

**Utah State Lodge, Fraternal Order of Police Legal Plan; Plan Description  
Dated and Effective October 1, 2021**

---

This Plan Description shall replace in its entirety, any published description, draft or summary provided in any form or format prior to the date above occurring.

This Legal Plan or Plan Description (herein the “Plan”) is held and jointly owned by the Legal Plan Administrator, and the Utah State Lodge, Fraternal Order of Police (herein “FOP” or “Utah FOP”) a Utah Non- Profit Corporation, and provided subject to the policies and procedures contained herein.

LEGAL PLAN ADMINISTRATOR

The Legal Plan Administrator of the Plan is, by mutual consent of the parties and by AGREEMENT (herein “Agreement”) separately set forth is and shall be:

Bret W. Rawson, P.C. 8941 S 700 E, STE 203 Sandy, UT 84070

(The Legal Plan Administrator contracts with a law firm in which it is a Member, Owner, and/or Manager for purposes of administering the benefits described herein). Subject to the discretion of the Legal Plan Administrator and in accordance with the Utah Rules of Professional Conduct, the law firm appointed by the Legal Plan Administrator shall administer the legal services described herein, and Participants shall be required to obtain legal services thereby. **This is an express and material condition of the legal services provided herein.** The appointed law firm shall be appended hereto as Schedule A.

FINANCIAL DESCRIPTION

The Plan provides for specific legal services for the benefit of Participants/Members and payment of Legal Defense Costs and Attorney Fees in conflict cases as provided in this Plan Description. Participation fees payable by each Participant/Member shall be determined jointly by the Board, or its designated Committee (either or separately, the “Board”), and the Legal Plan Administrator and is subject to change from time to time. Participation fees shall be based on the amounts projected to be necessary to pay legal fees and costs and to, at the discretion of the Legal Plan Administrator, establish a fund for conflicts, overhead and contingencies. Participation fees shall be dispersed to the Legal Plan Administrator in an amount contracted between the FOP and the Legal Plan Administrator for the rendering of services of the Legal Plan. The Plan is not insurance. The Plan is a benefit created for the Members of the Utah FOP.

CHANGES TO PLAN

The Utah FOP Board by itself, or through the Legal Plan Committee, may modify, amend or terminate the Plan upon advice and consent of the Legal Plan Committee of the Utah FOP at any time, subject to the Agreement with and ratification by the Legal Plan Administrator. Any change shall become effective for all participation fees due, benefits accruing to and claims made by Members/Participants or reported to the Plan on or after the effective date of the change.

## ELIGIBILITY

All active Utah FOP Members (“active Members”) in good standing, who pay or cause to be paid, all participation fees consistent with the terms herein, are eligible to participate in the Legal Plan and receive legal services as described herein. The Legal Plan Administrator shall make reasonable efforts to ensure that all Participants are active Utah FOP Members and otherwise eligible before extending legal services under the Legal Plan. Active Members shall include those who have otherwise separated from their employment but who continue to pay participation fees upon notification of a covered claim giving rise to legal coverage under the terms of the Plan, including all retroactive participation fees, defined as those fees that would have been paid for continuing coverage had the Member/Participant remained employed where his or her participation fees would have been automatically paid on his or her behalf (retroactive participation fees).

## PREREQUISITES FOR PARTICIPATION

Participation in, and the right to benefits under the Plan, arises only upon approval of Membership by the Utah FOP Board Member tasked with authorizing enrollment (the “Enrollment Administrator”), and through ratification by the Legal Plan Administrator of an application to participate in the Legal Plan and payment to the Enrollment Administrator, Legal Plan Administrator, or Treasurer of the Utah FOP State Lodge, of applicable participation fees. Participants/ Members must utilize the legal services of the Legal Plan Administrator’s appointed and selected law firm, set forth on Schedule A, unless otherwise set forth herein. Payments under the Plan shall be made by the subordinate lodge on a per capita basis consistent with the terms herein. The payment is based upon an amount to be determined by a review of the electronic system(s) housing Membership information by the State and/or Grand Lodge and the subsequent invoice provided by the Plan Administrator shall reflect this number. If a subordinate lodge does not challenge the per capita number of Membership participating in the Legal Plan within ten (10) business days of receipt of the invoice from the Plan Administrator, or its agents or assign (to include the State Lodge), then the participants/Members and the subordinate lodge each waive the right to change or challenge the per capita quantification of Membership and the amount due under the invoice shall not be modified and is due in full consistent with the terms herein.

