ENDORSEMENT NO.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY**

This endorsement, effective 12:01AM:

Forms a part of Policy no.:

## NEW YORK AMENDATORY ENDORSEMENT

**(To be used with Granite State Insurance Company and**

**National Union Fire Insurance Company of Pittsburgh, Pa. only)**

This endorsement modifies insurance provided under the following:

SOCIAL SERVICES PROFESSIONAL LIABILITY COVERAGE FORM

EDUCATIONAL ORGANIZATION PROFESSIONAL LIABILITY COVERAGE FORM

1. The Coverage B. Non-monetary Relief Defense Costs schedule of the EDUCATIONAL ORGANIZATION PROFESSIONAL LIABILITY COVERAGE FORM is deleted in its entirety and replaced with the following:

|  |  |
| --- | --- |
| **LIMITS OF INSURANCE – Coverage B. Non-monetary Relief Defense Costs (Optional Coverage)** | |
| Defense Cost Annual Aggregate Limit | $ |
| Defense Cost Deductible | $ |

1. Subparagraph 1.a. of **SECTION I – COVERAGE, Coverage B – Non-Monetary Relief Defense Costs (Optional Coverage)** of the EDUCATIONAL ORGANIZATION PROFESSIONAL LIABILITY COVERAGE FORM is deleted in its entirety and replaced with the following:

a. We will pay on your behalf for the reasonable “non-monetary relief defense costs” that you incur because of “suits” seeking non-monetary or injunctive relief to which **COVERAGE B**. applies. We will not pay for “non-monetary relief defense costs” you incur for any “suit” seeking non-monetary or injunctive relief to which **COVERAGE B**. does not apply. The amount we will pay on your behalf for “non-monetary relief defense costs” is limited as described in **LIMITS OF INSURANCE (SECTION III).**

1. Subparagraph 1.b. of **SECTION I – COVERAGE, Coverage B – Non-Monetary Relief Defense Costs (Optional Coverage)** of the EDUCATIONAL ORGANIZATION PROFESSIONAL LIABILITY COVERAGE FORM is deleted in its entirety and replaced with the following:

b. This insurance applies only if:

(1)   The “suit” seeking non-monetary or  injunctive relief is caused by a “professional incident” that takes place within the “coverage territory” and the original “suit” is brought within the “coverage territory”.

(2)   The “professional incident" occurs during the “policy period”.

(3)   The “suit” seeking non-monetary or injunctive relief is first served against the insured during

the “policy period”.

1. Subparagraph a. of Paragraph 1**.** Insuring Agreement**,** of **SECTION** **I - COVERAGE** of the SOCIAL SERVICES PROFESSIONAL LIABILITY COVERAGE FORM (CLAIMS-MADE) and Subparagraph a. of Paragraph 1. Insuring Agreement of **SECTION I – COVERAGE, Coverage A – Professional Liability** of the EDUCATIONAL ORGANIZATION PROFESSIONAL LIABILITY COVERAGE FORM CLAIMS MADE are deleted in their entirety and replaced with the following:

a. We will pay on behalf of the insured those sums that the insured becomes legally obligated to pay as “damages” because of a “professional incident” to which this insurance applies. We will have the right and duty to defend any “suit” seeking those “damages” even if the allegations of the “suit” are groundless, false or fraudulent. We may, at our discretion, investigate any incident or “professional incident” and settle any claim or “suit” that may result. But:

(1) The amount we will pay for “damages” is limited as described in **LIMITS OF INSURANCE (SECTION III)**; and

(2) Our right and duty to defend ends when we have used up the applicable limits of insurance in the payment of judgments or settlements.

