

2005 TRUST AGREEMENT DECLARATION

Professional Photographers of America, Inc.

Professional Liability Trust

1. Agreement for Claims Made Coverage and Purpose of the Trust

1.1 Claims Made Coverage - In consideration of the payment of the applicable contribution and subject to all of the terms, conditions, exclusions and limits of coverage, and each of them, as set forth in this Declaration, the Trust shall hold and use the Trust funds and investment income there from to defend and pay from insurance or otherwise or reimburse on behalf of the covered Member all such sums which the Member shall become obligated to pay to third parties for loss, as the result of any claim or claims made against the Member, during the Declaration Period arising out of an Occurrence, provided the claim giving rise to the Occurrence took place while the Member was a Trust participant. All losses paid shall be paid first from the investment income of the Trust fund to the extent such funds are available on the date of payment.

1.2 Trust Purpose - The purpose of the Trust is intended solely to provide indemnification to a covered member of the Professional Photographers of America, Inc. against an incremental loss as defined in this Declaration, and is not a program of insurance nor is it intended to provide for business interruption, lost profits, lost or damaged property, or casualty loss, income protection or any other type of coverage, except as specifically provided in this Declaration.

2. Definitions

2.1 Association - The term "Association" shall mean Professional Photographers of America, Inc., a Delaware not for profit corporation with its principal place of business in Atlanta, Georgia, and for purposes of "effective date of payment" shall also include all subsidiaries, affiliates and other organizations affiliated with Professional Photographers of America, Inc., including but not limited to Winona International School of Photography.

2.2 Declaration Period - The term "Declaration Period" shall mean from 12:01 A.M. Eastern Standard Time, January 1, 2005, until 11:59 P.M. Eastern Standard Time, December 31, 2005, provided, however, the Trust may renew or extend the coverage period as it deems necessary or appropriate.

2.3 Effective Date of Payment - The term "Effective Date of Payment" shall mean the date when payment by the Member of all fees, dues and other obligations due to Association were received by and paid in full to the Professional Photographers of America, Inc. Should the Member be in arrearage for any fees, dues and for any other obligations to Association for more than thirty (30) days after their due date as reflected on the records of Association, such records being final and binding, such Member shall not be considered as being a Member for purposes of the Declaration Period, and the Trust shall have no obligation to the Member under this Declaration.

- 2.4 Eligibility - A member to be eligible for Trust coverage shall be a member in good standing at the time of the Occurrence (Section 2.8) and shall continue as a Member in good standing with payment of fees, annual dues and all other obligations due to the Association during such period of time when the claim is first made and until it is concluded.
- 2.5 Loss - The term "Loss" shall mean any amount which the Member is legally obligated to pay to a third party arising out of an Occurrence, and shall include but not be limited to:
- 2.5.1 Damages and judgments,
- 2.5.2 Reasonable fees charged by (an) attorney(s) designated in writing by the Trust, and
- 2.5.3 All other reasonable fees, costs and expenses resulting from the investigation, settlement, defense and appeal of a claim, suit or proceeding arising in connection therewith, if incurred by the Trust or by the Member with written consent of the Trust; provided, however, that "Loss" does not include salary expenses, overhead expenses (including but not limited to film, albums, laboratory charges and fees, and other expenses and costs incurred in the day to day operation of the Member's business), or lost profits. Lost profits shall be calculated by deducting the Trust-approved costs and expenses incurred by the Member from money received by the Member for services rendered or to be rendered in connection with the claim or claims made against the Member. The applicable deductible shall likewise be offset in determining any reimbursement due to the Member.
- 2.6 Trust - The term "Trust", wherever and whenever it appears, shall mean this Declaration, and the funds and investment income held in accordance with this Declaration, and shall include all policies of insurance or reinsurance, if any, related in any way to this Trust. The terms and conditions of such policies, if any, shall take precedence over this Declaration.
- 2.7 Member - The term "Member" shall mean individuals who are members of the Professional Photographers of America, Inc., residing in the United States, its territories or possessions, or Canada; other than the Corporate category; and who have elected and paid the applicable Membership fee to the Trust.
- 2.7.1 PPA members who indicate portrait or wedding specialty are automatically assessed the Indemnification Trust fee. PPA members may be members of multiple Groups based on their specialty classification selection.
- 2.7.2 Trust coverage shall apply to photographic work performed or to be performed by the Member, provided however, that in the case of covered Associate Members, such individuals shall only be covered for work done for and under contract with the Professional Active Member who is the Primary Member for the Associate and for whom indemnification is provided. Indemnification Trust coverage for Members who are employed full time by a corporate employer shall be limited only to work performed for