## METHOD OF APPLICATION TO UTAH FOP

A. Application for participation in the Plan may be made only by 1) joining the Utah FOP Subordinate Lodge associated with the employing agency of the Member and remaining in good standing, or 2) by joining an “Open Lodge” of a Utah FOP Subordinate Lodge and remaining in good standing.

## 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

applicants, and ratification by the Legal Plan Administrator of an application to participate in the Legal Plan. Exceptions may be made in limited unique circumstances at the discretion of the Legal Plan Administrator.

### 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. 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.

### APPROVAL OF PARTICIPATION

A. Upon approval of any application for participation, the Enrollment Administrator shall provide through its website or otherwise, the following information:

- a. the identity and agency of the enrolling Participant;
- b. the Retroactive Date, applicable to each Participant;
- c. the amount of the annual participation fee applicable to each Participant (as set forth herein, and this document, along with its schedules and/or exhibits shall suffice);
- d. the dates on which participation takes effect and is scheduled to terminate for each Participant if applicable; and
- e. A copy of the current Plan Description which these Policies and Procedures shall be deemed.

B. Each Participant may be issued a participation identification card, which shall contain such information as the FOP or Plan Administrator shall determine, from time to time. Whenever practical, and if applicable, 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 via the subordinate lodges.

### PARTICIPATION FEES

**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 (Schedule B), as supplemented, modified or amended from time to time mutually by the Board and the Legal Plan Administrator.

B. Participation fees shall be payable on at least a quarterly basis and such additional greater frequency as the Board shall prescribe from time to time. The initial participation fee

payment shall be submitted with the application, unless alternative payment terms have been mutually agreed upon among the Utah FOP and the Plan Administrator. Thereafter participation fees shall be paid on or before any scheduled due date in the amounts invoiced by the Legal Plan Administrator, the Enrollment Administrator or respective Treasurer. Invoices shall be mailed or electronically transmitted at approximately 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 Board's and the Legal Plan Administrator'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.

#### 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, except as otherwise set forth herein;
2. voluntary withdrawal from participation;
3. termination of the Participant's law enforcement or eligible agency employment, either voluntary, involuntary or by retirement pursuant to the retirement rules of the Participant's employer (except that legal representation already undertaken for a particular administrative or criminal representation will continue pursuant to the Utah Professional Rules of Conduct for Attorneys, for covered legal representation for claims timely submitted where the associated participation fee was paid as set forth herein, including any required payment of retroactive participation fees where the claim is timely made following separation from the agency);
4. termination of the Participant's Membership in the FOP while the Participant remains employed as a law enforcement officer.
5. withdrawal by Plan attorneys consistent with the terms of the Plan.

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.

