



# Utah Peace Officers Association Legal Defense Plan

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## OVERVIEW:

- Self-funded legal defense plan available only to UPOA members
- Owned and operated by the UPOA
- Broad legal defense coverage
- Pays all reasonable and necessary attorney fees when using a Plan Attorney for on-duty claims and certain personal legal services
- Pays up to \$5,000 for off-duty claims
- Plan is excess over all other benefits, including defense provided by member's employer

## PLAN STRUCTURE:

### Coverage-Reimbursement of Legal Defense Costs

Subject to the terms, conditions, limitations and exclusions specified in the Plan Description, the Plan offers coverage in the following categories:

- **Administrative:** Legal defense or, subject to the absolute discretion of the UPOA and the Benefit Administrator, other appropriate legal challenge to administrative discipline, sanction or proceeding:
  - Involving salary, dismissal, change of assignment, demotion, leave of absence, resignation or other professional rights, duties or responsibilities, as determined by the UPOA, where such discipline, sanction or proceeding arises directly out of the Participant's activities in the scope of law enforcement employment; or
  - Involving the issuance, suspension, cancellation or revocation of any credential, certification or license issued by federal, state or local authorities, which credential the participant is required to have in the scope of law enforcement employment.
- **Civil:** Legal defense of a civil action or proceeding brought against a Participant, arising directly out of the Participant's activities in the scope of law enforcement employment; provided coverage does not extend to counterclaims or cross-claims in actions brought by Participant, unless UPOA approves otherwise.
- **Criminal:** Legal defense of a criminal action or proceeding brought against a Participant, arising directly out of the Participant's activities in the scope of law enforcement employment. Includes traffic citations and grand jury proceedings.
- **Estate Planning:** Legal advising and preparation of Last Wills and Testaments, including yearly updates, Healthcare Power of Attorneys, and Living Wills.
- **Family Law:** Legal representation in uncontested divorces, uncontested separations, uncontested name changes, and uncontested adoptions.
- **Real Estate:** Legal advising and preparation of residential loan documents, limited to one per year for a primary residence.
- **Off-Duty Claims:** Legal defense of a civil, criminal or administrative claim arising from off-duty activity up to a maximum of \$5,000.

The Plan is excess. For example, if your employer defends you in a lawsuit, the Plan will not provide an additional lawyer. If your employer refuses to defend you, the Plan will pay to defend you.

### UPOA Plan Attorneys

The UPOA pays in full all reasonable and necessary legal fees and costs for on-duty legal services and certain personal legal services provided through UPOA's Plan Law Firm, Dentons Durham Jones & Pinegar; off-duty claims coverage is subject to a \$5,000 limit. There is no deductible to be paid by the Participant. Approved reimbursable costs are also fully paid.

Dentons Durham Jones Pinegar is a member firm of Dentons, the world's largest law firm, connecting top-tier talent to the world's challenges and opportunities with 20,000 professionals including 12,000 lawyers, in more than 200 locations, in more than 80 countries. Dentons' polycentric and purpose-driven approach, commitment to inclusion and diversity, and award-winning client service challenge the status quo to advance client interests.

### Participant Fees

Individual participants pay \$240.00/year in monthly installments of \$20.00.

Includes all coverage categories listed above

Includes off-duty claims coverage up to \$5,000

**Note:** All benefits, coverages, terms and conditions are governed by the Plan Description. Interpretation of Plan provision, including coverages and benefits, is vested exclusively in the UPOA, in its absolute discretion. Plan benefits are EXCESS over all other valid collectible benefits and coverages. The Plan is subrogated to all rights to recover attorney's fees against any person or entity and has a right of reimbursement from any such recovery. Attorneys paid by the Plan are neither agents nor employees of the Plan. The plan makes no recommendation or warranty, express or implied, with respect to the skill or expertise of such attorneys, including Plan attorneys.

Coverage is effective the first day after the day the application is approved by UPOA. Applications not fully and accurately completed cannot be processed and may result in ineligibility for and non-payment of benefits. Any person who is subsequently determined not to be eligible to participate or to receive benefits as of the date a claim arises will not receive payments of benefits.

# **PLAN DESCRIPTION**

The Plan is established and operated by Utah Peace Officers Association (“UPOA”) as Plan sponsor for the purpose of paying Legal Defense Costs for covered claims, on the terms and conditions specified in the Plan Description. The Plan covers claims for Legal Defense Costs which a Participant incurs to defend litigation arising in connection with the authorized carrying of a weapon pursuant to and in full accordance with the Law Enforcement Officers Safety Act of 2004 (H.R. 218) (“LEOSA”). UPOA also provides coverage limited to LEOSA claims only under a separate plan description.

