

# **COLORADO SPECIAL DISTRICTS PROPERTY AND LIABILITY POOL WORKERS' COMPENSATION & EMPLOYER'S LIABILITY COVERAGE DOCUMENT**

In return for the payment of the contribution and subject to all terms of this coverage document, the Colorado Special Districts Property and Liability Pool (hereafter designated as "we," "us" or "the Pool") agrees with you as follows:

## **GENERAL SECTION**

### **A. The Coverage Document**

This coverage document includes at its effective date the Evidence of Coverage Certificate and all endorsements and schedules listed there. It is a master document under which individual Evidence of Coverage Certificates are issued. In the event of a claim, the actual member shall be the member named in the Evidence of Coverage Certificate. The terms of this coverage document may not be changed or waived except by endorsement issued to be part of this coverage document.

### **B. Who Is Covered**

You are covered if you are a member named in the Evidence of Coverage Certificate, but only in your capacity as an employer.

### **C. Workers' Compensation Law**

Workers' Compensation Law means the workers' or workmen's compensation law and occupational disease law of Colorado. It includes any amendments to that law that are in effect during the coverage document period. Volunteers are included only if allowable by law and if the Evidence of Coverage Certificate designates payroll to a corresponding volunteer worker's compensation classification and description. Additionally, if the Evidence of Coverage Certificate designates payroll to a corresponding federal workers' compensation classification and description, the following Federal Acts, including any amendments to such Acts that are in effect during the coverage document period, are included as provided in the endorsement(s) or schedule(s) relating thereto, at the benefit levels set forth in the Workers' Compensation Act of Colorado, and subject to a \$750,000 Self Insured Retention:

1. Incidental Longshoremen's and Harbor Workers' Compensation Act Coverage ("USL&H") (33 USC Sections 901-950) - applies to loss sustained by the employer because of liability imposed upon the employer by the USL&H due to Occurrences taking place as a result of incidental work subject to the USL&H, performed by employees in the state of Colorado;
2. Outer Continental Shelf Lands Act Coverage (43 USC § 1331, *et seq.*) - includes such Act and the provisions of the USL&H Act that apply to such Act;
3. Defense Base Act Coverage (42 USC Sections 1651-1654) - includes such Act and the provisions of the USL&H Act that apply to such Act;
4. Maritime Coverage – No Known Exposure - applies coverage afforded by employers' liability laws, as specified in this coverage document, to loss on account of bodily injury

to a master or member of the crew of a vessel, but such coverage does not include loss on account of:

- a. bodily injury covered by a protection and indemnity policy or similar policy issued to the employer or for the employer's benefit. This exclusion applies even if the other policy does not apply because of an other insurance clause, deductible or limitation of liability clause, or any similar clause.
  - b. the employer's duty to provide transportation, wages, maintenance and cure;
5. Federal Employers' Liability Act Coverage (45 USC Sections 51-60) - No Known Exposure – includes such Act and any amendment to such Act that is in effect during the coverage document period.

#### **D. Locations**

This coverage document covers the following:

1. All employees of the district designated as member in the Evidence of Coverage Certificate in the state of Colorado;
2. Under Voluntary Compensation endorsement, named volunteers of the district designated as member in the Evidence of Coverage Certificate in the state of Colorado;
3. Under Broad Form All States for Employee Travel endorsement, employees who are temporarily assigned to another state; or while traveling to a state other than Colorado; State is defined as any State of the United States of America and the District of Columbia. Coverage will apply to a loss sustained by the employer because of liability imposed upon the employer by the workers' compensation and employer's liability laws of such non-designated State. Coverage will not apply to fines or penalties imposed on the employer for failure to comply with the requirements of any Workers' Compensation Law of Colorado or any other State. Any benefits payable will be at Colorado State Act benefit levels; and
4. Under Foreign Voluntary Workers' Compensation and Employers' Liability – Including Endemic Disease endorsement, employees who are employed to work at locations anywhere in the world outside the United States or United States possessions and territories, except:

Afghanistan, Algeria, Balkans, Belarus, Bolivia, Burma, Burundi, Chad, Central African Republic, Colombia, Cote d'Ivoire, Cuba, Democratic Republic of Congo, Eritrea, Georgia, Haiti, Iran, Iraq, Israel, Kenya, Lebanon, Nepal, Nigeria, North Korea, Pakistan, Philippines, Saudi Arabia, Sri Lanka, Somalia, Sudan, Syria, Uzbekistan, the West Bank and Gaza, Yemen or Zimbabwe.

