

EXTENDED LEGAL REPRESENTATION PLAN  
AND AGREEMENT

In consideration of the mutual promises set forth herein, the Police Officers Association of Michigan (hereinafter referred to as "POAM") and \_\_\_\_\_ Association and those participating individuals who are members of the unit as listed in the attached Appendix, hereby agree as follows:

I

PARTICIPATION

Any active regular or associate member of the Police Officers Association of Michigan, Command Officers Association of Michigan, Firefighters Association of Michigan, and Technical, Professional and Officeworkers Association of Michigan, shall be eligible to participate in the extended legal representation plan upon acceptance of membership and payment of the plan fee set forth in this Agreement.

II

CRIMINAL ACTIONS

The POAM shall provide legal representation for a plan member upon criminal indictment or issuance of a criminal complaint and warrant, subject to the following provisions:

A) Eligibility for Coverage.

A plan member charged (by indictment or complaint and warrant) with commission of a misdemeanor or felony, arising in the State of Michigan, whether occurring on duty or off duty, shall be eligible for coverage, subject to paragraph (C) hereunder.

B) Claim for Coverage.

A plan member charged with commission of a misdemeanor or felony shall provide immediate written notice to the POAM by use of forms available at the POAM office located at 27056 Joy Road, Redford, Michigan 48239.

Failure to notify the POAM within 72 hours of the member's knowledge of indictment or issuance of a criminal complaint and warrant shall bar entitlement to coverage hereunder.

C) Pre-existing Actions

This plan excludes coverage for pre-existing actions, defined as conduct of a plan member prior to membership in the POAM or its listed affiliate units, as well as conduct of a plan member prior to execution of this agreement and receipt by the POAM of the required fee (excluding renewal without interruption).

D) Other Circumstances Which Shall Result in Ineligibility or Denial of Coverage

A plan member is ineligible and shall be denied coverage upon issuance of a criminal charge due to any of the following:

1. Voluntary termination by the plan member in the plan, in the member's association, or in POAM or its affiliates prior to issuance of a criminal charge.
2. Termination of employment, including discharge, retirement or voluntary resignation, provided that coverage shall continue in a matter which has also resulted in POAM contesting the termination of employment.
3. Nonpayment of scheduled plan fees, provided that the member and/or unit has had, subsequent to notice to the unit member or individual plan member, 15 days to cure any such delinquency. During any period of delinquency, plan benefits shall be suspended.
4. Termination of the plan by POAM.
5. In the event a local association discontinues membership or service agreement affiliation in POAM and/or POAM otherwise discontinues its status as the certified or recognized bargaining representative under PERA of the local association, entitlement to continued coverage under the legal representation plan may be discontinued, in the sole discretion of POAM, for all matters, including active cases. An individual who is receiving legal representation in an active case may substitute new legal representation or may continue with the existing POAM designated legal representative, provided that the individual assumes financial

responsibility for all further legal expenses, fees and costs, as determined by the POAM designated legal representative, otherwise the POAM designated legal representative may take those steps necessary to withdraw from continued representation in the active case.

E) Determination of Eligibility.

Upon notification pursuant to section II(B) of issuance of a criminal charge, the POAM general counsel, or his designee, shall review all available information pertaining to the criminal charge. The POAM general counsel shall make a preliminary determination as to whether the member is eligible for coverage pursuant to section II(A), (B), (C) and (D) hereinabove. The POAM general counsel shall make a recommendation to the POAM Business Manager concerning eligibility. The determination of the Business Manager shall, upon written demand of a member, be reviewable by the Executive Board. The determination of the Executive Board shall be final and binding concerning entitlement to coverage.

In the event a written demand for review by the Executive Board is made by a member, the Executive Board, in addition to the aforesaid authority, reserves the right in its sole and exclusive discretion to provide legal representation in a criminal proceeding where the member is not otherwise eligible for coverage under Article II, sections (A), (B), (C) and (D) of this agreement. The Executive Board, pursuant to this reservation of right and discretion, may provide such legal representation to a member not otherwise eligible for coverage provided that the Board determines the purposes of both law enforcement and this organization will be furthered by such action of the Board. A decision to provide representation to a member not otherwise eligible for coverage is not subject to judicial review and shall not be deemed to establish a practice or precedent in any other claim, nor shall such decision be deemed to expand the eligibility for coverage as specified in this Agreement.

The POAM selected counsel, at the direction of the POAM Business Manager or the POAM Executive Board, may make a special, but limited appearance on behalf of a member for purposes of arraignment, investigatory interview, and bond hearings while the Business Manager or Executive Board is making the aforesaid determination. These special, but limited appearances shall cease if the Business Manager or Executive Board determines the member is not eligible for coverage.