## **Section 1. DEFINITIONS.** As used in this Plan Description:

- A. “UPOA” means the Utah Peace Officers Association;
- B. “Plan” means the benefit plan sponsored by UPOA set forth in this Plan Description and any attachments, as amended from time to time;
- C. “Participant” means an active member of the UPOA who has been accepted for participation and who has paid all applicable application fees due under the Plan.
- D. “Legal Defense Costs” means expenses a Participant has incurred for Legal Services and Reimbursable Costs, not to exceed the applicable limits of the Plan’s liability;
- E. “Legal Services” includes advice, consultation and representation rendered by a licensed attorney to a Participant, including usual fees and office charges for paralegal assistance, telephone, mailing, copying, telefaxing, travel and similar office expenses, as well as all other necessary and appropriate costs and expenses, but excluding Reimbursable Costs;
- F. “Reimbursable Costs” means witness fees and expenses, expert fees and expenses including consultation, investigator fees and expenses, filing fees, court costs and transcript costs;
- G. “Plan Attorney” means an attorney with the Plan Law Firm, with whom the Plan has contracted to perform legal services for Participants;
- H. “Plan Law Firm” means Dentons Durham Jones & Pinegar, P.C.;
- I. “Coverage Attorney” means an attorney, other than a Plan Attorney, who is recommended by the Plan Law Firm and approved by UPOA when the Plan Law Firm has a conflict of interest that prevents them from representing a Participant.
- J. “Employment” means employment by or service with a federal, state or local government law enforcement agency, whether with or without compensation, or employment by a law enforcement entity operated by a private college/university, private railroad or Native American tribal government;
- K. “in the scope of employment” means all activities of a Participant while on duty in connection with Employment, and all law enforcement activities authorized or required by the Participant’s Employment, whether on duty or technically off duty;
- L. “Notice” means reporting information as required by this Plan Description. Notice to an Administrator shall be effective on the date the Administrator actually receives it. Any notice of claim to the Benefit Administrator must be confirmed in writing on the prescribed claim form;
- M. “Off-Duty” means conduct not in the scope of employment as defined in this Plan Description.
- N. “Retroactive Date” means the starting date after which a Participant’s legal defense coverage has remained in continuous, uninterrupted effect, including renewals, as provided in Section 9; and
- O. “Extended Reporting Period” means an additional period, if any, for reporting claims after Plan participation ends, as provided in this Plan Description.

**Section 2. PLAN ADMINISTRATION.** UPOA shall employ or contract with an Enrollment Administrator and a Benefit Administrator (collectively hereinafter referred to as the “Administrators”) whose duties on behalf of the Plan in accordance with the Plan Description shall be as follows:

- A. Enrollment Administrator: The Enrollment Administrator shall:
  - 1. Publicize and promote the Plan;

2. Determine eligibility, enroll eligible persons, and provide and distribute enrollment cards and copies of the summary Plan Description;
3. Bill, collect and disburse participation fees as the Board directs;
4. Report and account for receipts and disbursements as the Board directs; and
5. Respond to Participants' and prospective Participants' questions concerning eligibility and enrollment. Questions should be directed to the Enrollment Administrator:

B. Benefit Administrator. The Benefit Administrator shall:

1. Approve and contract with attorneys and other necessary persons to provide Legal Services under the Plan;
2. Approve Coverage Attorneys as meeting the applicable minimum requirements specified in this Plan Description; the Benefit Administrator shall give written notice to Participants who elect to use Non-Plan Attorneys stating the applicable benefit limits, deductible and lack of malpractice insurance requirements, and shall require the Participant to return a signed copy of the notice acknowledging the same before any benefits are paid;
3. Review, approve or disapprove claims for benefits;
4. Administer and pay claims;
5. Report and account for receipts and disbursements as the UPOA directs; and
6. Respond to Participants' questions, notices and claims relating to benefits. Questions should be directed to the Benefit Administrator:

**Section 3. FINANCIAL.** The Plan provides for the payment of Legal Defense Costs as provided in this Plan Description. Participation fees payable by each Participant shall be determined by the UPOA from time to time. Participation fees shall be based on the amounts projected to be needed to pay benefits, administrative costs and premiums for excess insurance, and to establish a fund for overhead and contingencies. Participation fees shall be held in trust for the exclusive benefit of Legal Plan, Inc. and its Participants, deposited in a fund or funds held and invested by the Board until used to pay benefits, administrative costs, premiums, and overhead and contingencies. All benefits shall be paid from and are limited to assets of the Plan and any collectible insurance.

**Section 4. CHANGES TO PLAN.** UPOA may modify, amend or terminate the Plan at any time. Any change shall become effective for all participation fees due, benefits accruing and claims made to Participants or reported to the Plan on or after the effective date of the change.

**Section 5. ELIGIBILITY.** All active UPOA members in good standing are eligible under the Plan.

**Section 6. PREREQUISITES FOR PARTICIPATION.** Participation in, and the right to benefits under the Plan, arises only upon approval by the Enrollment Administrator of an application to participate and payment to the Enrollment Administrator of applicable participation fees.

