

**Item 15.**

**Explanation of  
Indemnification Limitations and  
Insurance Language**

# EXPLANATION OF INDEMNIFICATION LIMITATIONS AND INSURANCE CLAUSES

The State of Texas is immune from liability and from suit with respect to most causes of action against it under the doctrine of sovereign immunity. This means that the State of Texas cannot be sued in its own courts without its legislature's consent. *Walsh v. The University of Texas*, 196 S.W.2d 993 (Texas Civ. App. - El Paso 1942, writ ref'd). The Texas Constitution provides that the State cannot give, lend or pledge the credit of the State to any person, association or corporation, or make any grant of public monies to any person, association or corporation without express authority. Article 3, Sections 50-52, Texas Constitution. Unless the Texas Legislature by resolution permits a suit against the State, the State is not authorized to pay claimants and likewise is unable to indemnify a third party for the expenses associated with defending against such a claimant since such an indemnity would be an unauthorized grant of public monies to the putative indemnitee.

The Texas Tort Claims Act (Chapter 101, Texas Civil Practice and Remedies Code) provides a waiver of the State of Texas' sovereign immunity with respect to liability and suits against governmental units like The University of Texas System and its component institutions for property damage and personal injury (including death) proximately caused by the wrongful act or omission or the negligence of an employee acting within the scope of his or her employment. But, the property damage, injury, or death must have arisen out of the operation or use of a motor vehicle or motor-driven equipment or the condition or use of other personal or real property. Section 101.021. In cases falling within the parameters of the Texas Tort Claims Act, Texas has in effect consented to be liable and to be sued for the negligence of its employees and thus, the University can indemnify third parties against costs they may incur proximately caused by such negligence in the operation, condition or use of property. The limits of this liability are: (i) \$250,000 per person for personal injury or death, up to \$500,000 per occurrence, and (ii) \$100,000 per occurrence for injury to or destruction of property.

## INSURANCE

### GENERAL LIABILITY

It is the stated policy of the State of Texas not to acquire commercial general liability insurance for torts committed by employees of the state who are acting within the scope of their employment. Rather, third parties must look to the Texas Tort Claims Act for relief with respect to property damage, personal injury, and death proximately caused by the wrongful act or omission or negligence of an employee acting within his scope of employment as more fully set out above.

One exception to the above stated policy of the state authorizes agencies and institutions of the state to acquire commercial automobile insurance for the use and benefit of their employees who operate state owned, motorized vehicles and special equipment.

## WORKER'S COMPENSATION

Employees of The University of Texas System are provided Worker's Compensation coverage under a self-insuring, self-managed program as authorized by Vernon's Annotated Civil Statutes, Article 8309d.

## MEDICAL MALPRACTICE

[The following may be used in contracts involving the delivery of health care that require University components to speak to our ability to meet our indemnification obligations.]

Each component of the University of Texas System is self-insured pursuant to The University of Texas System Professional Medical Liability Benefit Plan, under the authority of Chapter 59, Texas Education Code. The University/Institution has and will maintain in force during the term of its agreements adequate insurance to cover its indemnification obligations.

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*12 February 2003*  
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