someone other than the corporate employer. In addition, Trust coverage shall apply to those individuals who do not engage in providing photographic services by way of making a photograph, who are employed by a Professional Active Member acting as a Primary Firm Member, and who have paid or caused to be paid on behalf of such individuals for indemnification coverage. In the event no payment has been made for such auxiliary employees there shall be no coverage for them under the Trust. Covered individuals shall be referred to as "Auxiliary Personnel." The Trust will undertake defense of a suit brought against a corporate entity if the alleged negligence pertains to acts or omissions of a Member eligible and participating in the Indemnification Trust program, provided that the Member is a major and controlling stockholder of such a corporation.

2.8 Occurrence - The term "Occurrence" shall mean a negligent act, error or omission of the Member in the rendering of or failure by the Member to render professional photographic services for others and as limited elsewhere in this Declaration.

3. Limits of Trust Coverage and Deductible

The limit of Trust coverage for any one Occurrence during any single Declaration Period in connection with any form or type of restoration work shall be \$10,000. The limit of Trust coverage for any other Occurrence during any single Declaration Period shall be \$25,000. The deductible to be paid by the Member applicable to each Occurrence shall be \$200 for the first and second Occurrence; provided, however, that the deductible applicable to any Member's third Occurrence shall be \$500; the deductible applicable to any Member's fourth Occurrence shall be \$1,000; the deductible applicable to any fifth Occurrence shall be \$2,000; and the deductible applicable to any sixth Occurrence and subsequent Occurrences which have arisen at any time during the Member's coverage through the Trust, and any of its predecessors, shall be \$5,000. Two or more claims arising out of the same engagement and same negligent act, error or omission shall be treated as a single Occurrence. The limit of Trust coverage for any Member during any Declaration Period shall be \$25,000, less any deductible amount. If and when the Trust incurs claims for losses based upon Occurrences either in fact or estimated by the Trust to exceed an aggregate of \$200,000 at any time during the Declaration Period, no further claims, whether reported or unreported, shall be deemed to be covered by the Trust, nor shall any rights or claim against the Trust be valid, unless and until the Trust, in its sole discretion, extends coverage beyond the aggregate amount of \$200,000 for the Declaration Period. Claims made against a Member but for which the Trust has made no payment to or on behalf of the claimant shall not be considered for purposes of this Section 3. The provisions of the Discovery Clause set forth in Section 6 of this Declaration shall not apply in the event of termination of coverage pursuant to this Section of the Declaration.

3.1 Limitation on Coverage - The following limitation shall apply to circumstances arising out of group photography of, or performed on behalf of, a youth sports league, school or other organization. In such an instance, transportation expenses of teams, classes or groups shall be excluded as a compensable expense under the Trust Agreement arising out of or in connection with group photography of sports teams, leagues, schools or

other organizations; likewise appearance fees or related expenses or charges are also excluded from Trust coverage and shall not be a compensable expense for individuals, teams or groups.

4. Defense, Settlement, Supplementary Payments

As respects such Trust coverage as is afforded by the other terms of this Trust Agreement Declaration, the Trust, subject to possible reservation of rights by the Trust, shall:

- 4.1 Defend in the Member's name and on behalf of the Member any suit against the Member alleging an Occurrence, even if such suit is groundless, false or fraudulent; provided, however, that the Trust shall have the exclusive right to make such investigation, negotiation and settlement of any claim as may be deemed expedient by the Trust; and provided, further, that the Trust shall not be obligated to defend any suit which does not expressly allege an Occurrence;
- 4.2 Have the exclusive right to contest or settle any of the said suits or claims, including the right to determine whether an appeal shall be made in any suit. The Member shall not interfere in any way respecting any negotiations for the settlement of any claim or suit, nor in the conduct of any legal proceedings. The Member shall at all times, at the request of the Trust or its authorized representatives, render to the Trust all possible cooperation and assistance. The Member shall not, except at the Member's own cost, voluntarily make any payment, admit any liability, settle any claim, retain any attorney, assume any obligation or incur any expense without the express prior written consent of the Trust; and
- 4.3 Within the limits of Trust coverage, pay all premiums on bonds to release attachments of any amount, all premiums on appeal bonds required in any such defended suit (but without any obligation to apply for or furnish such bonds), all costs taxed against the Member in any such suit, and all interest accruing after entry of judgment until the Trust has paid, tendered or deposited in court such part of such judgment as does not exceed the limit of Trust coverage under the terms of this Declaration.

