SUBJECT: Directors & Officers, and Employment Practices Liability Insurance Policy

PROPOSED BOARD ACTION

Approve the purchase of Directors & Officers, and Employment Practices Liability Insurance Policy

BACKGROUND INFORMATION

The Bylaws of the Florida Gulf Coast University Board of Trustees contain the following provision regarding State coverage and indemnification of the trustees:

X. Miscellaneous Provisions

B. Indemnification – FGCU shall indemnify, defend, and hold harmless each member of the Board of and from any and all claims, demands, civil or criminal actions, rights, defenses, counterclaims, proceedings, administrative actions, agreements, contracts, covenants, accounts, offsets, attorneys’ fees, costs, damages, liabilities, losses, expenses, suits, debts, judgments, awards, duties, or obligations, of any nature whatsoever, at law or in equity (collectively referred to as “Claims”), that arise from or relate in any way to his or her position on the Board, or any act undertaken or omitted in connection with his or her service as a member of the Board. At the direction of the Board, FGCU may procure and may maintain, at FGCU’s expense, adequate insurance coverage, including separate Directors and Officers (“D&O”) coverage, for the defense and payment of any such Claims.

Proposed is a liability insurance policy that would serve as additional coverage for the defense and payment of any such Claims not provided (pursuant to F.S.
768.28) by the State of Florida’s Department of Financial Services, Division of Risk Management. The Individual Insureds are not limited to members of the FGCU Board of Trustees, but also include FGCU employees and agents.

The insurance policy proposal is for $5,000,000 per claim/per aggregate for Directors & Officers, and Employment Practices Liability, with a premium cost of $39,585.94 to be paid by Florida Gulf Coast University.


Prepared by: Chief of Staff & University Spokesperson Susan Evans

Legal Review: General Counsel Vee Leonard (June 10, 2008)

Submitted by: President Wilson G. Bradshaw
AN

INSURANCE PROPOSAL

PREPARED ESPECIALLY

FOR

Florida Gulf Coast University

*Effective: TBD*

**Presented By:**

Brandt Shapiro, CIC
Account Executive

Tony Grippa
Executive Vice President

Pamela J. Thompson, CIC
Vice President
Commercial Lines Manager

Denise Gordon, AIC, ACSR
Sr. Claims Analyst
This proposal contains only a general description of the coverage(s) and does not constitute a policy/contract. For complete policy information, including exclusions, limitations, and conditions, refer to the policy document. A specimen copy is available upon request. In the event of any differences between the policy and this summary, the policy will control.
PROPOSED LIABILITY COVERAGES

Type of Form:

Claims-Made (Prior Unknown Acts Coverage Granted)

Limits of Liability:

Shared Limits for Directors & Officers and Employment Practices Liability

<table>
<thead>
<tr>
<th>Per Claim</th>
<th>Aggregate</th>
<th>Premium</th>
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<tbody>
<tr>
<td>$5,000,000</td>
<td>$5,000,000</td>
<td>$39,585.94</td>
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</tbody>
</table>

Self Insured Retention:

$50,000 Per Claim
$100,000 (Employment Practices Liability Only) Per Claim

Higher limits may be available upon request
PROPOSED LIABILITY COVERAGES (Continued)

Terms & Conditions (Include But Are Not Limited To):

- Florida Amendatory- Cancellation Nonrenewal
- Coverage Territory Endorsement (OFAC)
- Notice- Florida State Surcharges
- Defense Costs are within the Limits
- Absolute Bodily Injury & Property Damage Exclusion
- Commissions Exclusion
- Exclusion (J) Amended (FLSA)
- No Liability Provision Deleted
- Severability of the Application Amendatory Endorsement
- Crisis Fund of Educational Institutions
  - Crisis Communications Management Insurance ($50,000 / $2,500 Retention)
- Employment Practices Claims Separate Retentions ($100,000)
- Captive Insurance Company Exclusion
- Nuclear Energy Liability Exclusion Endorsement (Broad Form)
- NFP Risk Protector Amendatory Endorsement
- Higher Education Organization Amendatory Endorsement- Not for Profit
- Forms Index Endorsement
- Appendix A Not for Profit Panel Counsel Addendum
  - Please note that recent changes have been made to this appendix
PROPOSED LIABILITY COVERAGES (Continued)

Coverage Enhancements:

- Definition of "Affiliate" amended to include any organization that is endorsed onto the policy, rather than only NFP that are endorsed onto the policy

- Definition of "Claim" amended to include definition to include written demands for non-monetary or injunctive relief

- Definition of "Employee" amended to include leased employees and independent contractors

- Definition of "Employment Practices Violation" has been amended to include paragraph 12 which includes coverage for negligent hiring, retention, training or supervision, infliction of emotional distress or mental anguish, failure to provide or enforce adequate or consistent corporate policies or procedures, or violation of an individual's civil rights related to the 11 other named perils

- Definition of "Organization" has been amended to include debtor-in-possession.