Should the employer undertake operations outside the state of Colorado, the employer must give notice to us before or within a reasonable time, preferably prior to commencement of the operations. Any loss covered shall be subject to all the limitations of the coverage document including but not limited to the Self Insured Retention Per Occurrence or the Limitation Per Occurrence and the Maximum Limits(s) of Indemnity for the Liability Period. Benefits payable under Foreign Voluntary Workers' Compensation are the same as would be payable if the

employees in question were subject to the Workers' Compensation Law of the state of Colorado and will include repatriation expense up to \$50,000.

## **PART ONE WORKERS' COMPENSATION COVERAGE**

### **A. How This Coverage Applies**

This workers' compensation coverage applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. Bodily injury by accident must occur during the coverage document period.
  - a. Bodily injury by disease also includes endemic disease and must be caused or aggravated by the conditions of employment.
2. Bodily injury by occupational disease shall be deemed to be a separate occurrence unless such disease results directly from an accident.

The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must have occurred within thirty (30) days from the moment such employee's employment or assignment for such work is terminated.

### **B. We Will Pay**

We will pay promptly when due the benefits required of you by the Workers' Compensation Law.

The policy also includes coverage for workers' compensation losses caused by certified acts of terrorism as set forth under the Terrorism Risk Insurance Act of 2002 as amended ("the Act"). A "certified act of terrorism" is defined as an act:

- a. That is certified by the Secretary of the Treasury in concurrence with the Secretary of State and the Attorney General of the United States, to be an act of terrorism; and
- b. That is violent or dangerous to human life, property or infrastructure; and
- c. That results in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and
- d. That has been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

Under the Act, terrorism losses would be partially reimbursed by the U.S. Government under a formula established by such Act. Under this formula, the U.S. Government would generally reimburse 85% of covered terrorism losses exceeding a deductible paid by the Excess Carrier. The Act contains a \$100 billion cap that limits the reimbursement from the U.S. Government as well as from all insurers. If aggregate insured losses for all insurers exceed \$100 billion, the employer's coverage may be reduced.

### **C. We Will Defend**

We have the right and duty to defend any claim, proceeding or suit against you for benefits payable by this coverage document. We have the right to investigate and settle these claims, proceedings or suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this coverage document.

### **D. We Will Also Pay**

We will also pay these costs, in addition to other amounts payable under this coverage document, as part of any claim, proceeding or suit we defend:

1. reasonable expenses incurred at our request, but not loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the amount payable under this coverage document;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this coverage document;
5. expenses we incur; and
6. cost of repatriation expenses up to \$50,000 with respect to any one employee and as otherwise subject to Foreign Voluntary Endorsement Limit of Liability for Coverage B-Employer's Liability, which is limited to \$100,000 and applies in excess of the Self Insured Retention Per Occurrence. Repatriation expenses will include the amount of transportation expenses you incur returning an employee who sustains a bodily injury while traveling or temporarily working outside the United States of America, (or, in case of death, returning the employee's body) to the location where the employee is normally employed which exceeds the cost of returning an employee in an uninjured condition.

### **E. Other Insurance**

We will not pay more than our share of benefits and costs covered by this coverage document and other insurance or self-insurance. Subject to any limits of liability that may apply, all shares will be equal until the loss is paid. If any coverage document, insurance, or self-insurance is exhausted, the shares of all remaining coverage document, insurance or self-insurance will be equal until the loss is paid.

