Sub-Section II, Exclusions; and Part VII, Section B, Employment Practices Liability, Sub-Section II, Exclusions**. Exclusions Applicable To Part VII, Section A, General Liability; **Part VII, Section B, Employment Practices Liability, and Part IX Law Enforcement Liability**

This endorsement does not provide coverage:

- A. To any **Member** or other person(s) who:
1. Committed, participated in, directed or was aware of and allowed an **Occurrence of Sexual Abuse**.

However, in civil proceedings only, the **Pool** will provide a defense and pay associated **Claims Expenses** of a **Member** who is, or **Members** who are, alleged in a **Claim** or suit to have committed or participated in an **Occurrence of Sexual Abuse**. The **Pool's** payment obligation will not exceed limits of \$50,000 per **Occurrence** (includes one or more **Members**) and \$100,000 annual aggregate per **Named Member** (hereinafter referred to as "Defense **Claims Expenses – Allegation of Sexual Abuse Limits**"). The **Pool's** defense ends for an accused **Member** when:

- a. The **Member** is found by a court of law to be innocent or guilty or not guilty of the charges;
 - b. The **Member** pleads 'nolo contendere' to the charges;
 - c. The **Member** is found to be civilly liable or reaches a civil settlement; or
 - d. The Defense **Claims Expenses – Allegation of Sexual Abuse Limits** are exhausted, whichever occurs first.
2. Failed to follow established written **Named Member** policy in taking action to prevent an initial **Occurrence of Sexual Abuse** or to prevent a recurrence of any **Occurrence of Sexual Abuse**.

- B. For punitive or exemplary damages, treble damages, any sum awarded in excess of compensatory damages, any multiple of compensatory damages, or that part of any award not attributable to compensatory damages.
- C. To any **Member** for liability arising out of, resulting from, caused or contributed to or by, or in connection with, an **Occurrence** of **Sexual Abuse**, or a series of related **Occurrences** of **Sexual Abuse**, because of **Law Enforcement Activities** or **Strip Searches**, or arising out of the ownership, maintenance or use of any **Automobile**.
- D. For any **Claim** made by any **Member** against any other **Member**. This exclusion does not apply to **Claims** brought by a **Member** against a **Named Member** or a **Named Member's** Manager (so long as the **Named Member's** Manager is not the alleged perpetrator).
- E. For an **Occurrence** of **Sexual Abuse** which, prior to the inception date of this endorsement, the **Named Member** or its authorized person or any other **Member** had knowledge of or otherwise had knowledge of facts and circumstances which could reasonably give rise to anticipate a **Claim** or suit might result.

III. LIMITS OF COVERAGE

- A. With respect to insurance coverage provided by this endorsement, the Per **Occurrence** Limit of Coverage shown in **Part I**, section **B. Limits** that is applicable to **Part VII, Section A, General Liability; Part VII, Section B, Employment Practices Liability; and Part IX, Law Enforcement Liability** is the most the **Pool** will pay for the sum of **Money Damages** and/or **Claims Expenses** because of **Bodily Injury** arising out of, resulting from, caused or contributed to or by, or in connection with, any single covered **Occurrence** of **Sexual Abuse**.
- B. Subject to paragraph A. above, the Pool Aggregate Limit of Coverage shown in **Part I**, section **B. Limits** that is applicable to **Part VII, Section A, General Liability; Part VII, Section B, Employment Practices Liability; and Part IX, Law Enforcement Liability** is the most the **Pool** will pay for the sum of all **Money Damages** and **Claims Expenses** during the **Agreement** Period because of **Bodily Injury** arising out of, resulting from, caused or contributed to or by, or in connection with, all covered **Occurrences** of **Sexual Abuse**.
- C. The Defense **Claims Expenses** – Allegation of **Sexual Abuse** Limits stated in subparagraph A of section **II. EXCLUSIONS** of this endorsement are separate from and in addition to the Per **Occurrence** Limit of Coverage shown in **Part I**, section **B. Limits** that is applicable to **Part VII, Section A, General Liability; Part VII, Section B, Employment Practices Liability; and Part IX, Law Enforcement Liability** and the Pool Aggregate Limit of Coverage shown in **Part I**, section **B. Limits** that is applicable to **Part VII, Section A, General Liability; Part VII, Section B, Employment Practices Liability; and Part IX, Law Enforcement Liability**.

IV. EXTENDED REPORTING PERIOD(S)

With respect to the insurance coverage provided by this endorsement, any optional extended reporting period made available by the **Pool** will coincide with that stated in paragraph N. of Part II – Coverage Conditions.

V. DEFINITIONS

The following definition applies to this endorsement only and is in addition to those definitions stated in Part IV – General Definitions or as may be amended by endorsement to the **Agreement**:

- A. **Named Member's** Manager means a person who is employed by a **Named Member** in a management capacity to provide executive, administrative and supervisory direction. **Named Member** also includes **Named Member's** elected or appointed officials.

New Mexico County Insurance Authority
Multi Line Program

Member Coverage Agreement

Endorsement No. 9

Expanded Land Use Coverage for Civil Rights Violations for Member Counties

It is hereby understood and agreed that expanded land use coverage described in Endorsement No. 3 is offered to **Member Counties** for land use claims for an additional charge. For all other **Members** of the Pool, purchase of Land Use coverage as described in Endorsement 3 is mandatory for a period of not less than two (2) years in order to participate in coverage provided by this Endorsement 9. Coverage afforded is as follows:

- A. Claims for **civil rights violations** arising out of the operation of the principles of eminent domain, condemnation proceedings or claims, inverse condemnation proceedings or claims, regulatory taking by whatever name called, land use actions, zoning, rezoning or failure to zone, whether that liability accrues directly against the **Member** or by virtue of any agreement entered into by or on behalf of the **Member**;
- B. Coverage applies to a limit of \$1,000,000 per occurrence with a 10% co-insurance and \$25,000 deductible payable by the **Member** for each occurrence;

Subject otherwise to all terms, clauses and conditions of this **Agreement**.

Member counties that have selected this coverage:

- 1. Bernalillo
- 2. Dona Ana
- 3. San Miguel
- 4. Santa Fe
- 5. Valencia

New Mexico Counties
Multi Line Program

Member Coverage Agreement

Endorsement No. 10

Additional Insured Liability Coverage for Certain Members

It is hereby understood and agreed that additional insured liability coverage is provided for certain **Members** as outlined below. Subject otherwise to all terms, clauses and conditions of this policy.

1. New Mexico State Land Office through Member Santa Fe County effective June 12, 2020 specific to business lease agreement BL-1660 executed June 12, 2020 with the Commissioner of Public Lands State of New Mexico for property located at the address listed below for the sole and exclusive purpose of Behavioral Health Facility. No other uses.

Township	Range	Section	Aliquot	Acreage	County
10N	07 E	16	NE/4 NE/4	2.96	Santa Fe