- Definition of "Loss" amended to include "IRS Fines" and "Excess Benefits" coverage

- The "taxes/penalties" exclusion (l) removed and "taxes/penalties" are now an express carve-out from the definition of Loss.

- Domestic Partner Coverage added to Clause 3

- Exclusions (a) and (b) amended to Final Adjudication language

- Exclusion (f) (Insured v. Insured Exclusion) amended to include a carve back for "bankruptcy trustee"

- Exclusion (h) (Bodily Injury/Property Damage) amended to include carve-out for emotional distress and mental anguish

- Exclusion (i) (Pollution) amended to provide Side A carve back

- Exclusion (k) (Breach of Contract) amended to include (1) carve back for defense costs for EPL Claims and (2) carve back for defense costs of Individual Insureds for all Claims
PROPOSED LIABILITY COVERAGES (Continued)

Coverage Enhancements: (Continued)

- Clause (7)(a) amended to include notice to Risk Manager/General Counsel and 90 post policy reporting period

- Clause 8 amended to 70/30 Cooperation Clause (hammer) for EPL Claims and deleted for D&O Claims
SUMMARY OF RELATED INFORMATION

Payment Plan:

Agency Bill: Annual premium is due in full at time of binding coverage. A premium finance agreement is available upon request.

Subject To:

- Signed & Completed AIG Application
- Signed Terrorism Disclosure Notice

Please refer to the individual proposed coverage parts for terms and conditions that this proposal may be subject to. This proposal is based upon the exposures to loss made known to the Agency. Any changes in these exposures (i.e., new operations, new products, additional states of hire, etc.) need to be promptly reported to us in order that proper coverage(s) may be put into place.
A.M. BEST FINANCIAL RATING

The insurance company providing coverage has the following A. M. Best* Financial rating:

* Rating Guide:  A++ to C-  =  Highest to lowest rating  
15 to 1  =  Largest to smallest rating

<table>
<thead>
<tr>
<th>Professional Liability</th>
<th>Rating for Stability</th>
<th>Rating for Assets/Surplus</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Fire Insurance Company</td>
<td>A+</td>
<td>15</td>
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</tbody>
</table>
RELATED INFORMATION

**Compensation:** In addition to the commissions or fees received by us for assistance with the placement, servicing, claims handling, or renewal of your insurance coverages, other parties, such as excess and surplus lines brokers, wholesale brokers, reinsurance intermediaries, underwriting managers and similar parties, some of which may be owned in whole or in part by Brown & Brown, Inc., may also receive compensation for their role in providing insurance products or services to you pursuant to their separate contracts with insurance or reinsurance carriers. That compensation is derived from your premium payments. Additionally, it is possible that we, or our corporate parents or affiliates, may receive contingent payments or allowances from insurers based on factors which are not client-specific, such as the performance and/or size of an overall book of business produced with an insurer. We generally do not know if such a contingent payment will be made by a particular insurer, or the amount of any such contingent payments, until the underwriting year is closed. That compensation is partially derived from your premium dollars, after being combined (or “pooled”) with the premium dollars of other insureds that have purchased similar types of coverage. We may also receive invitations to programs sponsored and paid for by insurance carriers to inform brokers regarding their products & services, including possible participation in company-sponsored events such as trips, seminars, and advisory council meetings, based on the total volume of business placed with the carrier you select. We may, on occasion, receive loans or credit from insurance companies. Additionally, in the ordinary course of our business, we may receive and retain interest on premiums you pay from the date we receive them until the date the premiums are remitted to the insurance company or intermediary. In the event we assist with placement and other details of arranging for the financing of your insurance premium, we may also receive a fee from the premium finance company.