The deliberation and determination by the Business Manager and/or Executive Board shall be strictly confidential and within the attorney/client privilege. (Both the Business Manager and Executive Board in their deliberation and determination shall, in their official capacity under this agreement, be considered agents on behalf of the POAM selected counsel for purposes of maintaining attorney/client confidentiality).

F) Scope of Services.

The legal services provided shall include representation by an attorney selected by the POAM for all post-indictment and post-complaint/warrant stages of prosecution including, but not limited to: investigatory interviews, arraignment, pre-trial, preliminary examination, bond hearings, pre-trial evidentiary proceedings, pre-trial motions, trial (bench or jury), and sentencing, excluding all other post-trial proceedings and post-trial appellate matters.

III

CIVIL ACTIONS

The primary purpose of the extended legal representation plan is the protection afforded in criminal actions, however, at no additional charge, the POAM shall also provide "of counsel" coverage for each member named as a defendant in a civil suit, subject to the following provisions:

A) Eligibility for Coverage.

A member served with process as a defendant in a civil suit which relates to the member's on-duty actions in the course of employment and within the scope of authority, shall be eligible for "of counsel" coverage. Where a law enforcement witness with personal knowledge of facts provides competent and credible evidence that the conduct of the member constituted an intentional act, coverage shall be barred under this plan.

Primary coverage shall be provided to a member when acting within the scope of authority as a law enforcement officer off duty and outside of the jurisdiction of normal employment, provided that the employing governmental entity does not provide primary coverage. In the event the employing governmental entity provides primary coverage, coverage under this plan shall revert to "of counsel" status.

B) Claim for Coverage.

A member served with process as a party defendant in a civil suit shall provide immediate written notice to the POAM by use of forms available at the POAM office located at 27056 Joy Road, Redford, Michigan 48239.

Failure to notify the POAM within seven (7) days of service of a civil suit shall bar entitlement to coverage hereunder.

C) Pre-existing Actions

This plan excludes coverage for pre-existing actions, defined as conduct of a member prior to membership in the POAM or its listed affiliate units, as well as conduct of a member prior to execution of this agreement and receipt by the POAM of the annual fee (excluding renewal without interruption).

D) Other Circumstances Which Shall Result in Ineligibility or Denial of Coverage

A member is ineligible and shall be denied coverage upon issuance of civil process due to any of the following:

1. Voluntary termination by the member in the plan, in the member's association, or in POAM or its affiliates prior to filing of a civil action.
2. Termination of employment, including discharge, retirement or voluntary resignation, provided that coverage shall continue in a matter which has also resulted in POAM contesting the termination of employment.
3. Nonpayment of scheduled plan fees, provided that the member and/or unit has had, subsequent to notice to the unit member or individual member, 15 days to cure any such delinquency. During any period of delinquency plan benefits shall be suspended.
4. Termination of the plan by POAM.

E) Determination of Eligibility.

Upon notification under section III(B) of service of a civil suit, the POAM general counsel, or his designee, shall review all available information pertaining to the civil suit, if such meeting is deemed necessary by the POAM general counsel. The POAM general counsel shall

make a preliminary determination as to whether said member is eligible for coverage pursuant to sections III(A), (B), (C) and (D) hereinabove. The POAM general counsel shall make a recommendation to the POAM Business Manager concerning eligibility. The determination of the POAM Business Manager shall, upon written demand of each member, be reviewable by the Executive Board. The determination of the Executive Board shall be final and binding concerning entitlement to coverage.

The POAM selected counsel, at the direction of the POAM Business Manager or Executive Board, may make a special, but limited appearance on behalf of a member while the Business Manager or Executive Board is making the aforesaid determination. These special, but limited appearances shall cease if the Business Manager or Executive Board determines the member to be not eligible for coverage.

The deliberation and determination by the Business Manager and/or Executive Board shall be strictly confidential and within the attorney/client privilege. (Both the Business Manager and Executive Board in their deliberation and determination shall, in their official capacity under this agreement, be considered agents on behalf of the POAM selected counsel for purposes of maintaining attorney/client confidentiality.)

D) Scope of Services.

The legal services provided shall only include "of counsel" coverage by an attorney, selected by the POAM, to oversee the primary defense provided by a public employer (as self-insured or through an insurance carrier). The service provided shall be limited to: review of the complaint, review of answers to the complaint, review of affirmative defenses, review of discovery, review of defense tactics and continued contact with defense counsel. The "of counsel" legal representation provided hereunder shall cease at completion of the trial and shall not include any post-trial appellate proceedings. The scope of services set forth herein are subject to primary coverage being provided as set forth in III (A) of this agreement.

