

# AUTOMOBILE LIABILITY & PHYSICAL DAMAGE COVERAGE AGREEMENT

## PART A GENERAL

- I. The TASB Risk Management Fund (Fund) provides coverage as outlined in this Automobile Liability & Physical Damage Coverage Agreement. This coverage is contingent on full compliance with the provisions contained in this Coverage Agreement, the Contribution and Coverage Summary (CCS) and any other participation documents or agreements between the Fund and the Fund Member.
- II. This document is not a contract of insurance. The Fund is not an insurance company. Rather, this Coverage Agreement is an agreement between the Fund and the Fund Member to pay all covered losses subject to all provisions, including the definitions, terms, conditions, exclusions, deductibles and limits of liability of this Coverage Agreement and any other participation documents. You should read the entire Automobile Liability & Physical Damage Coverage Agreement to determine what is and what is not covered. Certain provisions contained in this Automobile Liability & Physical Damage Coverage Agreement will exclude, limit or restrict coverage. The terms and definitions of this Automobile Liability & Physical Damage Coverage Agreement only apply to this Coverage Agreement and do not apply to other Fund coverage agreements.
- III. The Fund, in its sole discretion, shall determine which coverage applies, if any, when a claim is reported to the Fund.
- IV. The following bolded terms are defined and applicable throughout this entire Coverage Agreement:
  - A. **Automobile** means any of the following that are registered for use on public roads: automobiles and motor vehicles, trailers, semi-trailers, or any self-propelled motor driven equipment. **Automobile** does not include self-propelled motor driven equipment that is not registered for use on public roads, such as lawnmowers, golf carts, all-terrain vehicles, forklifts, or tractors.
  - B. **Covered Automobile** means **Automobiles** that are:
    1. Owned by the Fund Member;
    2. Commercially leased or rented by the Fund Member for Fund Member related activities where coverage is required under the written lease or rental agreement, or borrowed by the Fund Member for Fund Member related activities. If the **Automobile** is leased, rented or borrowed for a period of less than 30 days, the **Automobile** shall be considered a **Covered Automobile** only under Part B of this Coverage Agreement. If for 30 days or more, the **Automobile** shall be considered a **Covered Automobile** under Part B and Part C of this Coverage Agreement; or
    3. Owned by a Covered Person, other than the Fund Member or a student, and while being used in course and scope of employment or duties on behalf of the Fund Member, under Part B only.
  - C. **Participation Period** means the effective dates of coverage under this Coverage Agreement as stated in the CCS.
- V. Any coverage under this Automobile Liability & Physical Damage Coverage Agreement only applies within the United States of America.

PART B  
AUTOMOBILE LIABILITY COVERAGE

- I. The Fund will pay those sums the Covered Person becomes legally obligated to pay as Damages arising out of an Occurrence related to the ownership, maintenance, or use, including loading and unloading, of any **Covered Automobile** that takes place during the **Participation Period** because of Bodily Injury or Property Damage. The Fund will pay for Damages that are in excess of the deductible amount and within the limits of liability shown in the CCS. The limit of liability stated in the CCS will not be reduced by the amount of Claim Expense paid per Occurrence. The Fund Member will pay the deductible amount shown in the CCS for each Occurrence. The deductible shall apply to judgments, settlements and Claim Expense. The limit of coverage as stated in the CCS or in this Coverage Agreement is the maximum amount the Fund will pay for any single Occurrence regardless of the number of Covered Persons who are sued or made subject to a claim, or the number of persons or organizations making a claim arising out of the Occurrence.
- II. If a claim is within the Automobile Liability coverage provided by the Fund, the Fund, subject to its limit of liability, has the right and duty to defend any suit brought against a Covered Person and pay reasonable Claim Expense even if such action or suit is groundless, false, or fraudulent. The Fund has no duty to defend a Covered Person against any claim or suit seeking Damages to which this Automobile Liability coverage does not apply. The Fund's duty to defend or settle claims ends when the Automobile Liability coverage limits of liability have been exhausted.
  - A. Covered Persons means:
    1. the Fund Member;
    2. any trustee, school board member, student teacher, volunteer, or employee of the Fund Member, while such Covered Persons are acting within the course and scope of their duties or employment;
    3. any governmental entity and its employees while such employees are using a **Covered Automobile**, provided such use is with permission of the Fund Member, is for a Fund Member approved function, and a requirement for the Fund's Automobile Liability coverage exists by written contract between the Fund Member and the governmental entity; or
    4. students of the Fund Member, only while the student is operating a Fund Member-owned or leased **Covered Automobile** at the direction of a Fund Member employee acting within the course and scope of the employee's employment.
  - B. Damages means any amount, within the coverage limits, Covered Persons are legally obligated to pay. This includes settlements, judgments, related court costs, and interest on any judgment, unless otherwise excluded in this Coverage Agreement.
  - C. Occurrence means any event or series of events arising out of an accident resulting in Damages from Bodily Injury or Property Damage. It includes continuous or repeated exposure to the same conditions resulting in Damages from Bodily Injury or Property Damage that are neither intentional nor expected by the Covered Person.
  - D. Claim Expense means all Fund approved reasonable expenses arising from the investigation or defense of any claim. Claim Expense does not include non-Fund approved expenses or costs, including personal attorney fees or salaries of Covered Persons or any other governmental body.
  - E. Bodily Injury means bodily injury, sickness or disease, or death sustained by any person.