Wholesale Broker/Managing General Agent: **Wood Special Risk Brokers**

The intermediary is not owned in whole or in part by Brown & Brown, Inc., the parent company of Brown & Brown of Florida Inc. – Daytona Beach. Brown & Brown entities operate independently and are not required to utilize other companies owned by Brown & Brown, Inc., but routinely do so. In addition to providing access to the insurance company, the Wholesale Insurance Broker/Managing General Agent may provide additional services including, but not limited to: underwriting; loss control; risk placement; coverage review; claims coordination with insurance company; and policy issuance. Compensation paid for those services may be up to 15% of the premium you pay for coverage, and any compensation paid for those services is derived from your premium payment.

**Questions and Information Requests.** Should you have any questions, or require additional information, please contact this office at 1-800-877-2769 or, if you prefer, submit your question or request online at: [http://www.bbinsurance.com/customerinquiry.shtml](http://www.bbinsurance.com/customerinquiry.shtml).
SURETY BONDS

Brown & Brown has the capability to handle surety bonds. Our experienced professionals are proficient in Construction and Commercial Bonds. Construction bonds typically include Bid, Performance, Payment, Maintenance and Warranty bonds. Commercial bonds cover obligations typically required by law, statute or regulation. The following are just a few of the industry types that we can service:

- Condominium Associations
- Developers
- General Contractors
- Financial Services Industry
- Hazardous Materials and Waste
- Healthcare
- Manufacturing
- Oil & Gas
- Property Managers
- Restaurants
- Retail Industry
- Service Contractors
- Subcontractors
- Wholesalers/Suppliers/Distributors

Types of Commercial Bonds commonly written by Brown & Brown include:

- Agricultural Dealers Bond
- Appeal Bonds
- Citrus Dealer Bonds
- Court Bonds
- Customs Bonds
- Employee Dishonesty Bonds
- Fidelity Bonds
- Franchise Dealer Bonds
- Fuel Tax Bonds
- Garnishment Bonds
- License & Permit Bonds
- Medicare/Medicaid Bonds
- Miscellaneous Bonds
- Mobile Home Dealer Bonds
- Mortgage Broker Bonds
- Motor Vehicle Dealer Bonds
- Notary Public Bonds
- Patient Trust Bonds
- Professional Solicitors Bonds
- Public Official Bonds
- Reclamation Bonds
- Recreational Vehicle Dealer Bonds
- Release of Lien Bonds
- Replevin Bonds
- Right-of-Way Bonds
- Seller of Travel Bonds
- Supply Bonds
- Tax Bonds
- Title Agents Bonds
- Utility Deposit/Payment Bonds
- Warehouse Bonds
- Workers’ Compensation Bonds
- Yacht Broker/Salesman Bonds

For more information or questions, please contact our Bond Account Executive, Bart Leek at 386-239-5716 or email at bleek@bbdaytona.com.
# EXPOSURE ANALYSIS CHECKLIST

**Insured:** __________________________  **Renewal Date:** __________________________

## PROPERTY

<table>
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<th>Description</th>
<th>C</th>
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<tbody>
<tr>
<td>Buildings</td>
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<td>Contents</td>
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<td>Wind</td>
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<td>Excess Wind</td>
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<tr>
<td>Wind Deductible Buy Back</td>
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<tr>
<td>Personal Property of Others</td>
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<tr>
<td>Tenants Improvements &amp; Betterments</td>
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<td>Business Income/Extra Expense/Rents</td>
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<td>Off Premises Power Interruption</td>
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<td>Boiler &amp; Machinery</td>
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<td>Building Ordinance or Law</td>
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<td>Earthquake</td>
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<td>Flood Primary</td>
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<td>Flood Excess</td>
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<td>Mold/Fungi</td>
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<td>Subsidence/Sinkhole</td>
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<td>EIFS</td>
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<tr>
<td>Terrorism Exposure (discuss each line)</td>
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## LIABILITY

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<tr>
<td>General Liability</td>
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<td>Umbrella/Excess Liability</td>
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<tr>
<td>Directors &amp; Officers Liability</td>
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<tr>
<td>E Commerce/E Business Liability</td>
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<tr>
<td>Stop Gap Liability (Workers Compensation)</td>
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<tr>
<td>Employee Benefits Liability</td>
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<tr>
<td>Employment Related Practices Liability</td>
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<tr>
<td>Third Party Discrimination</td>
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<td>Errors or Omissions / Professional Liability</td>
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<tr>
<td>Garage/Garage Keepers Liability</td>
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<tr>
<td>Liquor Liability</td>
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<tr>
<td>Pollution Liability (1st Party/3rd Party)</td>
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<td>Product Recall</td>
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<td>Warehouse Legal Liability</td>
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<td>Watercraft Liability</td>
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<td>Mold/Fungi</td>
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<td>Subsidence/Sinkhole</td>
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<td>EIFS</td>
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<tr>
<td>Terrorism</td>
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## AUTOMOBILE