## GENERAL PLAN BENEFITS.

### Summary:

This Plan will cover any covered incident that occurs or arises *after* the Member signs up and is approved as an FOP Member by the Utah FOP State Secretary and for participation in the Plan as set forth herein. **It will not cover incidents occurring or arising before.** In this way, we reduce the financial liability to the Plan by someone incurring a loss, and then participating in the Plan, after the fact. Documentation is required to be provided to the Legal Plan Administrator as to the “date of incident” or other agency documentation of the investigation will be required to establish the same. The Participant/Member shall inform the Legal Plan Administrator of the date of incident. Coverage under this plan is only in affect as long as the Participant/Member is entitled to benefits as a Member of the FOP. At any point that the Member terminates their Membership, or they are expelled from the FOP, their coverage is null and void from the date of expulsion. Also, in order for any coverage to apply under this Plan, it is required that the Participant/Member participate in their own defense by, among other things, communicating reasonably with the Plan lawyers, telling the truth to the Plan lawyers, attending all scheduled meetings with the Plan lawyers along with all court/tribunal appearances as notified by the Court, tribunal or the Plan lawyers, and not taking part in any action causing the Plan attorneys to withdraw consistent with the Rules of Professional Conduct governing attorneys. If the Participant/Member does not participate in their own defense as determined by the Legal Plan Administrator, coverage under the Plan shall not be provided to the Participant/Member. In the event that legal representation is extended to the Participant/Member following termination under the Plan, all costs, expenses, legal fees thereafter incurred shall be the sole responsibility of the Participant/Member. **The Plan is not obligated to provide or extend any legal representation following termination under the Plan, nor will the Plan pay for or secure an outside or conflict attorney.** If the firm withdraws for failure of the Participant/Member to participate in his or her own defense, the Participant/Member may only appeal to the Legal Plan Administrator notwithstanding any provision to the contrary herein set forth. If the Legal Plan Administrator rules against the Participant/Member, and the Participant/Member, contacts or communicates with the Legal Plan Committee, the Utah State FOP Board of Trustees, or any other Member for the purpose of challenging the withdraw and cessation of benefits under this Plan and as set forth herein, the Participant/Member waives attorney-client privilege as it relates to the Legal Plan Administrator, Plan attorneys, and the firm set forth in Schedule A along with conflict counsel (where applicable), and authorizes the same to provide the reason(s) for the withdrawal to the Legal Plan Committee and/or the State Board. **At the discretion of the Legal Plan Administrator, the Plan is not obligated to provide representation or ongoing representation to any Participant/Member who hires, retains, or otherwise arranges for representation by an attorney or attorneys separate from those provided under the Plan, in the defense of the matter brought forth under the terms of the Plan.** In the event the Participant/Member opts to hire outside of the Plan, the Plan does not cover and the Participant/Member consents to the withdrawal of Plan attorneys. This includes the hiring or retention of attorneys who are otherwise authorized as “conflict counsel” as set forth in Schedule A where a conflict does not exist. Subject to the exclusions and limitations stated herein, any applicable limits of liability specified in this Plan Description, and any coverage limitations or deductibles or required payments for costs by participants/Members, as stated in this Plan

Description, the Legal Plan Administrator shall provide or cause to be provided, the reasonable and necessary legal services described herein, subject to payment and/or reimbursement of the same through applicable statutes referencing reimbursement and/or reasonable fees or costs by the State or any municipal subdivision thereof. In the event of a legal conflict where the Legal Plan Administrator through its assigns, cannot provide legal representation, the Plan shall reimburse and pay on behalf of a Participant, reasonable and necessary attorney fees and costs, such to be determined by the Legal Plan Administrator as to “reasonable and necessary,” the Legal Defense costs and fees for services which the Participant is legally entitled to under the Coverages section of these Policies and Procedures, subject at all times to payments from the State or municipal subdivision of statutorily-mandated payment of reasonable attorney fees or costs and/or municipal reimbursement to the Legal Plan Administrator whenever available or whenever required or available under State and/or municipal code. By participating in this Plan, it is understood that Participants/Members shall assign to the Legal Plan Administrator the right to statutory payment and/or reimbursement in its entirety, by the government, and shall stipulate to the same in writing upon request by the Legal Plan Administrator. It is further understood that nothing in these Policies and Procedures shall prevent the Legal Plan Administrator from seeking costs from the Participant/Member whenever the legal services demanded by the Participant/Member are deemed unnecessary or unreasonable.

Otherwise the Plan shall provide for:

1. Legal defense or, subject to the absolute discretion of the Legal Plan Administrator and the Board, 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 pay, dismissal, change of assignment, demotion, leave of absence, resignation or other professional rights, duties or responsibilities as determined by the Utah FOP Board, 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 law enforcement employment;

2. 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 a Participant, unless the Board approves otherwise and when the employer does not tender a defense; **The civil coverage in this Legal Plan is excess and only for the tendering of a defense where the Participant is denied representation by civil counsel through their agency. This Legal Plan does NOT indemnify for any judgment. Also, if the Participant’s employer defends the Participant in a lawsuit, the Plan will not provide an additional lawyer. Only when the Participant’s government employer refuses to tender a defense, will the Plan tender a defense consistent with the terms herein unless the employer’s refusal to tender a defense was due to a statutory exception to the requirement to defend the Participant, in which case this Plan will not provide coverage;**

3. 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; and

4. Coverage shall extend to off-duty occurrences which give rise to potential criminal sanctions and/or administrative discipline or sanction subject to the limitations herein defined.

#### COVERAGES DETAIL:

1. On Duty & Off Duty Criminal (except where the FOP, the Plan Administrator, or any firm or lawyer participating in the Plan as counsel or conflict counsel, is the victim)
2. On Duty Civil (Civil defense of critical incidents in limited circumstances and as excess, where the agency does not tender a defense, as more fully detailed herein).
3. Administrative (Department/POST Disciplinary Action, where the participant is the subject of the investigation). NOTE: the Plan does not cover administrative disciplinary action where the Participant is a witness or otherwise not the subject of investigation.