5. Territory and Notice of Occurrence Provisions

This Declaration applies only to claims first made against the Member during the Declaration Period arising as a result of an Occurrence committed in the United States of America, its possessions or territories, or the Dominion of Canada, subsequent to January 1, 1977 or the effective date of payment of the Member's initial annual dues, whichever date is later, and provided, further, that the Member was both a Member when the Occurrence took place and is a Member when the claim is made. If during the Declaration Period, the Member shall become aware of any circumstances which may subsequently give rise to a claim against the Member for which coverage would be afforded under this Declaration, and if the Member shall, during such period, give written notice to the Trust of the circumstances then any claim which may subsequently be made against the Member, arising out of such circumstances, shall be deemed for the purpose of this Trust Agreement to have been made during the Trust Agreement Declaration Period, but shall be subject to all terms and conditions of the Trust Agreement Declaration in effect at the time the claim is actually made.

6. Discovery Clause

In the event of the termination of this Trust in its entirety, then coverage shall extend, subject to the terms, limitations, exclusions and conditions of the Declaration then in effect, to claims made against the Member during the ninety (90) days following immediately upon such termination, but only for an Occurrence committed or alleged to have been committed during the Declaration Period then in effect.

7. Exclusions

This Declaration does not apply to any claim and the Trust shall not use funds to pay or reimburse claims:

- 7.1 Arising from or in connection with any allegation of dishonesty, intentional fraud or any other intentional tort, criminal or malicious act, libel, slander, defamation of character or reputation, breach of confidentiality or invasion of privacy;
- 7.2 Arising from or in connection with an allegation of bodily injury to, or sickness, disease or death of any person, or from injury to, mysterious disappearance, loss or theft of, or destruction of any tangible property (except as otherwise allowed under this Declaration expressly for restoration of lost or destroyed film, negatives or photographic images) including the loss of use thereof;
- 7.3 Arising from or in connection with loss of or damage to property, including but not limited to photographic property, in the custody of any transportation company, the United States Postal Service, or any other mail or delivery service agency; including delivery by employees or agents of the Member;
- 7.4 Arising from or in connection with the performance of services which can only be legally performed by professional architects, engineers, lawyers, accountants, insurance agents, real estate agents or registered securities dealers or any others who require licensure from some governmental agency;
- 7.5 For infringement of trademarks, service marks, trade names, patents or copyrights;
- 7.6 For unfair competition, misrepresentation, deceptive trade practices or antitrust violations;
- 7.7 For liability assumed by the Member under any contract or agreement, including but not limited to a deposit or other advance of moneys or sources or objects of value subject to a refund or a return or any other question related to such or a similar demand, unless such liability would have arisen or attached even in the absence of such agreement;
- 7.8 Arising out of services performed by or for the Member in the preparation or approval of maps, plans, opinions, estimates, surveys, designs or specifications or supervisory, inspection, or engineering services or any work or services involving aerial survey;
- 7.9 Made by a business enterprise (or its assignees) that is wholly or partially owned, operated or managed by the Member or parent company and all

- affiliated, subsidiary and associated companies, companies of such parent company or an employee (or his or her assignees) of such business enterprise, or an employee (or his or her assignees) of a contractor of such business enterprise;
- 7.10 Arising from the conduct of any business enterprise in which the Member has an ownership interest or in which the Member is a partner, officer or director, or which is controlled, operated or managed by the Member either individually or in a fiduciary capacity, including the ownership, maintenance or use of any property in connection therewith, except as provided herein;
- 7.11 For punitive or exemplary damages;
- 7.12 For express or implied warranties or guarantees for the quality of film, products, services or otherwise by the Member or any third party, for film or pictures which subsequently fade, or breach of contract in respect to any agreement to perform work within a specified fee;
- 7.13 Based upon or attributable to the insolvency or bankruptcy of the Member;
- 7.14 Arising between a Member and his or her employer or between a Member and his or her employees;
- 7.15 Made by a Member, his or her employer or his or her employees against another Member, his or her employer or his or her employees;
- 7.16 Arising out of laboratory or developing work performed by the Member or his or her employees in connection with photographs taken by a person other than the Member, his or her employees or his or her agents, if over fifteen percent (15%) of the dollar volume of the Member's gross annual business is generated by such laboratory or developing work;
- 7.17 Made by a customer in response to legal action initiated by the Member against the customer; or
- 7.18 Based upon a fee or other monetary dispute;
- 7.19 Arising out of laboratory or developing work performed for the Member or the Member's customers by any person or entity other than the Member or the Member's employees.