**Section 7. METHOD OF APPLICATION.** Applications for participation shall be submitted to the Enrollment Administrator on forms provided by the UPOA. Applications not fully and accurately completed may result in ineligibility for, and non-payment of, benefits.

**Section 8. EFFECTIVE DATE OF COVERAGE.** The effective date of Plan coverage for any Participant shall be the first day after the day on which the Enrollment Administrator approves the application for participation and receives applicable participation fees for individual applicants or satisfactory payment arrangements for group applicants, as applicable.

**Section 9. RETROACTIVE DATE.**

- A. A Participant's Retroactive Date is the date the Participant's coverage under the Plan shall be deemed to have started.
- B. A Participant's Retroactive Date is the earliest of the following:
  - 1. The effective date of the Participant's coverage for the risk under the Plan; all coverages may not have the same effective date, including but not limited to off-duty claims coverage; or
  - 2. In the UPOA's absolute discretion at the beginning of coverage, up to one hundred twenty (120) days before the effective date of Plan coverage if the Participant had comparable coverage under another plan or insurance, has reported all claims of which the Participant knew or should have known to the comparable plan or insurance, and coverage under such other plan or insurance was continuous with coverage under the Plan.
- C. Coverage under the Plan shall be deemed continuous with previous coverage pursuant to paragraphs (B) (2) or (3) of this section only if the effective date of the Participant's Plan coverage is not more than thirty (30) days after the termination date of the Participant's previous coverage.
- D. If a Participant's coverage under the Plan is terminated effective a certain date and is subsequently reinstated effective at a later date, the Participant's Retroactive Date following reinstatement shall be changed to the effective date of reinstatement.

**Section 10. CERTIFICATE OF PARTICIPATION.**

- A. Upon approval of any application for participation, the Enrollment Administrator shall provide the following:
  - 1. A certificate of participation showing:
    - a. The identity and address of the enrolling individual;
    - b. Any applicable deductibles;
    - c. The name of the Participant;
    - d. The Retroactive Date, applicable to the Participant;
    - e. The amount of the annual participation fee applicable to the Participant;
    - f. The dates on which participation takes effect and is scheduled to terminate for the Participant; and
  - 2. A copy of the current Plan Description.
- B. Each Participant shall be issued a participation identification card, which shall contain such information as UPOA shall determine from time to time. The Enrollment Administrator shall issue the identification card no later than thirty (30) days after the Participant's effective date of coverage and shall distribute it to the individual Participant or, in the case of a group, to the group for distribution to each Participant.

**Section 11. PLAN COVERAGES.**

- A. The Plan shall be offered with all of the following coverage categories:
  - 1. Full Coverage for Reasonable Attorney's Fees and Costs associated with: Administrative, Civil, Criminal, Estate Planning, Family Law, Real Estate representation as defined above; and
  - 2. Off-Duty Claim coverage up to \$5,000.

- B. The UPOA shall retain discretion to refuse coverage at any time if it is apparent that providing coverage for a claim would unduly deplete the reserves of the Plan to such a level that its ability to provide coverage for other members would be diminished.

**Section 12. PARTICIPATION FEES – TERMINATION FOR NON-PAYMENT – DEDUCTIBLES.**

- A. Applicable participation fees must be timely paid in order for a Participant to be entitled to benefits under the Plan. Participation fees shall be as set forth in the attached Participation Fees Schedule, as supplemented, modified or amended from time to time by the UPOA.
- B. Participation fees shall be payable on an annual basis and such additional bases as the Board shall prescribe from time to time. The initial participation fee payment shall be submitted with the application. Thereafter participation fees shall be paid on or before any scheduled due date in the amounts billed by the Enrollment Administrator. Bills shall be mailed at least thirty (30) and not more than sixty (60) days prior to the applicable due date.
- C. If any payment is not timely made as required in subsection B of this section, the payment shall be delinquent and participation in the Plan shall cease effective as of 12:01 a.m. on the day after the applicable due date. If all delinquent amounts are received by the Enrollment Administrator within thirty (30) days following the due date, participation shall be reinstated automatically, retroactive to the day after the due date; provided, however, that coverage of claims arising during the thirty (30) day reinstatement period of any delinquent payment may be denied following automatic reinstatement, in the UPOA's discretion. If any payment is delinquent thirty-one (31) days or more, participation shall be deemed to have terminated effective as of 12:01 a.m. on the day after the applicable due date, and reapplication shall be required.