#### On-Duty & Off-Duty Criminal

Legal coverage is for any criminal offense alleged against the Participant where a conviction of the offense will, in the Legal Plan Administrator's sole discretion, most likely result in termination/discipline from the employment agency and/or POST. This does not include most traffic offenses or infractions, unless it is determined that the traffic offense or infraction rises to the level mentioned above. **Off-duty coverage (including for misdemeanors and felonies) is also limited to incidents that occur within the State of Utah, and where the value of legal fees incurred at a rate of \$125.00 an hour do not exceed a total of ten thousand dollars (\$10,000).** The cost and expense of representing Participants/Members for on-duty misdemeanors and felonies must be necessary and reasonable as determined by the Legal Plan Administrator. The amount of \$125 per hour is NOT the normal and reasonable rate charged by the firm attorneys listed in the attached schedule; rather the normal hourly rate for attorneys at the firm listed in Schedule A ranges from \$250 - \$550 per hour and \$125 per hour for paralegals. Notwithstanding this, preferred rates for participants/Members are available at the Schedule A firm for a significant reduction at the discretion of the partners of that firm, ie. for such services as family law and other practice areas which fall outside of the Legal Plan. The reference to \$125/hr is solely a benchmark to approximate hours spent in legal work performed for these off-duty matter in consideration of the \$10,000 cap.<sup>1</sup>

#### On-Duty Civil

---

<sup>1</sup> It should be assumed for any applicable "reasonable fees or reimbursement statute" that \$125 per hour is lower than the reasonable rate by any attorney, firm or conflict counsel associated with this Plan; furthermore the reasonable fee shall be the actual fee or rate generally charged by the effected attorney in the normal course of his or her practice of law, notwithstanding any agreement with the Legal Plan Administrator to provide services for less, and given the various and unique circumstances, workload, profile, and "stake" of the referenced matter. Reasonable fees, as an example, may exceed \$500 per hour, on a case-by-case basis, and are generally found to range between \$250 and \$550 per hour in the State of Utah, with notable exceptions.

In addition to the description set forth herein, this coverage is further limited to is coverage ONLY in officer involved critical incident cases where the employing agency refuses to cover the Member for allegations arising from an officer's use of arrest powers and use of force on the job, and no statutory exception to tendering a defense has been invoked by the employing agency. Limitation: **Off-Duty civil action of any kind are not covered under this Plan and are expressly disclaimed by the Legal Plan, Legal Plan Administrator, and Plan attorneys.** Participants can contact the firm set forth in Schedule A, and obtain information concerning preferred rates for non-covered matters.

### Administrative

This is coverage for any administrative action within the department, *where the results of the disciplinary action will likely result in time off without pay, involuntary transfer to a position with less remuneration, or other discipline up and including to termination of employment.* It also covers all POST investigations and hearings, up through the POST Council Hearing. Subject to the limitations set forth herein, coverage **may** also include appeals through the Utah Court of Appeals, the Utah Supreme Court, or the Career Service Review Office (CSRO) or various state or municipal-level career service review board(s). It shall not cover appeals to the 10<sup>th</sup> Circuit Court of Appeals or the United States Supreme Court. For all appeals the Legal Plan Administrator shall have sole and absolute discretion for making a legal determination as to whether an appeal has legal "merit," or is otherwise "futile." **The Plan shall not cover appeals that do not have legal merit or are otherwise futile in the sole discretion of the Legal Plan Administrator, subject to the Participant/Member's appeal to the Board.** If it is determined by the Legal Plan Administrator that a particular case is "futile" and notice is given in writing to the Participant/Member, the Participant/Member shall have seven calendar days to appeal to the Board; this deadline is imposed in contemplation of the often short period provided to make or advance on appeal. The Board shall make a coverage decision as soon as is reasonably practicable and notify both the Participant and the Legal Plan Administrator. If coverage is denied, the Plan attorneys, or any conflict counsel, will have the absolute right to withdraw as counsel and the Participant/Member shall be responsible for obtaining independent counsel of his or her choosing and to pay all attorney fees and costs and other expenses associated with the subsequent representation. **The Participant/Member shall be solely responsible for preserving any appeal and the Plan shall not pay for any subsequent representation.**

Costs associated with an appeal undertaken by Plan attorneys will incur certain special costs. These costs are typically associated with the preparation and transmittal of the record created at trail/hearing/lower proceedings and can be substantial. The Participant/Member is responsible for the costs associated with appeal unless otherwise absorbed by the Plan in the sole discretion of the Legal Plan Administrator. The Legal Plan Administrator may opt to cover a portion of the costs and a Participant/Member may seek payment or reimbursement of such costs from the Board, which may be granted in the Board's sole discretion.