### **F. Payments You Must Make**

You are responsible for any payments in excess of the benefits regularly provided by the Workers' Compensation Law including those required because:

1. of your serious and willful misconduct;
2. you knowingly employ an employee in violation of law;
3. you fail to comply with a health or safety law or regulation; or
4. you discharge, coerce or otherwise discriminate against any employee in violation of the Workers' Compensation Law.

If we make any payments in excess of the benefits regularly provided by the Workers' Compensation Law on your behalf, you will reimburse us promptly.

## **G. Recovery From Others**

We have your rights, and the rights of persons entitled to the benefits of this coverage document, to recover our payments from anyone liable for the injury. You will do everything necessary to protect those rights for us and to help us enforce them.

## **H. Statutory Provisions**

These statements apply where they are required by law.

1. As between an injured worker and us, we have notice of the injury when you have notice.
2. Your default or the bankruptcy or insolvency of your district will not relieve us of our duties under this coverage document after an injury occurs.
3. We are directly and primarily liable to any person entitled to the benefits payable by this coverage document. Those persons may enforce our duties; so may an agency authorized by law. Enforcement may be against us or against you and us.
4. Jurisdiction over you is jurisdiction over us for purposes of the Workers' Compensation Law. We are bound by decisions against you under that law, subject to the provisions of this coverage document that are not in conflict with that law.
5. This coverage document conforms to the parts of the Workers' Compensation Law that apply to:
  - a. benefits payable by this coverage document;
  - b. special taxes, payments into security or other special funds, and assessments payable by us under that law.
6. Terms of this coverage document that conflict with the Workers' Compensation Law are changed by this statement to conform to that law.

Nothing in these paragraphs relieves you of your duties under this coverage document.

## **PART TWO EMPLOYER'S LIABILITY COVERAGE**

### **A. How This Coverage Applies**

This employer's liability coverage applies to bodily injury by accident or bodily injury by disease. Bodily injury includes resulting death.

1. The bodily injury must arise out of and in the course of the injured employee's employment by you.
2. The employment must be necessary or incidental to your work in the state of Colorado.
3. Bodily injury by accident must occur during the coverage document period.
4. Bodily injury by disease must be caused or aggravated by the conditions of employment. The employee's last day of last exposure to the conditions causing or aggravating such bodily injury by disease must occur during the coverage document period.

5. If you are sued, the original suit and any related legal actions for damages for bodily injury by accident or by disease must be brought in the United States of America, its territories or possessions, or Canada.

## **B. We Will Pay**

We will pay all sums you legally must pay, but not more than the limit of liability as shown on the Evidence of Coverage Certificate, as damages because of bodily injury to your employees, provided the bodily injury is covered by this employer's liability coverage.

The damages we will pay, where recovery is permitted by law, include damages:

1. for which you are liable to a third party by reason of a claim or suit against you by that third party to recover the damages claimed against such third party as a result of injury to your employee;
2. for care and loss of services; and
3. for consequential bodily injury to a spouse, child, parent, brother or sister of the injured employee;
4. provided that these damages are the direct consequence of bodily injury that arises out of and in the course of the injured employee's employment by you; and
5. because of bodily injury to your employee that arises out of and in the course of employment, claimed against you in a capacity other than as employer.

## **C. Exclusions**

This coverage document does not cover:

1. liability assumed under a contract;
2. punitive or exemplary damages because of bodily injury to an employee employed in violation of law;
3. bodily injury to an employee while employed in violation of law with your actual knowledge or the actual knowledge of any of your executive officers or board members;
4. any obligation imposed by a workers' compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law;
5. bodily injury intentionally caused or aggravated by you;
6. bodily injury occurring outside the United States of America, its territories or possessions, and Canada. This exclusion does not apply to bodily injury to a citizen or resident of the United States of America or Canada who is temporarily outside these countries, or to the extent coverage is available under the Foreign Voluntary Workers' Compensation and Employers' Liability – Including Endemic Disease endorsement;
7. damages arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any employee, or any personnel practices, policies, acts or omissions; and
8. fines or penalties imposed for violation of federal or state law.