**Section 13. TERMINATION OF PARTICIPATION AND OF ENTITLEMENT TO BENEFITS.**

- A. Except as provided otherwise in subsection B of this section, a Participant's participation in and entitlement to benefits under the Plan shall automatically terminate upon:
  - 1. Non-payment of participation fees when due;
  - 2. Voluntary withdrawal from participation;
  - 3. Termination of the Participant's law enforcement Employment, either voluntary, involuntary, or by retirement pursuant to the retirement rules of the Participant's employer; or
  - 4. Termination of the Participant's membership in the UPOA while the Participant remains employed as a law enforcement officer.
- B. Termination shall not affect any right to benefits which has accrued prior to the date of termination or during any applicable Extended Reporting Period.

**Section 14. COVERAGE.**

- A. Subject to the exclusions in Section 16, any applicable limits of liability specified in this Plan Description, and any coverage limitations or deductibles stated in this Plan Description or the certificate of participation, the Plan shall reimburse and pay on behalf of a Participant reasonable and necessary Legal Defense Costs which the Participant is legally obligated to pay under the following coverage categories:
  - 1. Administrative: Legal defense or, subject to the absolute discretion of the Benefit Administrator and the UPOA, other appropriate legal challenge to adverse administrative discipline or sanction based on the Participant's individual conduct or misconduct in the scope of employment:
    - a. Involving salary, dismissal, change of assignment, demotion, leave of absence, resignation or other professional rights, duties or responsibilities as determined by the UPOA, where such discipline or sanction arises directly out of the Participant's activities in the scope of employment; or
    - b. Involving the issuance, suspension, cancellation or revocation of any credential, certification or license issued by federal, state or local authorities, which credential

- the Participant is required to have in the scope of employment;
2. Civil: Legal defense of a civil action or proceeding brought against a Participant, arising directly out of the Participant's activities in the scope of employment; provided, coverage does not extend to counterclaims or cross claims in actions brought by a Participant, unless the UPOA approves otherwise;
  3. Criminal: Legal defense of a criminal action or proceeding brought against a Participant, arising directly out of the Participant's activities in the scope of employment, including grand jury proceedings;
  4. Estate Planning: Legal advising and preparation of Last Wills and Testaments, including yearly updates, Healthcare Power of Attorneys, and Living Wills.
  5. Family Law: Legal representation in uncontested divorces, uncontested separations, uncontested name changes, and uncontested adoptions.
  6. Real Estate: Legal advising and preparation of residential loan documents, limited to one per year for a primary residence.
  7. Off-Duty Claims: Legal defense of a civil, criminal or administrative claim arising from off-duty activity up to a maximum of \$5,000.
- B. The UPOA shall retain discretion to refuse coverage at any time if it is apparent that providing coverage for a claim would unduly deplete the reserves of the Plan to such a level that its ability to provide coverage for other members would be diminished.

**Section 15. CLAIMS-MADE COVERAGE – DATES – EXTENDED REPORTING PERIOD.**

- A. Except as provided in subsection B of this section, this Plan applies only to claims that are first made to the Participant and reported to the Plan on or after the Participant's Retroactive Date, and on or before the date of termination of the applicable coverage with respect to that Participant. In addition, the claim must arise out of an occurrence, acts or events commencing between the same dates. For purposes of determining the respective dates on which a claim is made and reported:
1. A claim shall be deemed made to the Participant when the Participant is first notified by any person of information suggesting the possibility of a claim;
  2. A claim shall be deemed reported to the Plan when Notice of such claim is first received by the Benefit Administrator; and
  3. All claims by a Participant arising out of the same occurrence, acts or events shall be deemed made and reported on the respective dates the first claim is made to the Participant and reported to the Plan.
- B. Claims first reported during an Extended Reporting Period shall be covered only as described in this subsection.
1. An Extended Reporting Period applies only if:
    - a. A Participant's coverage is canceled or terminates other than because a Participant's membership in the UPOA is terminated or suspended; or
    - b. The Plan renews or replaces the applicable certificate of participation with a new plan that:
      - i. Has a retroactive date later than the Participant's Retroactive Date under this Plan; or
      - ii. Does not apply on a claims-made basis.
  2. The Extended Reporting Period commences on the date a Participant's applicable coverage terminates, and extends:
    - a. Five (5) years for any claim arising out of a covered occurrence which took place prior to termination, if such occurrence is reported to the Plan not later than one hundred twenty (120) days after the date of termination; or
    - b. One hundred twenty (120) days for all other claims.
  3. The Extended Reporting Period applies only to claims for occurrences, acts or events that

commence after the Participant's Retroactive Date, and on or before the date of termination of the applicable coverage with respect to that Participant.

4. If the Extended Reporting Period applies, covered claims which are first reported during the Extended Reporting Period shall be deemed made on the last day before the applicable date of termination.
5. The Extended Reporting Period does not reinstate or increase the limits of liability applicable to any claim.

