

**PARTICIPATION AGREEMENT
FOR THE PSBA INSURANCE TRUST SCHOOL VOLUNTEERS
RISK MANAGEMENT PROGRAM**

(Name of Participating Public School Entity)

This AGREEMENT is made by and between _____, a public school entity of the Commonwealth of Pennsylvania with an address at _____ (hereinafter referred to as the "SCHOOL ENTITY"), and the Pennsylvania School Boards Association Insurance Trust (hereinafter referred to as "INSURANCE TRUST"), a common law trust with an address of 400 Bent Creek Blvd., Mechanicsburg, Pennsylvania, 17050. By entering into this AGREEMENT, the SCHOOL ENTITY joins with other public school entities pursuant to the terms of the Judicial Code, 42 Pa.C.S.A § 8564, and the Intergovernmental Cooperation Act, 53 Pa.C.S.A. § 2301 *et seq.*, to participate in a school volunteer risk management program and to contract with the INSURANCE TRUST to provide the risk management, administrative and the other services herein.

RECITALS

WHEREAS, Pennsylvania law authorizes public school entities to enter into agreements for the development of group risk management programs through a variety of devices (*see* 42 Pa.C.S.A. § 8564); and

WHEREAS, the Pennsylvania Intergovernmental Cooperation Act provides that two or more governmental entities, including public school entities, may cooperate in the exercise of their powers and responsibilities through joint agreements, (*see* 53 Pa.C.S.A § 2303), including the provision of a group risk management program (*see* 42 Pa.C.S.A § 8564); and

WHEREAS, in order to reduce the risk of legal liability to the SCHOOL ENTITY resulting when volunteers are injured, the INSURANCE TRUST has designed a risk management program (hereinafter referred to as "the PROGRAM") designed to respond in the event of death, dismemberment or injury to a volunteer; and

WHEREAS, the INSURANCE TRUST has designed this AGREEMENT to allow public school entities to join together for participation in the PROGRAM and together to contract with the INSURANCE TRUST to coordinate the program and provide the risk management, administrative and other services, as defined in this AGREEMENT; and

WHEREAS, the SCHOOL ENTITY, having evaluated the PROGRAM'S terms, conditions and limitations, desires to join with the other public school entities participating in the program and to join with the other public school entities to retain the INSURANCE TRUST to operate and manage the PROGRAM in accordance with the terms and conditions of this AGREEMENT; and

WHEREAS, INSURANCE TRUST and the SCHOOL ENTITY both desire to set forth their respective obligations and responsibilities;

NOW, THEREFORE, the INSURANCE TRUST and the SCHOOL ENTITY, intending to be legally bound hereby, for the mutual benefits, covenants and promises contained herein, and

other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

ARTICLE I DEFINITIONS

The following terms, when set forth in this AGREEMENT in capital letters, shall have the meanings stated in the following definitions unless the context clearly indicates otherwise:

- 1.1. "AGREEMENT" shall mean this AGREEMENT between INSURANCE TRUST and the SCHOOL ENTITY.
- 1.2. "INCLUDES" and "INCLUDING" shall mean inclusive of but not limited to and shall mean by way of example rather than limitation.
- 1.3. "SCHOOL ENTITY" shall mean the public school entity named in this AGREEMENT.
- 1.4. "INSURANCE TRUST" shall mean the Pennsylvania School Boards Association Insurance Trust.
- 1.5. "PARTICIPATING SCHOOL ENTITIES" shall mean each public school entity that executes a participation agreement for purposes of joining and participating in the PROGRAM.
- 1.6. "PROGRAM" shall mean the school volunteer risk management program described herein and in Exhibit "A" attached hereto, which PROGRAM will provide to PARTICIPATING SCHOOL ENTITIES a mechanism for managing the risks associated with injury or death to volunteers of the SCHOOL ENTITY.

ARTICLE II AUTHORITY AND DUTIES OF INSURANCE TRUST

Section 2.1. PROGRAM for School Volunteer. The INSURANCE TRUST shall provide the PROGRAM to the SCHOOL ENTITY, which PROGRAM will be a school volunteer risk management program that will arrange for the SCHOOL ENTITY to provide the coverage for volunteers described more fully in Exhibit "A" attached hereto. In future years for which this AGREEMENT is renewed in accordance with the terms and conditions of this AGREEMENT, the PROGRAM shall be as described for each future year and the contributions, payments, deductibles, limitations, terms, conditions and exclusions shall be as stated for each future year.