#### **D. We Will Defend**

We have the right and duty to defend any claim, proceeding or suit against you for damages payable by this coverage document. We have the right to investigate and settle these claims, proceedings and suits.

We have no duty to defend a claim, proceeding or suit that is not covered by this coverage document. We have no duty to defend or continue defending after we have paid our applicable limit of liability under this coverage document.

#### **E. We Will Also Pay**

We will also pay these costs, in addition to other amounts payable under this coverage document, as part of any claim, proceeding, or suit we defend:

1. reasonable expenses incurred at our request, but not loss of earnings;
2. premiums for bonds to release attachments and for appeal bonds in bond amounts up to the limit of our liability under this coverage document;
3. litigation costs taxed against you;
4. interest on a judgment as required by law until we offer the amount due under this coverage document; and
5. expenses we incur.

#### **F. Other Insurance**

We will not pay more than our share of damages and costs covered by this coverage document and other insurance or self-insurance. Subject to any limits of liability that apply, all shares will be equal until the loss is paid. If any coverage document, insurance, or self-insurance is exhausted, the shares of all remaining coverage document, insurance and self-insurance will be equal until the loss is paid.

#### **G. Limits of Liability**

Our liability to pay for damages is limited. Our limits of liability are shown in the Evidence of Coverage Certificate. They apply as explained below.

1. **Bodily Injury by Accident.** The limit shown for "bodily injury by accident--each accident" is the most we will pay for all damages covered by this coverage document because of bodily injury to one or more employees in any one accident. A disease is not bodily injury by accident unless it results directly from bodily injury by accident.
2. **Bodily Injury by Disease.** The limit shown for "bodily injury by disease--coverage certificate limit" is the most we will pay for all damages covered by this coverage document and arising out of bodily injury by disease, regardless of the number of employees who sustain bodily injury by disease. The limit shown for "bodily injury by disease--each employee" is the most we will pay for all damages because of bodily injury by disease to any one employee. Bodily injury by disease does not include disease that results directly from a bodily injury by accident.
3. We will not pay any claims for damages after we have paid the applicable limit of our liability shown in the Evidence of Coverage Certificate.

## **H. Recovery From Others**

We have your rights to recover our payment from anyone liable for an injury covered by this coverage document. You will do everything necessary to protect those rights for us and to help us enforce them.

## **I. Actions Against Us**

There will be no right of action against us under this coverage document unless:

1. You have complied with all the terms of this coverage document; and
2. The amount you owe has been determined with our consent or by actual trial and final judgment.

This coverage document does not give anyone the right to add us as a defendant in an action against you to determine your liability. The bankruptcy or insolvency of your district will not relieve us of our obligations under this Part.

## **PART THREE YOUR DUTIES IF INJURY OCCURS**

Tell your third party administrator at once if injury occurs that may be covered by this coverage document. Your other duties are as follows:

1. Provide for immediate medical and other services required by the Workers' Compensation Law.
2. Give your third party administrator the names and addresses of the injured persons and of witnesses, and other information the administrator may need.
3. Promptly give the third party administrator all notices, demands and legal papers related to the injury, claim, proceeding or suit.
4. Cooperate with the third party administrator and assist as requested, in the investigation, settlement or defense of any claim, proceeding or suit.
5. Do nothing after an injury occurs that would interfere with the right to recover from others.
6. Do not voluntarily make payments, assume obligations or incur expenses, except at your own cost.

## **PART FOUR CONTRIBUTIONS**

### **A. Our Plan**

All contributions for this coverage document will be determined by our rules, rates, rating plans, and classifications. We may change our plan and apply the changes to this coverage document if authorized by law or a governmental agency regulating this coverage document.