### Conflict Waiver and Local Lodge Support

The Participant/Member waives all legal conflicts between and among him or herself and the Legal Plan Administrator and the firm set forth in Schedule A. The Participant/Member also

recognizes and consents to the Legal Plan Administrator's prior occurring and concurrent representation of the Utah State Lodge of the Fraternal Order of Police and acknowledges that they have been informed, in writing, as to the nature of this potential conflict, and that they have had the opportunity to seek and obtain, at their own expense and cost, independent counsel of their choosing to evaluate this Legal Plan and the potential for conflicts prior to agreeing to participate in the Plan as a Participant/Member. The nature of this potential conflict may include a scenario where a dispute arises between the Participant/Member and the Utah State Lodge of the FOP or the Legal Plan Inc. The Participant/Member recognizes that 1) they are not a "client" of the firm set forth in Schedule A or the Legal Plan Administrator unless and until coverage is triggered by notification to the firm set forth in Schedule A of a qualifying coverage event as set forth in the coverage details set forth herein, AND an intake form is signed by an authorized Plan attorney set forth in Schedule A and countersigned by the Participant/Member and 2) the Participant/Member by participating in this Plan acknowledges that the Plan DOES NOT cover any legal fees or costs nor does it tender any defense of, nor prosecute any claims relating to, disputes arising between or among the Participant/Member, the Legal Plan Inc., the firm set forth in Schedule A, conflict counsel or their respective law firms, the Utah State Lodge of the Fraternal Order of Police and/or any subordinate lodge thereof, or the Legal Plan Administrator its employees, officers, parent company, assigns, Members, partners, directors and managers. Notwithstanding this, the Participant/Member, by participating in the Legal Plan, does waive the potential conflict(s) as set forth herein.

This Plan does not provide for local lodge support, except that by virtue of the attorney-client relationship between the firm set forth in Schedule A, the Legal Plan Administrator and the Utah State Lodge of the FOP, questions of law, legal strategy and legal advice rendered to the Utah State Lodge of the FOP may have the impact of benefiting a subordinate lodge. This incidental local lodge support does not create an "attorney-client" relationship unless and until the Legal Plan Administrator and/or its "assign" enter into an express **written** representation agreement that includes the Local Lodge waiving legal conflicts, where applicable, with the Utah State Lodge, and individual Members who are or may be effected by the proposed representation, and subject to the waiver of the Utah State Lodge.

#### "BLUE ON BLUE" matters excluded

This Plan is an individual plan for Criminal, Civil, and Administrative matters, as limited and defined herein. Except as otherwise provided, any local lodge support is incidental and does not form an attorney-client relationship. **Notwithstanding any other provision in these Policies and Procedures, and in the sole discretion of the Legal Plan Administrator, legal action against any lodge or subordinate lodge, or actions that could include legal or administrative action *against* FOP Members, will not be covered under this Plan.**

Employment issues, such as pay and equity or general grievances, workers compensation, hostile work environment, discrimination, sexual harassment, and other related claims or issues are generally NOT COVERED, except that worker's compensation is provided by the lawyer set forth on Schedule D for a reduced rate to Participant/Members subject to the fee agreement entered into with that lawyer and/or his firm, separately set forth from this Plan.

## Wage Reimbursement

If a Member, who was covered under the Legal Plan at the time of a covered incident, accepts responsibility for the actions claimed in the allegations against her or him, and receives time off without pay, the Member may be entitled to reimbursement through the FOP or its designee, of those hours off, up to five hundred dollars (\$500). In order to claim this benefit, the Member must provide documentation of the discipline indicating the total hours off, as well as their wages at the time the discipline was handed down. This must be submitted to the Utah State Lodge within 60 days of the date on the disciplinary form from the agency. Also, the Member cannot have used the services of the Plan or any Plan attorney at any point in the investigation, with the exception of an initial consultation. This benefit is available to Members one time per calendar year, funding permitted, meaning the Legal Plan Administrator holds out a portion of the participation fees, not to exceed one percent (1%) of the total participation fees, annually for payment of wage reimbursements under this wage reimbursement provision. Should wage reimbursements demanded by participants/Members, exceed one percent, no further wage reimbursements shall be paid during the calendar year, and the demands on the wage reimbursement program shall expire at 11:59 pm on December 31 of each calendar year.

