



ORIGINAL

Service Agreement

between the

Property and Casualty for Education Trust

and the

Oregon School Boards Association

The parties to this Service Agreement are the OSBA Property and Casualty Coverage for Education Trust (hereafter “the Trust” or “PACE”), a public educational entity self-insurance pool formed under the laws of the State of Oregon and the Oregon School Boards Association (hereafter “the OSBA”).

WHEREAS, the OSBA is an instrumentality of public school boards engaged in, among other things, providing a variety of services related to the effective functioning of public school boards including financial consultation, communications and training programs, legal services, website development and support and general program administration;

WHEREAS, the Trust is an insurance pool for public educational entities;

WHEREAS, the Trust and OSBA are parties to a service agreement that will expire June 30, 2024; and

WHEREAS, the Trust and OSBA wish to continue their contractual relationship in which OSBA provides the Trust with certain management, administrative, financial and other services related to operating the insurance pool on the terms and conditions set out in this Service Agreement.



NOW, THEREFORE, in consideration of the mutual promises and the good and sufficient consideration set forth below the Trust and the OSBA agree as follows:

1. Pursuant to the Trust Agreement establishing PACE, the Executive Director of the OSBA and/or their designee shall serve as the chief administrative officer of PACE. The Executive Director of the OSBA or their designee shall be an ex-officio Trustee on the Board of the PACE. In addition, the Executive Director of the OSBA shall appoint a PACE Administrator who will be responsible for managing the regular and on-going services provided pursuant to this Service Agreement. If a vacancy occurs in this position in mid-year, the Trustees will be notified as soon as possible as to who will be assuming this role for the remainder of the fiscal year.
2. **OSBA will provide the following scope of services:**
 - A. Coordinate administrative services as may be reasonably requested by the Trust for the conduct of its business as a school district insurance pool, including but not limited to:
 1. Arrangements for meetings with state regulatory authorities, local counsel and other service providers, including the review of auditor results;
 2. Arrangement, coordination and administrative support of PACE Board of Trustee meetings, as necessary;
 3. Provide opportunities and resources for education and training of PACE Trustees in property and casualty matters to carry out their duties;
 4. Evaluation and coordination of the activities of SDAO, an independent contractor of the Trust, and other subcontractors and service providers, such as certified public accounting firms, actuarial firms, legal counsel and claims adjusters or administrators. In consultation with Trustees, OSBA shall administer and monitor the ongoing program evaluation process pursuant to the SDAO service agreement with the Trust.



5. Develop contracts, agreements, policies and bylaws necessary for the efficient and effective operation of the Trust.
- B. OSBA shall provide and coordinate the business, financial, and accounting oversight activities and funds of the Trust consistent with Trust policy and directives. This shall include the investment direction of the Trust reserve and other funds. These duties shall include:
 1. Coordinate with SDAO on the development of an annual budget for the Trust.
 2. Annually secure services for an independent financial audit and communicate the results of the audit to the Trustees and members of the Trust.
 3. Annually assist in the allocation of an amount to be distributed to qualified participants through any grant or subsidized program established by the Trust.
- C. OSBA shall develop a marketing and communications program for Trust programs/products to its members or potential members.
- D. OSBA shall develop and maintain a website for the Trust.
- E. OSBA's Chief Legal Officer or designee shall be responsible for the litigation services and pre-loss legal services provided to PACE/Trust members. OSBA Litigation Services shall offer and provide pre-loss prevention training to members throughout the fiscal year.
- F. OSBA's Chief Legal Officer or designee, in consultation with the SDAO Director of Claims Administration, shall be responsible for assigning qualified attorneys from the Trust Attorney Panel, which may be an attorney in the OSBA litigation department, to represent Trust members in claims litigation. Any disagreements about claim assignments or case management will be referred to the OSBA Executive Director or their designee and the SDAO Executive Director or their designee for resolution.



- G. OSBA shall, consistent with state and federal statutes and rules, provide Lobbying Services to promote the best interests of the Trust and school communities in Oregon.
 - H. OSBA shall assist the Trust in the development, adoption and maintenance of a Trust Board priorities and goals plan to assist with guiding the operations of the Trust and its service providers (i.e., OSBA & SDAO).
 - I. Once every three years, OSBA shall secure for the Trust an independent claims audit to review adequacy of claims reserves and claims adjusting practices.
 - J. Annually, OSBA shall provide and present reports to the Trust Board about activities from each department describing progress toward meeting or exceeding the scope of work in paragraphs B through H of this Section 2.
3. **Compensation**
- A. OSBA will charge an annual service fee as provided in the Trust's adopted budget beginning July 1st of each fiscal year. The service fee will be based upon the estimated actual incurred cost to OSBA in providing services to the Trust for Litigation and Pre-loss (known as Legal Department), Accounting, Clerical, Marketing, Administration, Education & Training, Communications, Information Technology and Legislative services. The service fee may increase each year based on the preceding year's annualized average of the Portland, Oregon CPI-U with a maximum increase of 5%. The service fee will be billed to the Trust quarterly.
 - B. Either party may, at any time, request to renegotiate the service fee then currently applicable based on a material change in the services provided (for example, a permanent increase or decrease in FTE).