- F. Property Damage means physical injury to, or destruction of, tangible property belonging to others, including loss of use of the property whether or not it has been physically injured or destroyed.
- III. The maximum limits per person and per Occurrence as stated in the CCS is the maximum amount the Fund will pay for all claims arising out of an Occurrence.
- IV. The Fund Member, upon notice, shall reimburse the Fund for the deductible amount paid by the Fund for any claim.
- V. This coverage is excess over any other coverage or insurance available to a Covered Person for claims involving **Covered Automobiles** that are not owned by the Fund Member.
- VI. If the Fund Member leases or loans an owned **Covered Automobile** to a public school district or community college, this Part B liability coverage shall extend to the receiving entity and its employees for use of the **Covered Automobile** in the receiving entity's school related operations.
- VII. For any Occurrence that takes place outside of Texas and within the United States of America, the limits of coverage shall be increased to a combined single limit per Occurrence of \$1,000,000.

AUTOMOBILE LIABILITY COVERAGE  
WHAT COVERAGE THE FUND WILL NOT PROVIDE

VIII. EXCLUSIONS—The Fund will not pay for:

- A. Damages or Claim Expense arising out of the ownership, maintenance, operation, use, loading or unloading of any aircraft, including drones and Unmanned Aerial Vehicles.
- B. Damages or Claim Expense arising out of the ownership, maintenance, operation, use, loading or unloading of any **Automobile** in violation of any state or federal law or regulation specifically addressing safety in the transportation of students.
- C. Damages, costs or interest attributable to punitive or exemplary damages, or to multiple or additional damages intended as a penalty.
- D. Damages or Claim Expense for any Covered Person who has allegedly violated any criminal law that results in the filing or obtaining of a criminal charge, information or indictment against the Covered Person. The Fund shall be entitled to rely on extrinsic evidence to determine whether coverage applies.
- E. Damages or Claim Expense for any Covered Person once it has been established the person has engaged in malicious or intentional acts.
- F. Bodily Injury to any employee of the Fund Member in the course and scope of his employment by the Fund Member, or to any obligation of the Fund Member to indemnify another because of Damages arising out of such injury.
- G. Damages or Claim Expense for any entity or person operating a **Covered Automobile** who is in the business or occupation of selling, repairing, servicing, storing, or parking **Automobiles**, other than the Fund Member.