1. Subparagraph **b**. of Paragraph 2. **Exclusions** of **SECTION** **I - COVERAGE** of the SOCIAL SERVICES PROFESSIONAL LIABILITY COVERAGE FORM (CLAIMS-MADE) and Subparagraph **b.** of Paragraph 2. **Exclusions – Coverage A** of **SECTION I – COVERAGE, Coverage A – Professional Liability** of the EDUCATIONAL ORGANIZATION PROFESSIONAL LIABILITY COVERAGE FORM CLAIMS MADE are deleted in their entirety and replaced with the following:

b. Any claim arising out of any criminal, dishonest, bad faith, fraudulent or malicious act or failure to act of any insured or of anyone for whose act or failure to act the insured is legally responsible. However, if claimor “suit” also includes an allegation which is otherwise covered under this Policy, wewill defend such claimor “suit” alleging a dishonest, bad faith, fraudulent, or malicious act or failure to act until such time as the insuredis determined to have committed such dishonest, bad faith, fraudulent, or malicious act or failure to act.

This exclusion does not apply to any insured who did not:

(1) Personally participate in committing any such act; or

(2) Remain passive after having personal knowledge of any such act.

1. Paragraph 5. of **SECTION III – LIMITS OF INSURANCE** is deleted in its entirety and replaced with the following:

5. The Defense Cost Annual Aggregate Limit shown in the Schedule of this Coverage Form is the most we will pay on your behalf for “non-monetary relief defense costs” under **COVERAGE B**. Our obligation to pay on your behalf for “non-monetary relief defense costs” applies only to the amount of such costs in excess of the “Deductible” shown in the Schedule of this Coverage Form as applicable to **COVERAGE B.**

1. Paragraph 1. **Bankruptcy** of **SECTION IV - CONDITIONS** is deleted in its entirety and replaced with the following:

1**.** **Bankruptcy**

The bankruptcy of the Insured shall not relieve the Insurer of its obligations under this policy as long as all policy requirements are met by Insured, its trustee or receiver in bankruptcy. Should a covered judgment be rendered against a bankrupt Insured, we shall be liable for the amount of such judgment not to exceed the applicable limit of liability under this policy.

1. Paragraph 3. **Other Duties in the Event of a Professional Incident, Claim or Suit** of **SECTION** **IV - CONDITIONS** is amended to include the following additional subparagraphs:
2. Notice given by or on behalf of the insured, or written notice by or on behalf of the injured person or any other claimant, to any of our agents in New York State, with particulars sufficient to identify the insured, shall be considered to be notice to us.
3. Failure to give us notice as required under this Policy shall not invalidate any claim made by the insured, injured person or any other claimant, unless the failure to provide such timely notice has prejudiced us. However, no claim made by the insured, injured person or other claimant will be invalidated if it shall be shown not to have been reasonably possible to give such timely notice and that notice was given as soon as was reasonably possible thereafter;
4. Paragraph 5. **Premium Audit of** **SECTION IV – CONDITIONS** is deleted in its entirety and replaced with the following:

5. **Premium Audit**.

a. We will compute all premiums for this Coverage Part in accordance to our rules and rates.

b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period.

c. Audit premiums are due and payable on notice to the first Named Insured. If the sum of the advance and audit premiums paid for the policy term is greater than the earned premium, we will return the excess to the first Named Insured.

d. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

e. An audit to determine final premium for policies under which the initial premium is based on an estimate of the insured's exposure base shall be conducted within 180 days after expiration of such policy, and may not be waived except in the following circumstances:

(i) The total annual premium attributable to the auditable exposure base is not reasonably expected to exceed $1500;

(ii) The policy requires notification to the insurer with the specific identification of any additional exposure units for which coverage is requested (i.e., motor vehicles); or

(iii) The policy is a commercial umbrella for which the rate or premium is determined by the application of a factor to the rate or premium of an auditable underlying policy.

1. Paragraph 14. **Legal Action Against Us** of **SECTION** **IV - CONDITIONS** is deleted in its entirety and replaced with the following:

14. **Legal Action Against Us**

No one may bring an action against us unless there has been full compliance with all the terms of this policy and the amount of the Insured’s obligation to pay has been finally determined either by:

1. judgment against the Insured which remains unsatisfied at the expiration of thirty (30) days from the service of notice of entry of the judgment upon the Insured and upon us; or
2. written agreement of the Insured, the claimant and us.