4. Evaluation

- A. The PACE Administrator and/or their designee(s) shall evaluate the services provided under this Service Agreement on at least an annual basis. The Trustees shall review the annual evaluation and approve it before it is finalized.
- B. Evaluation of services provided pursuant to this Service Agreement will be based on criteria established by the Trustees. Notification of the criteria and process to be used in evaluating service performance shall be provided no later than October 1st of each year.
- C. After receiving notice from the Trustees of deficient performance, the PACE Administrator shall initiate immediate correction actions.

5. Term, Termination and Renegotiation of the Service Agreement

- A. This Service Agreement is effective July 1, 2024, and terminates June 30, 2028 (the "Initial Term"), unless terminated earlier or extended pursuant to the terms of this Service Agreement.
- B. If OSBA receives an acceptable evaluation on the last annual evaluation by the Trust preceding the termination of the Initial Term, then this Service Agreement will automatically renew for a four-year term effective July 1, 2028, through June 30, 2032 (the "First Renewal Term"). If OSBA receives an acceptable evaluation on the last annual evaluation preceding the termination of the First Renewal Term, then this Service Agreement will automatically renew for a four-year term effective July 1, 2032, through June 30, 2036.
- C. The parties may agree to enter into a new agreement at the conclusion of this Service Agreement. The decision to enter into a subsequent contract will be made no later than March 1 in the last year of the Service Agreement.



- D. This Service Agreement will automatically terminate in the event of the dissolution of the Trust. The OSBA's obligation to render services under this Service Agreement will terminate simultaneously with the effective date of termination of this Service Agreement. In the event of early termination of this Service Agreement upon dissolution of the Trust in accordance with this section, OSBA will return to the Trust all fees or other compensation paid by the Trust to OSBA on a pro-rata basis for any amounts that were paid for service beyond the effective date of termination.
- E. This Service Agreement may be terminated by either party upon written notice for cause. For purposes hereof, "Cause" shall mean:
1. Upon the institution or acquiescence with respect to the institution of any bankruptcy, reorganization, or liquidation proceedings instituted against a party and remains un-dismissed for forty-five (45) calendars days; or
 2. Fraud, misappropriation of funds or material representation; or
 3. Failure to consistently maintain established standards of performance as established in Section 4; or
 4. Upon the material breach of this Service Agreement, if after having been notified of the same, the breaching party fails to cure within fourteen (14) calendar days of such notice; provided, however, that such breach is incapable of being cured, then the termination shall be effective upon notice; or failure to consistently maintain established standards of performance.

6. INSURANCE

- A. Commercial General Liability. OSBA shall retain in force for the duration of this Service Agreement a Commercial General Liability insurance policy or equivalent self-insurance written on an occurrence basis with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Automobile Liability (owned, non-



owned, and hired) insurance with limits not less than \$1,000,000 per occurrence shall be maintained. The Trust, its employees, officials and agents will be named as an additional insured as respects to work or services performed under this Service Agreement to the extent of death or bodily injury to persons or damage to property arises in whole or part out of fault of the OSBA or the fault of the OSBA's agents, representatives or subcontractors. This insurance will be primary over any coverage maintained by the Trust and the terms, conditions and limits must be approved by the Trust.

- B. Professional/Errors & Omissions Liability Insurance. The OSBA shall retain in force for the duration of this Service Agreement a Professional/Errors & Omissions Liability insurance policy or equivalent self-insurance written on an occurrence basis with a retroactive date on or before the inception of this Service Agreement with limits of not less than \$1,000,000 per incident and \$2,000,000 in the aggregate.
- C. Workers' Compensation/Employers Liability. OSBA shall provide and maintain Workers' Compensation coverage for its employees, officers, agents or partners, as required by applicable Workers' Compensation laws. OSBA shall obtain insurance that provides coverage against an employer's common law liability for bodily injury to employees occurring within the scope of their employment when that liability is not covered by Workers' Compensation with limits of \$250,000 per Accident or Disease, \$250,000 per Employee, \$250,000 Disease Policy Limit.
- D. Insurance for Comprehensive Crime. The OSBA shall provide and maintain Comprehensive Crime Insurance, including Employee Dishonesty and Computer Fraud Insurance, covering losses arising out of or in connection with any fraudulent or dishonest acts, in an amount not less than \$5,000,000 per loss and \$5,000,000 in the aggregate per policy year. The coverage under this paragraph must include at least the following coverages: dishonesty (blanket coverage), forgery, credit card forgery, theft (inside and outside), embezzlement, wire transfer fraud, computer fraud or theft, other dishonest acts of any employee or agent whose duties are to receive, handle, or have custody of checks, securities, electronic funds, or account for merchandize or other property - \$1,000,000.
- E. Certificate of Insurance. Evidence of the above insurance coverage issued by a company satisfactory to SDAO shall be provided to the Trust by way of certificate of insurance or endorsements before any work or services.