8. Loss Review

The Trust shall continuously review claims reported and payments made under this Declaration with specific emphasis on frequency of claims reported and loss payments made on behalf of any Member. The Trust may, at its sole discretion, decline to continue coverage under this Declaration with respect to any Member by giving written notice to such Member of not less than thirty (30) days of the Trust's intent to terminate coverage. Notwithstanding any other provision of this Declaration, upon the effective date of termination, the Member shall have no further rights or privileges under this Declaration.

9. Insurance Indemnification

If the Member has insurance or otherwise receives or is entitled to receive indemnification or reimbursement for an Occurrence covered by this Declaration, the protection provided by this Declaration shall be in excess of such insurance, indemnification or reimbursement. As a precondition to receipt of any benefit under this Declaration, the Member shall have an affirmative duty to disclose such rights to the Trust at the time the Member notifies the Trust of an Occurrence.

10. Duties in the Event of a Claim/Conditions Precedent

It is a condition precedent to the Trust's obligations under this Declaration that the Member shall:

10.1 Upon notice of any type or nature of any Occurrence or of an incident or circumstances likely to give rise to an Occurrence, give immediate oral and written notice of it, to the Trust, in care of Professional Photographers of America, Inc., Attention: Indemnification Administrator, 57 Forsyth Street, N.W., Suite 1600, Atlanta, Georgia 30303; Phone: 404/522-8600; Fax: 404/614-6400;

10.2 Take no action, admit any liability or attempt to negotiate any settlement without prior consultation with and approval by the Trust.

10.3 Such written notice shall contain particulars sufficient to identify the Member, the claimant or claimants and sufficient and complete information, including all documents with respect to the time, place and circumstances of the Occurrence complained of, together with the names and addresses of the claimant and available witnesses and others with knowledge or information relating to the Occurrence;

10.4 In the event a claim is made or suit is brought against the Member arising out of an Occurrence, immediately report and forward to the Trust every demand, notice, summons or other process received by the Member or his representatives; and

10.5 Cooperate with the Trust and its authorized representatives, and, upon the Trust's request, submit to examination and interrogation by a representative of the Trust under oath; if necessary or appropriate, attend hearings, depositions, and trials and assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses in the conduct of suits, and in the giving of a written statement to the Trust's representatives for the purpose of investigation and/or defense, and all without charge to the Trust.

11. Non-Waiver of Duties

The failure of the Trust to require the Member's performance of any obligation under this Declaration or otherwise shall not prevent a subsequent enforcement of such obligation or in any way be deemed a waiver of the Member's performance or failure to perform any other obligation under this Declaration.

12. Subrogation

In the event of any payment by the Trust to a Member under this Declaration with respect to any Occurrence, the Trust shall be subrogated to all the Member's rights of recovery for such Occurrence against any person, firm or corporation, and the Member shall execute and deliver all necessary documents and do whatsoever else is necessary or appropriate and as requested by the Trust to secure such rights for the Trust from the Member. The Member shall do nothing at any time which will in any way prejudice such rights of the Trust to subrogation.

13. Amendment of Trust Agreement Declaration

The Trust shall continuously review the terms of this Trust Agreement Declaration and may, at its sole discretion, amend their terms from time to time.

14. Conformance to Law

Terms of the Declaration which are in conflict with the laws of the State of Illinois in which this Declaration is issued are hereby amended to conform to such laws.

This is the Trust Agreement Declaration. In the event of any conflict between this Trust Agreement Declaration and any related policies of insurance or reinsurance, the provisions of the related policies of insurance shall be binding and controlling.