Section 2.2. Evaluation of Excess Insurance and Reinsurance Programs. INSURANCE TRUST shall, through and with the assistance of licensed producer(s), consultant(s), and/or insurer's, evaluate and/or design reinsurance and/or excess insurance for volunteer coverage in order to select excess insurance or reinsurance which, in the INSURANCE TRUST'S sole discretion will best meet the needs of PARTICIPATING SCHOOL ENTITIES. Such insurance may be provided by and through insurance companies owned by the INSURANCE TRUST.

Section 2.3. Arrangements for Insurance, Excess Insurance and Reinsurance. The INSURANCE TRUST shall purchase or arrange for the PROGRAM to purchase insurance, excess insurance and/or reinsurance for volunteer coverage that will attach so that each PARTICIPATING SCHOOL ENTITY will be able to provide the coverage described in Exhibit “A” with no cost over and above the contributions required for participation in the PROGRAM as described in this AGREEMENT. In all instances, the insurance provided shall be consistent with the terms, conditions, limitations and exclusions set forth in Exhibit “A” attached hereto.

Section 2.4. Maintenance and Operation of Loss Fund. INSURANCE TRUST may, at its sole discretion, create, maintain and operate loss fund(s), reserves, or other similar accounts or funds, composed of funds paid by PARTICIPATING SCHOOL ENTITIES for proper purposes, INCLUDING, to pay the costs and expenses of the program, to stabilize fluctuations of claim costs and expenses, for purposes of paying deductibles or losses under the program, for paying costs and fees of administering the program and for paying such other costs and expenses of the INSURANCE TRUST as may be appropriate. Such loss fund(s), if established, shall belong to the PROGRAM and no PARTICIPATING SCHOOL ENTITY shall have any individual entitlement to or ownership of such funds. After the payment of costs and fees, such fund(s), if created, shall be used exclusively for the benefit of public school entities.

Section 2.5. Limitations of INSURANCE TRUST’s Responsibilities. Notwithstanding anything herein to the contrary, the INSURANCE TRUST is not an insurer or an insurance company, and it has no obligation to provide any insurance nor to underwrite or pay for claims. The INSURANCE TRUST is not a guarantor of the performance of any insurer, excess insurance or reinsurance provider, nor is it an insurance producer, nor is it an obligor with respect to any claims under the PROGRAM.

SECTION III THE SCHOOL ENTITY’S DUTIES

Section 3.1. Application. In order to be considered for participation in the PROGRAM, the SCHOOL ENTITY shall complete an application in a format prepared by the INSURANCE TRUST and shall certify and warrant that all of the information provided by the SCHOOL ENTITY on the application is true and correct. The INSURANCE TRUST and the other PARTICIPATING SCHOOL ENTITIES are permitting the participation of the SCHOOL ENTITY in the PROGRAM in strict reliance upon a full, complete, and accurate disclosure of all information by the SCHOOL ENTITY on its application. The application completed by the SCHOOL ENTITY is attached hereto as Exhibit “B” and the SCHOOL ENTITY hereby certifies and warrants that the information set forth on the application has been used as an inducement to be allowed to participate in the PROGRAM. The SCHOOL ENTITY hereby certifies and warrants that it knows and understands that if any information that should have been disclosed on the application by the SCHOOL ENTITY is not disclosed, that such non-disclosure may have an effect on coverage for particular claims under the PROGRAM.

Section 3.2. SCHOOL ENTITY Payments. In the event that the SCHOOL ENTITY’S application is accepted by the INSURANCE TRUST on behalf of the PROGRAM, the SCHOOL ENTITY shall make the payments set forth in Exhibit “A” to

INSURANCE TRUST in order to participate in the PROGRAM. In exchange for the payments, the SCHOOL ENTITY shall be entitled to the PROGRAM'S coverage described in Exhibit "A" attached hereto.

Section 3.3. Compliance with PROGRAM Terms. The SCHOOL ENTITY shall comply with all terms and be subject to all conditions, limitations and exclusions set forth in the description of the PROGRAM in Exhibit "A", attached hereto, INCLUDING the specific requirements found in Exhibit "A" for notifying INSURANCE TRUST or persons INSURANCE TRUST appoints for the purpose of receiving such notice of all claims under the PROGRAM.

Section 3.4. Designation of Consultant. The SCHOOL ENTITY may, if it desires, designate a consultant to advise it with respect to the PROGRAM. The INSURANCE TRUST may pay such consultants on behalf of the SCHOOL ENTITY at such rates as the INSURANCE TRUST shall determine from time-to-time.