IV

PLAN FEES

In consideration of the aforesaid services provided by the POAM, each participating unit member shall remit, in advance, an

annual fee of \$60.00 (\$5.00 per month). The fee shall be transmitted directly to the POAM offices at 27056 Joy Road, Redford, Michigan 48239. Where unit participation exceeds 15 members the POAM, at its discretion, may allow payment of the fee in equal monthly installments, to be collected and paid by the unit on the 1st of each month.

V

DELAYED COVERAGE REQUEST

In the event a member fails to make a timely request for coverage, or otherwise chooses to not utilize the plan, a subsequent request for coverage shall not be granted unless approved by the Executive Board utilizing the criteria and conditions set forth in Article II, Section E, herein. In the event coverage is provided, the member shall pay any costs or expenses incurred by POAM in providing the delayed coverage.

VI

EFFECTIVE DATE OF COVERAGE

Annual coverage under this plan shall not commence until receipt by the POAM of the fee as set forth in Article IV herein.

VII

SUSPENSION OF COVERAGE

It is the obligation of each member making a claim for coverage to assist in the legal defense of the criminal or civil proceeding including: attendance at meetings; providing of information; and appearance at scheduled depositions or other proceedings, including trials. Failure to assist designated counsel may at the discretion of the POAM result in withdrawal of that unit member's legal representation.

VIII

POAM AMENDMENT AND TERMINATION OF PLAN

The POAM reserves the right, in its sole discretion, upon written notice, to terminate this agreement. Should the POAM terminate the agreement, ongoing legal representation in civil or criminal matters shall be continued to completion hereunder, however, no additional claims shall be processed. POAM further reserves the right to amend or rescind any provision of this plan, provided that ongoing legal representation in civil or criminal cases shall be continued to completion.

IX

RESPONSIBILITY OF MEMBER

The extended legal representation plan and agreement provides protection against hourly legal expenses by payment of a minimal annual fee. For the POAM to provide this coverage at the aforesaid fee, members will remain responsible for traditional non-representation costs which might be incurred including: filing costs; motion costs; transcript costs; medical and other expert witness costs; service of process costs; mediation costs; and judgment costs.

It is the responsibility of each member to make direct payment for any of the aforesaid costs incurred during a proceeding. Upon demand of the POAM, the member shall either directly remit payment to the billing source or to the POAM to be paid on behalf of said member. The POAM shall not pay in advance any costs and allow reimbursement by members. If a member fails to pay the aforesaid costs when incurred, at the discretion of the POAM, withdrawal of that member's legal representation may result.

X

PLAN USAGE

An unlimited number of claims may be filed by a member during the coverage year, subject to the eligibility and pre-existing conditions requirements as stated in this agreement.

XI

HOLD HARMLESS AGREEMENT

In consideration of the mutual promises set forth herein the unit and its participating members agree to hold harmless the POAM and its designated legal counsel for services rendered hereunder, except for acts of intentional misconduct.

XII

PUNITIVE OR OTHER DAMAGES

No benefits shall be provided under this plan to cover any monetary award for restitution or damages, including but not limited to punitive, compensatory or actual damages, whether by judgment, settlement or otherwise, including attorney fees or costs awarded or incurred by any party.

XIII

PARTICIPATING MEMBERS OF THE UNIT

This plan and the benefits set forth herein, shall apply to only those participating members as listed on the Appendix. Any other employee within a bargaining unit not appearing on the Appendix shall not be entitled to benefits of the plan for the duration of its term.

XIV

DURATION OF AGREEMENT

This Agreement shall remain in effect from the date POAM receives execution thereof together with the Appendix listing of participants and payment, until its expiration on the 30<sup>th</sup> Day of April 2013.

XV

EXECUTION OF AGREEMENT

(to be used for new members not renewal)

IN CONSIDERATION OF THE AFORESAID MUTUAL PROMISES, THE PARTIES HEREBY AGREE TO THE TERMS SET FORTH HEREINABOVE BY EXECUTION OF THIS AGREEMENT ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

WITNESS

REPRESENTATIVE OF THE UNIT:

\_\_\_\_\_

\_\_\_\_\_

WITNESS

INDIVIDUAL MEMBER:

\_\_\_\_\_

\_\_\_\_\_

WITNESS

REPRESENTATIVE OF THE POLICE OFFICERS ASSOCIATION OF MICHIGAN:

\_\_\_\_\_

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