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<tbody>
<tr>
<td>Auto Liability</td>
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<td>Drive Other Car</td>
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<tr>
<td>Hired/Non Owned Liability</td>
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<tr>
<td>Hired Car Physical Damage</td>
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<tr>
<td>PIP: Ext Addl, Broad</td>
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<tr>
<td>Rental Reimbursement - PPT/Comm Veh</td>
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<td>Uninsured Motorist (excess)</td>
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<tr>
<td>Uninsured Motorist (primary)</td>
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<tr>
<td>Garage/Garage Keepers Liability</td>
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<tr>
<td>Truckers Liability</td>
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<tr>
<td>Un-laden Liability</td>
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<td>Truckers Physical Damage</td>
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<td>Trailer Interchange</td>
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## INLAND MARINE

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<tr>
<td>Computer/EDP</td>
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<tr>
<td>Contractors Equipment</td>
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<tr>
<td>Rented/Leased Equipment</td>
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<tr>
<td>Builders Risk/Installation Floater</td>
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<tr>
<td>Signs</td>
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<tr>
<td>Motor Truck Cargo</td>
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<td>Transit/Transportation (Cargo)</td>
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<tr>
<td>Ocean/Air Cargo</td>
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<tr>
<td>Bailee's Coverage</td>
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## WORKERS COMPENSATION

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<td>USL&amp;H</td>
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<tr>
<td>Jones Act</td>
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<tr>
<td>Excess Employers Liability</td>
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<tr>
<td>Other States</td>
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## COVERAGE NOT LISTED ABOVE

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<tbody>
<tr>
<td>International/Foreign Exposures</td>
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<tr>
<td>Kidnap &amp; Ransom</td>
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<tr>
<td>Travel Accident</td>
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</tbody>
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**Producer Signature:** __________________________  **Discussed with :** __________________________

**Date Completed with Insured:** __________________________  **Meeting Place:** __________________________

*edited 8-22-06*
In consideration of the premium charged, it is hereby understood and agreed that this policy is amended as follows:

I. AMENDMENTS TO DEFINITIONS

A. The Definition of Individual Insured(s) shall be amended to include the following at the end thereof:

Individual Insured(s) shall also include any past, present or future member of the faculty, student teacher, teaching assistant, faculty aide, representative to an education association of which the Organization is a member, and any president, regent, chancellor, provost, treasurer, vice-president, dean, personnel director, governor, executive director, risk manager, university counsel, or other comparable senior administrator of the Organization, regardless of whether they are considered as an Employee of the Organization or as an independent contractor. Individual Insureds shall also include any administrator, association member, member manager or alumni council member of the Organization. Individual Insureds shall also include students of the Organization while serving in a supervised internship program in satisfaction of course requirements or while acting at the direction of and on behalf of the Organization.

B. The Definition of Employment Practices Violation(s) shall be amended to include the following additional peril:

(13) emotional distress and mental anguish relating to any of the above;

C. The Definition of Loss shall be amended to include the following at the end thereof:

1. IRS FINES

Loss shall include Defense Costs incurred in connection with a Claim seeking an assessment of taxes, initial taxes, additional taxes, tax deficiencies, excise taxes or penalties pursuant to the following sections of the Internal Revenue Code of 1986 (as amended):
Section 4911 (tax on excess expenditures to influence legislation);
Section 4940 (a);
Section 4941 (taxes on self-dealing);
Section 4942 (taxes on failure to distribute income);
Section 4943 (taxes on excess business holding);
Section 4944 (taxes on investments which jeopardize charitable purpose);
Section 4945 (taxes on taxable expenditures);
Section 6652 (c) (1) (A) and (B) (penalties for failure to file certain information returns or registration statements);
Section 6655 (a) (1) (penalties for failure to pay estimated income tax); and
Section 6656 (a) and (b) (penalties for failure to make deposit of taxes).