SECTION IV MISCELLANEOUS

Section 4.1. Risk Management Program. The PARTICIPATING SCHOOL ENTITIES, all of whom are public school entities being comprised of school districts, Intermediate Units, vocational-technical schools, community colleges, and other public school entities, are joining together to form this risk management program in order to exercise all of the powers and authority allowed by virtue of 42 Pa.C.S.A. § 8564 and 53 Pa.C.S.A. §2303.

Section 4.2. Parties Not Partners Nor Agents. Nothing in this AGREEMENT shall be construed to render any party or PARTICIPATING SCHOOL ENTITY to be the agent for or otherwise to represent any other party, except as specifically and expressly permitted herein. Further, nothing in this AGREEMENT shall be construed to create a joint venture or partnership between INSURANCE TRUST and the SCHOOL ENTITY.

Section 4.3. Duration of AGREEMENT and SCHOOL ENTITIES Participation in the PROGRAM. This AGREEMENT and the SCHOOL ENTITY'S participation in the PROGRAM, shall be for the initial term set forth in Exhibit "A" attached hereto and shall automatically be renewed from year-to-year thereafter unless terminated in writing by the SCHOOL ENTITY with notice to the INSURANCE TRUST at least thirty (30) days prior to the end of the initial term or any renewal term. The INSURANCE TRUST shall provide notice at least sixty (60) days in advance of the end of the initial term or any renewal term if any of the payments, deductibles, terms, conditions, limitations or exclusions of the PROGRAM will change for any renewal term.

Section 4.4. Termination of the AGREEMENT. Notwithstanding anything herein to the contrary, this AGREEMENT may be terminated for any of the following reasons:

- (A) By the SCHOOL ENTITY, in the event that INSURANCE TRUST fails to obtain insurance, excess insurance or reinsurance for the PROGRAM with coverages described in Exhibit "A".

(B) By INSURANCE TRUST, in the event it discontinues the PROGRAM, provided, however, that in no case that INSURANCE TRUST'S obligations under this AGREEMENT be terminated before the end of the initial term or any renewal term of this AGREEMENT.

(C) By either party at the expiration of the initial term or any renewal term by written notice to the other provided in accordance with the terms of this AGREEMENT.

Section 4.5. Governing Law. This AGREEMENT will be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania. It is further represented and understood that this AGREEMENT was made in Cumberland County, Pennsylvania.

Section 4.6. Assignment. This AGREEMENT may not be assigned by either party.

Section 4.7. No Third-Party Beneficiaries. Except as herein otherwise provided, this AGREEMENT shall insure only to the benefit of, and shall be binding upon all PARTICIPAING SCHOOL ENTITIES and the INSURANCE TRUST and their respective successors and assigns. This AGREEMENT is not intended to benefit any other person, party or entity and shall not insure to the benefit of any third person, party or entity.

Section 4.8. Severability. All covenants and obligations contained in this AGREEMENT are severable. In the event that any provision of this AGREEMENT should be held to be unenforceable, the validity and enforceability of the remaining provisions shall not be affected thereby. Any court or arbitrator (in the event that the parties were to agree to arbitration of a dispute) construing this AGREEMENT is expressly granted the authority to revise an invalid or unenforceable provision hereof in order to render it enforceable.

Section 4.9. Headings. The headings of any portion of this AGREEMENT are for reference purposes only and shall not in any way affect the meaning or interpretation thereof.

Section 4.10. Notices. Any notice or communication required by or permitted to be given under this AGREEMENT shall be in writing and either served personally, delivered by a nationally recognized courier, or sent by United States certified mail, postage prepaid with the return receipt requested, addressed to the other party as follows:

To the SCHOOL ENTITY:

To the INSURANCE TRUST:
Pennsylvania School Boards Association Insurance Trust
Attn: Managing Director
400 Bent Creek Blvd.
Mechanicsburg, PA 17050

Section 4.11. Waiver. One or more waivers of any representation, covenant, term or condition contained herein shall not be construed as a waiver of a subsequent breach of the same representation, covenant, term or condition. The consent or approval by any party to or of any representation, covenant, term or condition requiring such consent or approval shall not be deemed to waive or render unnecessary consent or approval of any subsequent similar act by any other party.

Section 4.12. Lawful Performance. Each party agrees that it will perform its obligations hereunder in accordance with all applicable laws, rules and regulations now or hereafter in effect.