7. FORCE MAJEURE

- A. Neither party shall be in breach of this Service Agreement if there is total or partial failure by it in its duties and obligations occasioned by any act of God, fire, act of foreign, federal, state or local government, war, civil commotion, insurrection, embargo, prevention from or hindrance in obtaining any raw materials, energy or other supplies, labor disputes of whatever nature, or any other reason beyond its reasonable control. In the event of delay in performance due to any such cause, the date of the delivery or time for completion will be extended by a period of time reasonably necessary to overcome the effect of such delay.

8. RECORDS

- A. The Trust own all books, records, reports, statistics and other materials created, obtained or maintained by OSBA in the performance of OSBA's performance of OSBA's duties under this Service Agreement.
- B. OSBA shall provide for the destruction of records and the term of storage for records.

9. ATTORNEY FEES

If any action or arbitration is brought by any party to this Service Agreement to enforce or interpret its terms or provisions, the prevailing party shall be entitled to reasonable attorney fees and costs incurred in connection with such action prior to and at trial and any appeal.

10. MEDIATION

Except as expressly provided otherwise in this Service Agreement, should any dispute arise between the parties to this Service Agreement, it is agreed that such dispute will be submitted to a mediator agreed to by both parties as soon as the dispute arises, but in any event prior to commencement of litigation or arbitration. If the parties cannot agree on a mediator or the process of mediation within 30 calendar days after receipt of a written request for mediation, either party may seek



any remedy available under this Service Agreement to resolve the dispute. The parties agree to exercise their best efforts in good faith to resolve all disputes in mediation.

11. ARBITRATION

Subject to Section 10 Mediation, and except as otherwise expressly provided in this Service Agreement, the parties agree to submit to binding arbitration such disagreement or dispute and any and all controversies that may arise out of or in connection with this Service Agreement. The arbitration shall be conducted in accordance with the laws of the State of Oregon. If the parties cannot mutually agree on an arbitrator, an arbitrator shall be selected by the presiding judge of the Marion County Circuit Court. Each party accepts jurisdiction of the courts of the State of Oregon for purposes of commencing, conducting, and enforcing arbitration proceedings and agrees to accept notice in writing on an intention to proceed with arbitration, and of any other step in connection with arbitration, including enforcement, with the same effect as though personally served in the State of Oregon. The decision of the arbitrator shall be final and binding on both parties. The parties shall share equally the arbitrator's fee and except as provided in Section 9 herein, each shall pay its own costs of arbitration.

12. MISCELLANEOUS

- A. If any provision of this Service Agreement is declared void or otherwise unenforceable, such provision shall be deemed to have been severed from this Service Agreement, which shall otherwise remain in full force and effect.
- B. This Service Agreement shall not be assigned without the prior written consent of the other party, provided, however, that it is agreed that OSBA may subcontract all or part of its services to qualified parties.
- C. The headings of the sections herein are intended for convenience of reference only and shall not be used to interpret the meaning of each section.
- D. This Service Agreement contains the entire agreement between the parties, and supersedes all other agreements either oral or written.
- E. No amendment, modification or addendum to this Service Agreement shall have any force or effect unless it is made in writing, dated and signed by the parties hereto.



- F. This Service Agreement shall be governed by and construed in accordance with the laws of the State of Oregon.
- G. No failure of OSBA or the Trust to insist on strict compliance with this Service Agreement or to exercise any right under it shall be a waiver of such right.
- H. All notices under this Service Agreement shall be delivered personally, or pre-paid certified or registered mail or sent by courier service, addressed as follows:

If to PACE, to:

Property & Casualty Coverage for Education Trust
c/o PACE Administrator
1201 Court Street NE, Suite 400
Salem, OR 97301

If to OSBA, to:

Oregon School Boards Association
1201 Court Street NE, Suite 400
Salem, OR 97301

- 13. The parties and signatories below covenant that this Service Agreement has been duly authorized by their governing boards and that the signatories hereto have authority to execute this Service Agreement.

IN WITNESS WHEREOF, the parties have hereto executed this Service Agreement as of the day and year set forth below.

OREGON SCHOOL BOARDS ASSOCIATION

By: Emielle Nischik

A handwritten signature in blue ink, appearing to read "Emielle Nischik", written over a horizontal line.

Title: OSBA Acting Executive Director

Date: 2-5-2024

OSBA PROPERTY AND CASUALTY COVERAGE FOR EDUCATION TRUST

By: Tim Belanger

A handwritten signature in blue ink, appearing to read "Tim Belanger", written over a horizontal line.

Title: PACE Board Chair

Date: 2-5-2024