Any person or organization or legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this policy to the extent of the insurance afforded by this policy. We may not be impleaded by the Insured or its legal representative in any legal action brought against the Insured by any person or organization.

With respect to personal injury claims arising from a “professional incident”, if we deny coverage or do not admit liability because an insured or the injured person, someone acting for the injured person or other claimant fails to give us written notice as soon as practicable, then the injured person, someone acting for the injured person or other claimant may bring an action against us, provided the sole question is whether the denial of coverage or non admission of liability is based on the failure to provide timely notice.

However, the injured person, someone acting for the injured person or other claimant may not bring an action if within 60 days after we deny coverage or do not admit liability, we or an insured:

a. Brings an action to declare the rights of the parties under the policy; and

1. Names the injured person, someone acting for the injured person or other claimant as a party to the action.
2. Paragraph 4. **Other Insurance** of **SECTION** **IV - CONDITIONS** is deleted in its entirety and replaced with the following:

**4. Other Insurance**

The insurance provided under this Policy shall be primary, unless this policy is written specifically to be excess over other valid and collectible insurance. Our obligations are not affected unless any of the other insurance is also primary. Then, we will contribute by limits, with each insurer’s share being based on the ratio of its applicable limits of liability to the total applicable limits of liability of all insurers.

### SECTION IV – CONDITIONS is amended to include the following additional condition:

### Transfer of Duties When a Limit of Insurance is Used Up

1. If we conclude that, based on “Professional incidents”, claims or “suits” which have been reported to us and to which this insurance may apply, a limit of liability shown in the Schedule is likely to be used up in the payment of judgments or settlements, we will notify the first Named Insured, in writing, to that effect.
2. When a limit of insurance described in paragraph 1. above has actually been used up in the payment of judgments or settlements:
3. We will notify the first Named Insured, in writing, as soon as practicable, that:
4. Such a limit has actually been used up; and
5. Our duty to defend claims or “suits” seeking damages subject to that limit has also ended.
6. We will initiate, and cooperate in, the transfer of control, to any appropriate insured, of all claims and “suits” seeking damages which are subject to that limit and which are reported to us before that limit is used up. That insured must cooperate in the transfer of control of said claim and “suits”.

We agree to take such steps, as we deem appropriate, to avoid a default in, or continue the defense of, such “suits” until such transfer is completed, provided the appropriate insured is cooperating in completing such transfer.

We will take no action whatsoever with respect to any “suit” seeking damages that would have been subject to that limit, had it not been used up, if the claim or “suit” is reported to us after that limit of insurance has been used up.

c**.** The first Named Insured, and any other insured involved in a “suit” seeking damages subject to that limit, must arrange for the defense of such “suit” within such time period as agreed to between the appropriate insured and us. Absent any such agreement, arrangements for the defense of such “suit” must be made as soon as practicable.

1. The first Named Insured will reimburse us for expenses we incur in taking those steps we deem appropriate in accordance with paragraph 2.b. above.

The duty of the first Named Insured to reimburse us will begin on:

1. The date on which the applicable limit of insurance is used up, if we sent notice in accordance with paragraph 1. above; or
2. The date on which we sent notice in accordance with paragraph 2.a. above, if we did not send notice in accordance with paragraph 1. above.
3. The exhaustion of any limit of insurance by the payments of judgments or settlements, and the resulting end of our duty to defend, will not be affected by our failure to comply with any of the provisions of this Condition.

**XIII.** Paragraph 2**, SECTION V.** **DEFINITIONS,** is deleted in its entirety and replaced with the following:

2. “Counseling service” means the act of giving advice, giving counsel, other than legal advice or guidance in connection with the insured’s “professional services”.

All other terms and conditions of the policy remain the same.

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Authorized Representative