Section 4.13. INSURANCE TRUST Representations. While fulfilling its obligations to the SCHOOL ENTITY as set forth in this AGREEMENT and to the other PARTICIPATING SCHOOL ENTITIES, the INSURANCE TRUST may enter into arrangements with others that will generate fees or other income to INSURANCE TRUST, including arrangements with insurer(s) or reinsurer(s) to participate in any favorable operating experience in the PROGRAM. When or as appropriate, in the sole discretion of INSURANCE TRUST, the INSURANCE TRUST may make payments of funds generated by favorable operating experience to participants in the PROGRAM at the time such payment is made. In the event of such payments, the INSURANCE TRUST shall determine the formula for apportioning the distribution. No representations or warranties are being made that any distributions will be made, even in the event of favorable operating experience. INSURANCE TRUST retains the right to use such funds to advance its interest and other programs.

Section 4.14. Non-Participation. Notwithstanding anything herein to the contrary, the SCHOOL ENTITY shall not have any ownership interest in the PROGRAM or in any assets of the PROGRAM; nor have any ownership interest in the payments or contributions paid into the PROGRAM, nor have any claim to participate in the favorable experience of the PROGRAM.

Section 4.15. Context. Reference in this AGREEMENT to the singular shall be meant to include reference to the plural and vice versa. Reference in this AGREEMENT to the masculine gender shall be meant to include the female and neuter genders and vice versa.

Section 4.16. Force Majeure. INSURANCE TRUST shall not be liable for any failure to perform under this AGREEMENT if such failure is due to causes beyond its reasonable control, INCLUDING, acts of God or the public enemy, fire, floods, labor disputes, or the judgment or order of any court or government agency.

Section 4.17. Integration. This AGREEMENT constitutes the entire agreement between the Parties and supersedes any negotiations or prior agreements or understandings between the Parties. This AGREEMENT may not be modified or amended by any oral statement or alleged course of conduct, but only by a written

AGREEMENT signed by all Parties. There are no representations, promises, agreements, warranties, covenants or undertakings of the parties other than those expressly contained herein.

Section 4.18. Duplicates. In the event that two or more copies of this AGREEMENT are executed by all of the parties hereto, each copy shall be deemed an original, but all shall collectively constitute the same instrument.

Section 4.19. Remedies and Waivers of Rights. All remedies of the parties hereto shall be cumulative. No party hereto shall be deemed to have waived any of its rights, powers, or remedies hereunder unless such waiver is in writing and signed by the parties hereto.

Section 4.20. Authority to Bind. All persons signing this AGREEMENT on behalf of INSURANCE TRUST and the SCHOOL ENTITY warrant to the other party that they are authorized to enter into this AGREEMENT by the governing body of that organization by all necessary resolutions or actions.

IN WITNESS WHEREOF, the parties hereto, with the intention of being legally bound hereby, have caused this AGREEMENT to be signed and sealed the day and year set forth below.

PSBA INSURANCE TRUST

PUBLIC SCHOOL ENTITY

By: _____

By: _____

Managing Director
(Title)

Business Administrator
(Title)

Date: _____

Date: _____

Address:

Address:

Pennsylvania School Boards Association
Insurance Trust
400 Bent Creek Blvd.
Mechanicsburg, PA 17050

EXHIBIT A

Benefits provided

Medical expenses resulting from an accident	\$ 5,000
Dental expenses resulting from an accident	\$ 500
Deductible amount (medical/dental)	\$ 25

Accidental loss of:

Life	\$20,000
Both hands or feet	\$15,000
Sight of both eyes	\$15,000
Speech and hearing	\$10,000
Hand or foot	\$ 7,500
Sight of one eye	\$ 7,500
Speech or hearing	\$ 7,500
Thumb and index finger	\$ 5,000

Student Enrollment	Annual Contribution
0 – 2,999	\$ 600
3,000 – 5,999	\$1,200
6,000 – 8,999	\$1,800
9,000 – 14,000	\$2,800
Over 14,000	Individual Rating

Student Enrollment:	_____
1. Contribution Due:	\$ _____
2. Administration & Service fee:	\$ <u>75</u>
Total Remittance (1+2)	\$ _____

EXHIBIT B

School Name _____

Contact Person _____

Title _____ Telephone () _____

Address _____

Effective Date (covers 12 months from effective date) _____

Check appropriate one

Enroll our school, payment enclosed

Enroll our school, please invoice