**Section 16. EXCLUSIONS – PLAN IS EXCESS.**

- A. The coverages and benefits provided under the Plan do not apply to:
  1. Payment exceeding \$5,000 for claims for occurrences involving activities not in the scope of employment, and as provided in subsection A.7. of Section 14;
  2. claims relating to a collective bargaining agreement (other than grievances arising from disciplinary action against a particular individual Participant), workers' compensation, occupational health and safety, unemployment compensation, disability benefits, or similar laws or programs;
  3. payment or indemnification for any loss incurred, including but not limited to loss incurred as a result of any administrative proceeding, action, judgment, award, settlement, fine or penalty of any kind;
  4. claims or matters for which legal defense is available, under your employer's motor vehicle liability insurance policy or any other plan or insurance, as provided in subsection B of this section;
  5. attempts to obtain, protest, preserve or set aside pension or retirement benefits or benefit determinations, including disability retirement benefits, or decisions relating to any of these, under any federal, state or local government system;
  6. the cost of bail bonds, appeal bonds or other bonds; and
  7. as otherwise excluded or limited by this Plan Description.
- B. If any other valid and collectible plan or insurance is obligated to cover and/or is available to the Participant for claims otherwise covered under this Plan, then the coverage provided under such other plan or insurance shall be primary coverage. Coverage under this Plan shall apply only in excess of every other plan or insurance, and shall not be considered as "additional insurance" or contribute with such other plan or insurance in any way except to provide excess coverage after the available limits of all such other plans or insurance have been exhausted.

As used in this section, the term "other plan or insurance" includes but is not limited to insurance or self-insurance coverage or benefits provided by or through a Participant's employer, other groups or associations; insurance coverage or benefits covering and/or provided by a Participant; coverage or benefits provided by self-insurance, trusts, pools, risk retention groups or captive insurance companies; any other insurance or self-insurance plan or agreement of risk assumption; and any obligation to defend, pay or indemnify under any statute, ordinance, regulation or agreement.

Prior to seeking benefits under the Plan, the Participant agrees to:

1. Submit any and all claims otherwise covered by the Plan to all such other plans or insurance and, if requested by UPOA, to undertake and pursue such coverage claims. The Participant's obligation under this paragraph shall exist regardless of whether the claim against the Participant is brought in the Participant's official capacity, individually or is a claim for punitive damages;
2. Execute and deliver instruments and other documents and do whatever else is necessary to pursue such coverage claims; and
3. Do nothing to prejudice the rights of UPOA to recover money or benefits due from the Participant in connection with such coverage claims. UPOA shall pay all expenses for the pursuit of such coverage

claims, and reserves the right to assume the legal representation of the Participant for that purpose.

**Section 17. BENEFITS – SALARY REIMBURSEMENT OPTION – DEDUCTIBLES –TEMPORARY AND PROBATIONARY EMPLOYEES.**

- A. Plan Attorney Benefits. Subject to subsections B, C, D, and E, Legal Services are covered in full when a Participant uses a Plan Attorney; provided that claims under the off-duty claims coverage pursuant to subsection A.7. of Section 14 are subject to a limit of \$5,000 per occurrence. Reimbursable Costs are also covered in full; provided that expenses for expert witnesses, investigators and transcripts must be approved in advance by the Benefit Administrator.
- B. Deductibles. If a deductible applies, the Plan's obligation to pay benefits applies only to Legal Defense Costs in excess of any applicable deductible(s) unless deductibles are paid to the Plan as provided in this subsection. Deductibles apply to all Legal Defense Costs sustained as the result of any one claim. The Benefit Administrator may require proof of payment or require payment to the Plan of deductibles before the Plan pays benefits.
- C. Salary Reimbursement Option. In lieu of Legal Defense Costs, Participants whose claims involve suspension or other discipline resulting in salary loss may elect to receive reimbursement of up to three days' actual salary loss or \$500, whichever is less. The salary loss must result directly from the matters at issue in the claim, as determined by the Benefit Administrator. Salary loss shall be calculated at the Participants' regular basic salary rate excluding the value of overtime, perquisites (such as use of a vehicle or other equipment, etc.) and employment benefits, as determined by the Benefit Administrator.

The election may not be rescinded or reversed with respect to the claim or other related claims after the reimbursement benefit is paid. This option is not subject to any deductible which would otherwise apply. This option may not be elected nor may benefits be paid for more than one occurrence taking place in any one-year period of time, except as the UPOA in its discretion may approve otherwise. The Participant has the duty to provide satisfactory proof of salary and actual salary loss. The right to elect this option expires 180 days after the first day suspension begins.

- D. Benefit Limit for Termination of Temporary and Probationary Employees. Notwithstanding any other provision of this Plan Description, temporary or probationary employees serving at will who are terminated during or at the end of the temporary employment or probationary period, for any reason or for no stated reason, shall be entitled only to the Legal Defense Costs for one informal Loudermill or similar non-adversarial meeting or hearing.
- E. Change of Attorney. The Plan covers Legal Defense Costs of one attorney from commencement to termination of a claim. If the Participant desires to change to a different Plan Attorney or to use more than one Plan Attorney, the Plan will cover the charges of any such different or additional attorney only if the Benefit Administrator, in its absolute discretion, has determined that there is good cause for doing so and the claimant has agreed to pay the costs, as determined by the Benefit Administrator, of any duplication of services.