## CONFLICT AND CORRUPTION CASES

In the event of a legal conflict, such to be determined by the Legal Plan Administrator, and in accordance with the Utah Rules of Professional Conduct, a panel of potential conflict attorneys, deemed to be competent and familiar with FOP procedures, shall be established by the Legal Plan Administrator for the purpose of handling such conflicts. Attorneys placed on this panel of authorized potential conflict counsel are set forth in Schedule C, attached. Members notified that they must use conflict counsel, must select an attorney not in the employ of the Legal Plan Administrator or the firm set forth in Schedule A, but within the aforementioned "panel" set forth on Schedule C. Attorneys on this panel must agree, in writing, to the representation, and to undertake it for a rate negotiated solely by and between the Legal Plan Administrator and proposed conflict counsel, or upon such other terms set forth by agreement between the Legal Plan Administrator and the panel attorney, to be determined at the discretion of the Legal Plan Administrator. Participants on the panel and the Participant/Member seeking representation, shall waive conflicts among themselves or among themselves and the Utah State FOP, or any subordinate lodge, where permitted under the Utah Rules of Professional Conduct. This panel is subject to change at any time by the Legal Plan Administrator, and should any lawyer on the panel be found by the Legal Plan Administrator to a) not abide the terms of any agreement between the panel attorney and the Legal Plan Administrator or b) be unfit to render legal services for any reason, the Legal Plan Administrator reserves the right to substitute counsel at the expense of the Plan or the Participant/Member, at its discretion. If an attorney is removed from the Plan as conflict counsel, the Participant/Member may keep the attorney at the Participant's discretion, but this Plan shall not subsequently provide coverage under the Plan and the Participant/Member is thereafter responsible for all attorney fees and costs associated therewith. Any Participant/Member notified that they must select conflict counsel and who chooses to utilize an attorney not on the conflict panel does so at their own expense and will not be reimbursed or covered under this Plan.

Also, when a Participant/Member, does not take the advice of their attorney, and consequently creates any impediment to ongoing representation under the Utah Rules of Professional Conduct

for attorneys or when the client simply refuses to abide by the counsel of their Plan attorney, it is understood that the attorney may withdraw as counsel and coverage under this Plan will not thereafter apply. If a Participant/Member ignores the advice or counsel of a Plan attorney and thereby creates a conflict resulting in the Legal Plan incurring or providing for additional or subsequent counsel, the Participant/Member is solely responsible for the attorney fees, costs and expenses incurred by that counsel.

**When the Utah State Lodge or a subordinate lodge or any law firm or attorney associated with the Plan is the victim in any activity (criminal or administrative) committed by an FOP Member, the Member shall not be covered under this Plan and will be responsible for their own legal costs and fees.** Additionally, if a Plan Member is involved in a case of corruption, this Plan will only cover up to \$2,500 in criminal and \$1,500 in administrative coverage billed at \$125.00 an hour. Legal work exceeding these amounts shall not be covered under the Plan. Corruption shall be defined as – “an act or pattern of conduct (not necessarily to include allegations involving multiple occurrences, or allegations that a reasonable Member would not believe qualifies as corruption) as it relates to: allegations of extortion, malicious abuse of process, bribery, theft, misuse of public monies – Additionally defined as a specific form of police misconduct designed to obtain significant financial benefits, other personal gain, or career advancement for a police officer or officers, in exchange for not pursuing, or selectively pursuing, an investigation or arrest, or to unfairly aid the career of the Member.” The Member may appeal denial of Plan coverage based on “corruption” to the Legal Plan Administrator. If the Legal Plan Administrator rules against the Participant/Member, and the Participant/Member, contacts or communicates with the Legal Plan Committee, or the Utah State FOP Board of Trustees or any other Member for the purpose of challenging the determination of “corruption” as set forth herein, the Participant/Member waives attorney-client privilege as it relates to the Legal Plan Administrator, Plan attorneys, and the firm set forth in Schedule A or any applicable conflict counsel, and authorizes the same to provide the reason(s) for the determination to the Legal Plan Committee and/or the Utah State Board of the FOP. The Participant/Member also waives attorney-client privilege as to any complaint lodged by the Participant/Member to the Utah Bar Association or the Board (as defined herein) insofar as the affected attorney(s) and/or firm may be implicated in such allegations. The Plan does not cover Civil cases of any kind implicating allegations of corruption nor shall it defend against the allegation(s) contained in the civil complaint(s).