PART C  
AUTOMOBILE PHYSICAL DAMAGE COVERAGE

- I. The Fund will pay for direct and accidental losses to **Covered Automobiles** occurring during the **Participation Period**. Coverage is provided under:
  - A. **COLLISION**—Collision provides coverage for damage to a **Covered Automobile** caused by a collision with an object or another vehicle; or
  - B. **COMPREHENSIVE**—Comprehensive provides coverage for physical damage resulting from a loss by a cause other than Collision.
- II. The Fund will pay for the loss to each **Covered Automobile** that is in excess of the deductible amount and within the limits of coverage shown in the CCS or in this Coverage Agreement. The deductible and limit will be applied separately to each **Covered Automobile**; if more than one Fund Member-owned or leased **Covered Automobiles** is involved in a Collision loss event, only one deductible applies, unless otherwise indicated by this Coverage Agreement. For loss to any one **Covered Automobile**, the Fund will pay the smaller of:
  - A. The actual cash value of the **Covered Automobile** at the time of loss; or
  - B. The actual and necessary cost to repair the **Covered Automobile** with materials of like kind and quality.
- III. In the event of a recovery of a stolen **Covered Automobile**, the Fund at its sole discretion will:
  - A. Return the stolen **Covered Automobile** to the Fund Member, with payment for any damage sustained as a result of the theft; or
  - B. Take possession of the damaged or stolen **Covered Automobile**.
- IV. The Fund will make supplementary payments for the following Fund Member expenses in the event of a covered loss for:
  - A. Reasonable storage, towing, and other accident-related charges; and
  - B. Rental expense, in the event of theft of a **Covered Automobile** of the private passenger type. The Fund will reimburse the expense incurred for the rental of a private passenger **Automobile** during the period commencing forty-eight hours after the theft has been reported to the Fund and the police. Reimbursement terminates when the **Covered Automobile** is returned to use or the Fund pays for the loss. Reimbursement for the rental will not exceed \$35 for any one day or \$1,050 total.

AUTOMOBILE PHYSICAL DAMAGE COVERAGE  
WHAT COVERAGE THE FUND WILL NOT PROVIDE

- V. **EXCLUSIONS**—The Fund Will not pay for:
  - A. Loss that is a result of freezing, wear and tear, rust, inherent defect, faulty repair, mechanical or electrical breakdown unless the damage is the direct result of a covered loss.
  - B. Loss to tires on a **Covered Automobile** unless the loss is a direct result of a covered loss.



PART D  
AUTOMOBILE LIABILITY & PHYSICAL DAMAGE COVERAGE  
General Exclusions, Terms, Requirements, & Conditions

- I. Part D of this Coverage Agreement describes exclusions, terms, requirements, and conditions that apply to all coverage provided in this Coverage Agreement and are in addition to the exclusions, terms, requirements, and conditions described in Parts A, B and C of this Coverage Agreement.
- II. EXCLUSIONS—The Fund will not pay for:
- A. Loss, Damages, or Claim Expense arising out of a Covered Person operating a **Covered Automobile** in a manner for which it is legally prohibited for use.
  - B. Loss, Damages, or Claim Expense arising out of the ownership, maintenance, operation, use, loading or unloading of self-propelled motor driven equipment that is not registered for use on public roads.
  - C. Loss, Damages or Claim Expense arising out of:
    - 1. use, seizure or destruction of **Covered Automobile** by order of governmental authority;
    - 2. nuclear reaction or radiation, or radioactive contamination, regardless of cause;
    - 3. war, undeclared or civil war, warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
    - 4. insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
  - D. Loss, Damages or Claim Expense arising out of an Act of Terrorism or actions taken by any government branch or agency in response. This exclusion applies whether or not the Act of Terrorism was committed in concert with or on behalf of any organization or government. Act of Terrorism means any incident determined to be such by an official, department or agency that has been specifically authorized by federal statute to make such a determination.
  - E. Damages or Claim Expense arising out of any assumption of liability in a contract or agreement, or arising out of breach of any contract or agreement, including any claim sounding in tort for which is based directly or indirectly on a contractual obligation. This exclusion does not apply to liability that the Covered Person would have in the absence of a contract or agreement. This exclusion does not apply to contracts regarding the lease or rental of **Automobiles** by the Fund Member.
- III. OTHER INSURANCE OR COVERAGE
- A. If a claim is made that could be covered under more than one line of coverage offered by the Fund, the Fund will determine which line of coverage, limits and deductibles apply. It is the intention of this provision that there shall be no accumulation or stacking of coverage.
  - B. Coverage as provided by this Coverage Agreement shall always apply as excess over any other insurance or coverage that applies to a loss regardless of whether the other insurance or coverage applies on a primary, excess, or contingent coverage basis.