**Section 18. MISCELLANEOUS TERMS AND CONDITIONS.**

- A. Notice of Occurrence. When an occurrence takes place which may result in a claim for benefits, the Participant shall give written or verbal Notice to the Benefit Administrator as soon as practicable. Such Notice shall specify particulars sufficient to identify the Participant, and all reasonably obtainable information respecting the time, place and circumstances of the occurrence. When verbal Notice is given, the Participant shall confirm Notice in writing on the claim form prescribed by the Benefit Administrator.
- B. Assistance and Cooperation of the Participant. The Participant shall assist and cooperate with the Plan toward the resolution of any claim, including assisting with discovery and appearing for depositions, hearings and trial.
- C. Subrogation. In the event of any payment under the Plan, the Plan shall be subrogated, to the extent of the Plan's payment of benefits, to the Participant's right to recover attorney's fees against any person,

agency, organization, political subdivision or any other entity. The Participant shall execute and deliver instruments and other documents, cooperate with the Plan in every way, appear for depositions and hearings, and do whatever else is necessary to secure and pursue such rights. The Participant shall do nothing to prejudice such rights.

In the event that subrogation is not permitted or is unavailable for any reason, and the Participant is entitled to receive or receives payment as the result in part of any such right to recover attorney's fees, Legal Plan, Inc. shall have a right of reimbursement for all amounts paid by the Plan on behalf of the Participant, up to the amount of the Participant's Plan benefits.

- D. Changes and Amendments to Plan only by Written Amendment. Notice to or knowledge possessed by any agent or other person shall not affect a waiver or change in any part of this Plan Description, its attachments or any certificate of participation or estop the Plan from asserting any right under the terms of same. The terms of this Plan Description, its attachments or any certificate of participation shall not be waived or changed, except by written amendment or endorsement approved by the Board and issued to form a part of same.
- E. Cancellation.
1. The participation of an individual Participant may be canceled by the Participant, for any reason by:
    - a. Surrendering the certificate to the Plan or the Enrollment Administrator; or
    - b. Mailing written notice to the Enrollment Administrator stating the date thereafter on which cancellation shall be effective.
  2. A certificate of participation, or the participation of an individual Participant, may be canceled by the Plan only for non-payment of participation fees, discontinuation of the Plan or the Participant's ineligibility. Notice shall be given by mailing written Notice to a canceled group or group Participant, or to a canceled individual Participant, at the last-known address, stating the effective date and time of cancellation. The mailing of Notice shall be sufficient proof of notice. The effective date and time of cancellation stated in the Notice shall be the date and time of termination.
  3. In-person delivery, telefaxing to the last-known telefax number or e-mailing to the last-known e-mail address of such written Notice of cancellation by a group, the Participant or the Plan shall be equivalent to mailing.
  4. If a group cancels a certificate of participation, or an individual Participant cancels participation for any reason other than death, permanent disability or a judgment of incompetency, participation fees shall be deemed earned through the last day of the month in which cancellation is effective. Any prepaid, unearned participation fees in excess of such earned fees shall constitute the refund due the group or individual; provided, if cancellation is effective in any month other than the month of the membership anniversary, an additional amount equal to annual administrative fees incurred by the Plan shall be deducted from the refund. Refunds may be made either on the date cancellation is effective or as soon as practicable.
  5. Other than as provided in paragraph 4 of this subsection, any other participation fee adjustment or refund shall be computed pro rata as of the effective date of cancellation.
- F. Nonrenewal. If the Plan declines to renew a group's certificate of participation or coverage of a group Participant, the Plan shall mail or deliver to the group or group Participant at the address shown in the declarations written Notice of the nonrenewal not less than sixty (60) days before the expiration date of the certificate. If the Plan declines to renew coverage of an individual Participant, the Plan shall mail or deliver to the Participant at the Participant's last-known address written Notice of the nonrenewal not less than sixty (60) days before the expiration of the Participant's coverage. The mailing of Notice shall be sufficient proof of Notice.

- G. Non-Assignment. The interest of any Participant in the Plan and its benefits is not assignable.
- H. Death or Incompetency. If a Participant dies or is adjudged incompetent, the Plan shall terminate on the date of death or incompetency as to that Participant. The Plan shall pay benefits to or on behalf of the Participant's legal representative with respect to covered claims incurred prior to the date of death or incompetency.
- I. Conformity to Statute. Terms of a certificate of participation which are in conflict with applicable statutes are hereby amended to conform to such statutes.

**Section 19. PLAN TERRITORY.** The benefits afforded by this Plan apply only to Legal Defense Costs for suits, proceedings, or criminal actions brought within the United States of America.