#### EXTENDED REPORTING PERIOD.

A. Except as provided in subsection B of this section, this Plan applies only to claims/allegations that are first made to the Participant/Member 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 when the Participant is first notified by any person of information suggesting the possibility of a claim; and

2. the claim is reported to the Legal Plan Administrator or the firm set forth in Schedule A. Notice of such claim is effective when first received by the Legal Plan Administrator or the firm set forth in Schedule A; 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 Legal Plan Administrator or the firm set forth in Schedule A.

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 FOP is terminated or suspended; or

b. the Plan renews or replaces the applicable plan 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.

**EXCLUSIONS:  
PLAN IS EXCESS.**

A. The coverages and benefits provided under the Plan do not apply to:

1. claims for occurrences involving activities not in the scope of employment except as provided herein;

2. claims relating to a collective bargaining agreement (other than grievances arising from disciplinary action against a particular individual Participant and as otherwise set forth herein), workers' compensation, occupational health and safety, unemployment compensation, disability benefits, or similar laws or programs, unless otherwise provided for herein;

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 herein;

5. Plaintiff's actions; in addition to lawsuits (whether as a plaintiff or defendant) which do not arise directly from alleged acts or omissions of the Participant in the scope of employment and subject to the other limitations set forth herein; and all "blue-on-blue" matters, including all discrimination, sexual harassment, hostile work environment and worker's compensation claims with those exceptions specifically set forth herein as to worker's compensation claims (subject to the fee agreement with the lawyer(s) set forth in Schedule D;

6. attempts to obtain, protest, preserve or set aside pension or retirement benefits or benefit determinations, including disability retirement benefits, pay and equity grievances, or decisions relating to any of these, under any federal, state or local government system;

7. the cost of bail bonds, expungements, filing fees, appeal bonds or other bonds, or subject matter experts subject to the discretion of the Legal Plan Administrator as to whether or not to cover any portion of the expert fee(s); and

8. 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. If the Participant/Member possesses other plan or insurance that is also deemed “excess” or “secondary” under the terms of the other plan or insurance, this Plan shall not cover.

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 the Legal Plan Administrator, 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 municipal reimbursement; and
3. do nothing to prejudice the rights of the Legal Plan Administrator to recover money or benefits due the Participant in connection with such coverage claims. The Legal Plan Administrator, and/ or its assign, shall pay all expense for the pursuit of such coverage claims and municipal reimbursement, and reserves the right to assume the legal representation of the Participant for that purpose.

Notwithstanding any provision contained herein, nothing shall prevent the Legal Plan Administrator or its assign, from separately offering legal services, including personal injury, family law, litigation or otherwise to Participants/Members subject to an applicable representation agreement. These services may be provided at a discounted rate as determined by the Legal Plan Administrator and its assign.

Dated and Effective October 1, 2021

## **SCHEDULE A**

The law firm appointed and selected by the Legal Plan Administrator subject to this Plan Description shall be:

Nelson Jones, PLLC

8941 South 700 East STE 203  
Sandy, Utah 84070

## **PARTICIPATION FEES SCHEDULE/SCHEDULE B**

The Participation Fee, unless modified via mutual consent by the Legal Plan Administrator and the Utah FOP shall be two hundred sixty dollars (\$260) annually per Participant/Member.

## **SCHEDULE C**

Potential conflict panel attorneys are listed below alphabetically by last name:

Michael Thornock

Tara Isaacson

Cara Tangaro

(Attorneys Josh Ostler and Nick McKean may also be used provided advanced authorization is obtained from the Legal Plan Administrator as both have at times have served in "Of Counsel" positions with the firm set forth in Schedule A)

## **SCHEDULE D**

Aaron Gwilliam – WORKER's COMP, please call (801) 810-1324