2. GOVERNMENTAL FUNDING DEFENSE COST COVERAGE

Loss shall not include the return of funds which were received from any federal, state or local governmental agency and any interest, fines or penalties arising out of the return of such funds; provided, however, that with regard to Claims for Wrongful Acts arising out of the return, or request to return such funds, this policy shall pay Defense Costs up to an amount not to exceed $1,000,000 ("Government Funding Defense Costs Sublimit"). This Sub-Limit of Liability shall be part of and not in addition to the aggregate Limit of Liability stated in the Item of the Declarations entitled Limit of Liability. With respect to any Defense Costs coverage afforded pursuant to this paragraph 2, it is understood that: the Insurer shall be liable to pay 50% of such Defense Costs, excess of a retention in the amount of $1,000,000, up to the Government Funding Defense Costs Sublimit, and subject to the Limit of Liability listed on the Declarations page. It being a condition of this insurance that the remaining 50% of such Defense Costs shall be carried by the Insureds at their own risk and be uninsured.

It is further understood and agreed that solely with respect to the Governmental Funding Defense Cost coverage provided pursuant to the above paragraph, the No Liability retention waivers located in the section of the policy entitled RETENTION CLAUSE are deleted in their entirety.
DONOR DISPUTE ARBITRATION FUND

It is further understood and agreed that Loss shall not include the return of funds which were received as donations from any third party (“Donated Funds”); provided, however, solely with respect to any single donation received by the Named Organization in an amount in excess of $250,000 which has been reported by the Named Organization as a “Restricted Asset” within its audited financial statement, it is understood and agreed that with respect to Claims for Wrongful Acts arising out of the return, request to return, or the use of such Donated Funds, this policy shall pay an amount not to exceed $100,000 of Defense Costs incurred in binding arbitration (“Donor Dispute Arbitration Fund”), subject to the following terms and conditions:

(a) The binding arbitration must be entered into by the donor and the Named Organization pursuant to an agreement by both parties to arbitrate such Claim;
(b) The above limit of $100,000 shall not be part of and shall be in addition to the Limit of Liability as stated in the Declarations;
(c) The Donor Dispute Arbitration Fund shall only apply to one arbitration proceeding during the Policy Period, regardless of the actual amount exhausted by the Insured(s);
(d) The Retention amount set forth on the Declarations shall not apply to the Donor Dispute Arbitration Fund; and
(e) The Donor Dispute Arbitration Fund shall not apply to a Claim once a judicial proceeding has been commenced with respect to such Claim.

3. EXCESS BENEFIT PENALTY COVERAGE

Loss shall also include any “Excess Benefits” penalty assessed in the amount of 10% by the Internal Revenue Service (“IRS”) against any Insured(s) for management’s involvement in the award of an “Excess Benefit” and the Defense Costs attributable thereto. Loss shall specifically exclude: (1) any 25% penalty assessed by the IRS against an Insured deemed to have received an Excess Benefit; (2) Defense Costs incurred to defend any Insured if it has been in fact determined that such individual received an Excess Benefit; and (3) any 200% penalty assessed by the IRS for failure to correct the award of an Excess Benefit. In all events, the assessment by the IRS of a 200% penalty against any Insured shall void ab initio all coverage afforded pursuant to this paragraph.

For purposes of this endorsement, the term “Excess Benefits” means an excess benefit as defined in the Taxpayer Bill of Rights Act, 2, 26 U.S.C. 4958.
4. **REGULATORY FINES AND PENALTIES COVERAGE (WITH SUBLIMIT OF LIABILITY)**

Loss shall also include fines or penalties, if insurable by law, arising out of any violation of any of the below listed legislation (hereinafter “Regulatory Legislation”);

It is understood and agreed that the maximum aggregate limit of the Insurer’s liability for all Loss (including Defense Costs) arising from Regulatory Legislation Claim(s) combined, shall be no greater than $50,000 (“hereinafter “Regulatory Fines and Penalties Sublimit of Liability”). This Regulatory Fines and Penalties Sublimit of Liability shall be part of an not in addition to the aggregate Limit of Liability stated in the Item of the Declarations entitled Limit of Liability and will in no way serve to increase the Insurer’s Limit of Liability as stated therein.

For purposes of this endorsement only, the term “Regulatory Legislation Claim(s)” means any Claim(s) alleging an actual or alleged violation of any of the below listed Regulatory Legislation.