**Section 20. PLAN'S LIMITED AUTHORITY OVER COUNSEL.** UPOA, acting through the Benefit Administrator, shall have sole authority to contract with Plan Law Firm, and approve Coverage Attorneys recommended by Plan Law Firm, as meeting minimum applicable Plan qualifications, to render Legal Services to Participants.

Participants are free to select counsel other than Plan Attorneys. However, the Plan is not obligated to pay for such representation except on the terms and conditions provided in this Plan Description.

**Section 21. MINIMUM ATTORNEY QUALIFICATIONS.**

- A. No attorney, including a Coverage Attorney, shall be engaged by the Plan or compensated by the Plan for services rendered to a Participant unless such attorney has attested in writing to the Plan that the attorney:
  - 1. Is properly authorized to practice law in the applicable jurisdiction;
  - 2. Accepts the Plan's hourly fee, expense reimbursement and other compensation arrangements; and
  - 3. Accepts the Plan's required periodic reporting and billing procedures.
- B. No attorney shall be compensated by the Plan for Legal Services rendered to a Participant unless the attorney has provided current proof of coverage under a professional legal malpractice liability insurance policy providing coverage limits of at least \$100,000 per claim/\$300,000 aggregate, or such higher limits as the Benefit Administrator may deem necessary with respect to a particular representation.
- C. Each attorney shall disclose in writing the following information:
  - 1. all attorney disciplinary proceedings to which the attorney or the attorney's firm are currently subject, or state that there are none;
  - 2. all legal actions alleging legal malpractice to which the attorney or the attorney's firm are currently subject, or state that there are none;
  - 3. all rulings by attorney disciplinary authorities or courts during the preceding five years which resulted in sanctions, including formal and informal reprimands, against the attorney or any firm with which the attorney was associated at the time sanctions were imposed, or state that there are none; and
  - 4. all legal actions during the preceding five years in which the attorney or any firm with which the attorney was associated was adjudged guilty of or liable for legal malpractice, or state that there are none.
- D. Each attorney shall agree to give written notice to the Benefit Administrator within ten (10) days following the initiation of any attorney disciplinary proceedings or legal actions alleging legal malpractice, which proceedings or actions involve the attorney or the attorney's firm.
- E. Each attorney shall agree to abide by the Plan's detailed attorney guidelines.
- F. No attorney shall be approved or included on the list of Plan Attorneys until such attorney has complied with subsections A, B, C, D and E of this section. No attorney shall be approved or included on the list of Plan Attorneys if the Board disapproves the attorney's inclusion on the list.
- G. The UPOA may remove Plan Attorneys from their status as Plan Attorneys at any time with or without

cause. Removal shall apply to all claims reported to and accepted by the Plan on and after the effective date of removal.

**Section 22. ATTORNEYS NOT PLAN EMPLOYEES OR AGENTS.** Attorneys performing Legal Services for Participants under the terms of this Plan are not agents or employees of UPOA. Any attorney rendering Legal Services to Participants under the Plan shall maintain the attorney-client relationship with the Participant and is solely responsible to the Participant for all Legal Services provided. The Plan shall not interfere with or have the right to control performance of the attorney's duties. Information which the attorney receives from the Participant incidental to the attorney-client relationship shall be confidential and, except for use incidental to the administration of the Plan, shall not be disclose without the Participant's consent.

**Section 23. INTERPRETATION OF THE PLAN.** The construction and interpretation of the Plan provisions are vested with the UPOA in its absolute discretion, including but not limited to the determination of facts, coverage, benefits, eligibility and all other Plan provisions. UPOA shall endeavor to act, whether by general rules or by particular decisions, so as to treat all persons in similar circumstances without discrimination with respect to race, color, religion creed, national origin, or sex. UPOA's constructions, interpretations, determinations and decisions shall be final, conclusive, and binding upon all persons having an interest in the Plan.

**Section 24. CLAIMS REPORTING AND APPEALS PROCEDURES.**

- A. A Participant shall promptly notify the Benefit Administrator of:
1. Any occurrence the Participant has reason to believe may result in a claim for benefits;
  2. Any communication the Participant receives concerning a pending or threatened claim, action or proceeding which may result in a claim for benefits; and
  3. Any claims for benefits.

Notice must be confirmed in writing on a prescribed claim form provided by the Benefit Administrator.