## **B. Classifications**

The Evidence of Coverage Certificate shows the rate and premium basis for certain business or work classifications. These classifications were assigned based on an estimate of the exposures you would have during the coverage document period. If your actual exposures are not properly described by those classifications, we will assign proper classifications, rates and premium basis by endorsement to your Evidence of Coverage Certificate. The assignment of a proper classification resulting in higher premium is allowed only if the misclassification was caused by your failure to provide accurate or complete data. If your operation changes during the policy term, you must notify us within 90 days of the change. Failure to notify us will be considered a failure to provide accurate or complete data. Payments to us or to you based on improper classification may be collected or refunded during the term of the coverage document and for twelve months after the term.

## **C. Remuneration**

Contribution for each work classification is determined by multiplying a rate times a payroll basis. Remuneration is the most common contribution basis. This contribution basis includes payroll and all other remuneration paid or payable during the coverage document period for the services of:

1. all your board members and employees engaged in work covered by this coverage document; and
2. all other persons engaged in work that could make us liable under Part One (Workers' Compensation Coverage) of this coverage document. If you do not have payroll records for these persons, the contract price for their services and materials may be used as the basis of contributions. This paragraph (2) will not apply if you give us proof that the employers of these persons lawfully secured their workers' compensation obligations.

## **D. Contribution Payments**

You will pay all contributions when due. You will pay the contribution even if part or all of a Workers' Compensation Law is not valid.

## **E. Final Contribution**

The contribution shown on the Evidence of Coverage Certificate is an estimate. The final contribution will be determined after the coverage term ends by using the actual, not the estimated, contribution basis and the proper classifications and rates that apply to the business and work covered by this coverage document. If the final contribution is more than the contribution you paid to us, you must pay us the balance. If it is less, we will refund the balance to you. The final contribution will not be less than the highest minimum contribution for the classifications covered by the coverage document.

If this Evidence of Coverage Certificate is canceled, final premium will be determined in the following way unless our plan provides otherwise:

1. If we cancel, final contribution will be calculated pro rata based on the time this coverage document was in force. Final contribution will not be less than the pro rata share of the minimum contribution.
2. If you cancel, final contribution will be more than pro rata; it will be based on the time this coverage document was in force, and increased by our short-rate cancellation table and procedure. Final contribution will not be less than the minimum contribution.

## **F. Records**

You will keep records of information needed to compute contribution. You will provide us with copies of those records when we ask for them.

## **G. Audit**

You will let us examine and audit all your records that relate to this coverage document. These records include ledgers, journals, registers, vouchers, contracts, tax reports, payroll and disbursement records, and programs for storing and retrieving data. We may conduct the audits during regular business hours during the coverage document period and within three years after the coverage document period ends. Information developed by audit will be used to determine final contribution.

# **PART FIVE CONDITIONS**

## **A. Inspection**

We have the right, but are not obliged to inspect your workplaces at any time. Our inspections are not safety inspections. They relate only to the insurability of the workplaces and the premiums to be charged. We may give you reports on the conditions we find. We may also recommend changes. While they may help reduce losses, we do not undertake to perform the duty of any person to provide for the health or safety of your employees or the public. We do not warrant that your workplaces are safe or healthful or that they comply with laws, regulations, codes or standards. Insurance rate service organizations have the same rights we have under this provision.

## **B. Transfer of Your Rights and Duties**

Your rights or duties under this coverage document may not be transferred without our written consent.

## **C. Cancellation**

1. You may cancel your Evidence of Coverage Certificate. You must mail or deliver advance written notice to us stating when the cancellation is to take effect.
2. We may cancel your Evidence of Coverage Certificate. We must mail or deliver to you not less than ninety days advance written notice, except for non payment of contributions in which case thirty days notice shall apply, stating when the cancellation is to take effect. Mailing that notice to you, or your agent if applicable, at your mailing address shown on the Evidence of Coverage Certificate will be sufficient to prove notice.
3. The coverage term will end on the day and hour stated in the cancellation notice.
4. Any of these provisions that conflict with a law that controls the cancellation of the coverage in your Evidence of Coverage Certificate is changed by this statement to comply with the law.