- C. If a loss covered by both this Coverage Agreement and other insurance or coverage applies on an excess basis, the Fund will not pay for a greater proportion of the loss than that stated in the applicable contribution provision below:
1. Contribution by Equal Shares—If all of the other insurance or coverage provides for contribution by equal shares, the Fund will not pay for a greater proportion of the loss than its equal share until the share of the other insurance or coverage or the Fund Member's limits equals the lowest applicable limit of liability under any of the coverage, or the full amount of the loss is paid. Any remaining amount of loss will be paid by any remaining Fund Member's limit of liability, until exhaustion, by continuing to contribute equal shares to the remaining amount of loss.
  2. Contributions by Limits—If all of the other insurance or coverage does not provide for contribution by equal shares to the loss, the Fund will pay the applicable Fund Member's limit of liability in proportion to the total limit of liability of all other insurance or coverage.

#### IV. FUND MEMBER'S and COVERED PERSONS DUTIES

- A. In the event of a loss, Occurrence, claim, or suit that may result in a claim the Fund Member or Covered Persons must:
1. Give the Fund notice of the loss, Occurrence, claim, or suit as soon as practicable, but in no event more than 30 days from the Covered Person's knowledge of the loss to the Fund;
  2. Provide in the notice to the Fund of the time, place, persons or witnesses involved, and the circumstances of the loss, Occurrence, claim, or suit. If failure to provide notice prejudices the Fund's defenses, there is no liability coverage under this Automobile Liability & Physical Damage Coverage Agreement;
  3. Immediately provide to the Fund copies of any demands, notices, summonses or legal papers received in connection with the claim or suit and authorize the Fund to obtain records and other information related to the claim or suit;
  4. Cooperate with the Fund and, upon the Fund's request, assist in investigation, defense and/or making settlement in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to Covered Persons because of Bodily Injury or Property Damage with respect to the coverage provided under this Automobile Liability & Physical Damage Coverage Agreement;
  5. Not, except at their own cost, voluntarily make any payment, assume any obligation or incur any expenses, nor shall the Covered Persons, after a loss, waive any rights of recovery of any party; and
  6. Give notice to the proper police authority if the loss or Occurrence involves a violation of a law.

#### V. AUTOMOBILE LIABILITY & PHYSICAL DAMAGE COVERAGE CONDITIONS

- A. Failure to comply with any or all of the terms, Duties, Conditions or requirements of this Coverage Agreement may result in a delay or denial of a claim or loss of coverage.
- B. Misrepresentation of any material fact, engagement in fraudulent acts, making false statements or failure to comply with reasonable Fund requests may result in loss of coverage.
- C. The Fund Member agrees to maintain a record of **Covered Automobiles** owned by the Fund Member. Upon request, the Fund Member will provide the record to the Fund.

- D. The Fund has sole authority in all matters pertaining to the administration of claims. All decisions on individual claims shall be made by the Fund or its designee, including, without limitation, decisions concerning claim values, payment due on the claim, settlement, subrogation, litigation, or appeals. Covered Persons shall not, except at their own cost, incur any costs, charges or expenses, or admit liability, assume any obligation or settle any claim without the written consent of the Fund. There can be no abandonment to the Fund of any **Covered Automobile** or other vehicles or property.
- E. The Fund will pay premiums on appeal bonds required in any suit and premiums on bonds to release attachments for claims covered under this Coverage Agreement, not to exceed the applicable limit of liability as stated in the CCS.
- F. The Fund will pay all reasonable expenses incurred at the Fund's request by a Covered Person.
- G. The limit per Occurrence as stated as in the CCS is the maximum amount the Fund will pay to all claimants arising out of one Occurrence for any loss covered under this Coverage Agreement regardless of the number of:
  - 1. Covered Persons who are sued or otherwise made subject to claims arising out of the Occurrence;
  - 2. Persons or organizations who sustain injury or Damages out of the Occurrence; or
  - 3. Claims or suits brought on account of the Occurrence.
- H. Any assignment by a Fund Member without written agreement of the Fund under this Coverage Agreement shall not bind the Fund.
- I. By acceptance of this Coverage Agreement, the Fund Member agrees to act on behalf of all Covered Persons with respect to the giving and receiving of notice of claim.
- J. No action shall be taken against the Fund, unless as a condition precedent, the Fund Member must have fully complied with all terms of this Coverage Agreement. No person has a right under this Coverage Agreement to join the Fund as a party or otherwise bring it into a suit filed against the Fund Member.