- B. The Benefit Administrator shall make a decision on any claim for benefits promptly, and not later than ninety (90) days after the Benefit Administrator's receipt of the claim, unless the Benefit Administrator determines special circumstances require an extension of the time for processing. In that case the Benefit Administrator shall notify the claimant in writing or electronically of an extension, not to exceed ninety (90) days, stating the special circumstances and the date by which a decision will be made. If the Benefit Administrator denies a claim, in whole or in part, the Benefit Administrator shall send the Participant a written or electronic notice, prepared in a manner calculated to be understood by the Participant, setting forth:
1. The specific reasons for the denial;
  2. Specific reference to pertinent Plan provisions on which the denial is based;
  3. If applicable, a description of any additional material or information necessary for the Participant to perfect the claim and an explanation of why such material or information is necessary; and
  4. An explanation of the Plan's review and appeal procedure, the time limits applicable to such procedure, and a statement that the claimant has a right to bring a civil action under Section 502(a) of the federal Employment Retirement Income Security Act ("ERISA") following an adverse benefits decision or review.
- C. Within sixty (60) days of the date upon which a Participant is first notified of any decision by the Benefit Administrator to deny the Participant's claim in whole or in part, the Participant may appeal the Benefit Administrator's decision by submitting a written appeal to the Board. As part of the appeal procedure:
1. Participants shall have the opportunity to submit written comments, documents, records and other information relating to their claims;
  2. Participants shall be provided upon request and free of charge reasonable access to and copies of all documents, records and other information relevant to their claims; and

3. All comments, documents, records and other information which the claimant submits shall be taken account of in the claim review, regardless of whether such information was submitted or considered in the initial benefit determination.

The UPOA shall notify the Participant through the Benefit Administrator of its decision in writing or electronically within sixty (60) days of its receipt of the appeal, unless the Benefit Administrator determines special circumstances require an extension. In that case the Benefit Administrator shall notify the claimant in writing or electronically of an extension, not to exceed sixty (60) days, stating the special circumstances and the date by which a decision will be made. The UPOA's decision shall state specific reasons for the decision with references to pertinent Plan provisions and shall state the claimant has the right to be provided upon request and free of charge reasonable access to and copies of all documents, records and other information relevant to the claim and has the right to bring a civil action as specified to paragraph B(4) of this section. The decision of the UPOA on appeal shall be final, and shall not be subject to further appeal or review.

**Section 25. SEVERABILITY.** If any provision of this Plan Description or attachments is found to be invalid, unlawful or unenforceable, all other provisions shall remain in full force and effect.

**Section 26. ERISA RIGHTS.**

- A. This Plan Description constitutes the summary Plan Description for purposes of the federal Employment Retirement Income Security Act ("ERISA"). Each Participant shall be entitled to a copy of this summary Plan Description.
- B. Participants in the Plan are entitled to certain rights and protections under ERISA. ERISA provides that all Participants are entitled to:
  1. Receive information about the Plan and benefits;
  2. Examine, without charge, at the UPOA's office or the Enrollment Administrator's office, all Plan documents, including insurance contracts, and a copy of the latest annual report (Form 5500) filed with the U.S. Department of Labor, which is also available at the Public Disclosure Room of the Employment Benefits Security Administration;
  3. Obtain copies upon written request to the UPOA or Enrollment Administrator of all documents governing the operation of the Plan, including insurance contracts, and copies of the latest summary Plan Description and annual report (Form 5500). The UPOA and the Enrollment Administrator may make a reasonable charge for the copies; and
  4. Receive from UPOA a summary of its annual financial report. UPOA is required by law to furnish each Participant with a copy of the summary annual report.
- C. In addition to creating rights for Participants, ERISA imposes duties upon the people who are responsible for operation of the Plan. The people who operate the Plan, called "fiduciaries" of the Plan, have a duty to do so prudently and in the interest of you and other Participants and beneficiaries. No one may fire you or otherwise discriminate against you in any way for purposes of preventing you from obtaining a benefit or exercising your rights under ERISA.

If you make a claim for benefits which is denied or ignored in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

There are steps you can take to enforce your rights under ERISA. For instance, if you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within thirty (30) days, you may file suit in Federal court. In such a case, unless the materials were not sent because of reasons beyond the Plan's control, the court may require the UPOA or other Plan Administrator to provide the materials and pay you up to \$110 a day until you receive the materials.

If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or Federal court.

If Plan fiduciaries misuse UPOA's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor or file a suit in Federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose (for example, if the court finds that the claim is frivolous), the court may order you to pay these costs and fees.

If you have any questions about the Plan, you should contact UPOA or the Administrators. If you have any questions about this statement or your rights under ERISA or need assistance in obtaining documents from UPOA or Plan Administrators, you should contact the nearest Office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your local telephone directory, or:

Division of Technical Assistance and Inquiries  
Employee Benefits Security Administration U.S. Department of Labor  
200 Constitution Ave. N.W.  
Washington, D.C. 20210

You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.

#### **PARTICIPATION FEES SCHEDULE**

**Participants pay \$240.00 per year in monthly installments of \$20.00 each.**

**Note:** These fees may be modified in the event optional deductibles are approved, as provided in the Plan Description.

Coverage for private university/college, private railway or Native American tribal law enforcement personnel does not include coverage for civil lawsuits.