**Regulatory Legislation:**

1. The Campus Sexual Assault Victims’ Bill of Rights Act of 1991;
2. The Student Right to Know Act of 1991;
3. The Federal Education Rights and Privacy Act of 1974 (“FERPA,” or the “Buckley Amendment”);
5. The Uniform Student Freedom of Expression Act;
6. The Freedom of Information Act (5 U.S.C. 552) and any similar state law;
7. Subtitle F of Title II of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”);
8. Any state “Open Public Meeting” or “Sunshine” law.
D. The Definition of Wrongful Act is amended to include the following at the end thereof:

With respect to all Insureds, any alleged defect in the tenure or peer review process, including the denial or removal of tenure, educational malpractice or failure to educate, negligent instruction, failure to supervise, inadequate or negligent academic guidance or counseling, improper or inappropriate academic placement or discipline, failure to grant due process, invasion of privacy or humiliation, including violation of the Buckley Amendment, the “Uniform Student Freedom of Expression Act” if adopted by any applicable jurisdiction; the publication of any alleged defamatory material in a book, newspaper or other publication of the Organization or any alleged defamatory material broadcast over a radio, cable or television station owned or operated by the Organization.

II. AMENDMENTS TO EXCLUSIONS

1. Exclusion 4 (k) is deleted in its entirety and replaced by the following:

   (k) alleging, arising out of, based upon or attributable to any actual or alleged contractual liability of the Organization or an Insured under any express (written or oral) contract or agreement (including, but not limited to, any liquidated damages, severance agreement or payment, golden parachute agreement, or any compensation agreement payable upon the termination of any Insured); provided, however, that this exclusion shall not apply to:

   (1) Employment Practices Claims to the extent that any liability does not arise from such express contract or agreement; or

   (2) Claims for Loss alleging Wrongful Acts of an Insured(s) occurring during the tenure or peer review process;

III. ADDITIONAL EXCLUSIONS

Clause 4. EXCLUSIONS, is hereby amended by adding the following additional exclusions to the end thereof:

   (aa) alleging, arising out of, based upon or attributable to or in any way relating to the rendering or failure to render any professional services for which registration or license is required by the federal, state or applicable local government. This exclusion shall not apply to the provision of or failure to
provide educational services by the Organization or an Individual Insured or to any Employment Practices Claim;

(bb) alleging, arising out of, based upon, attributable to any failure or omission on the part of the Insureds or the Organization to effect or maintain adequate insurance; provided, however, solely with respect to any duly elected or appointed directors, officers or trustees of the Organization, this exclusion shall not apply to covered Defense Costs.

IV. AMENDED CLAUSE 9

9. PRE-AUTHORIZED DEFENSE ATTORNEYS FOR ALL CLAIMS

This Clause 9 applies to all Claims.

Affixed as Appendix A hereto and made a part of this policy is a list or lists of Panel Counsel law firms ("Panel Counsel Firms") from which a selection of legal counsel shall be made to conduct the defense of all Claims against an Insured pursuant to the terms set forth below.

In the event the Insurer has assumed the defense pursuant to Clause 8 of this policy, then the Insurer shall select a Panel Counsel Firm to defend the Insureds. In the event the Insureds are already defending a Claim, then the Insureds shall select a Panel Counsel Firm to defend the Insureds.

The selection of the Panel Counsel Firm, whether done by the Insurer or the Insureds, shall be from the list of Panel Counsel Firms designated for the type of Claim and be from the jurisdiction in which the Claim is brought. In the event a Claim is brought in a jurisdiction not included on the appropriate list, the selection shall be made from a listed jurisdiction which is the nearest geographic jurisdiction to either where the Claim is maintained or where the corporate headquarters or state of formation of the Named Organization is located. In such instance, however, the Insurer shall, at the written request of the Named Organization, assign a non-Panel Counsel Firm of the Insurer’s choice in the jurisdiction in which the Claim is brought to function as “local counsel” on the Claim to assist the Panel Counsel Firm which will function as “lead counsel” in conducting the defense of the Claim.

With the express prior written consent of the Insurer, an Insured may select (in the case of the Insured defending the Claim), or cause the Insurer to select (in the case of the Insurer defending the Claim), a Panel Counsel Firm different from that selected by other
Insured defendants if such selection is required due to an actual conflict of interest or is otherwise reasonably justifiable.

The list of Panel Counsel Firms may be amended from time to time by the Insurer. However, no change shall be made to the specific list attached to this policy during the Policy Period without the consent of the Named Organization.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS REMAIN UNCHANGED.