



Adopted: 10/2/1998  
Amended: 6/5/2003  
Amended: 6/3/2005  
Amended: 10/19/2010

## MEMORANDUM OF UNDERSTANDING PRIMARY GENERAL LIABILITY PROGRAM

This Memorandum of Understanding (hereinafter "Memorandum") is entered into by and between the CSAC Excess Insurance Authority (hereinafter "Authority") and the participating members of the Primary General Liability Program (hereinafter "PGL"), consisting of counties and other public entities (hereinafter "Public Entity") who are signatories to this Memorandum.

1. **Joint Powers Agreement.** Except as otherwise provided herein, all terms used herein shall be as defined in Article 1 of the Joint Powers Agreement Creating the CSAC Excess Insurance Authority (hereafter "Agreement"). Provisions of any applicable coverage agreement and all other provisions of the Agreement not in conflict with this Memorandum shall be applicable.

2. **Program Committee.** There is hereby established a PGL Committee (hereinafter referred to as "Committee") comprised of seven (7) members, five (5) of which shall be voting members and two (2) shall be alternates who vote in the absence of the voting members. Except as otherwise provided herein, the Committee shall have full authority to determine all matters affecting the PGL and its members, including, but not limited to, approval of new members, premium/rate setting and review of claims. The Committee has authority to settle all claims affecting the PGL, however, the Committee may delegate any or all of this authority as it deems appropriate to the Chair or staff.

The Executive Committee of the Authority shall appoint all Committee members, to be selected from members in the Program. One seat on the Committee shall be designated for a Public Entity representative appointed by the Executive Committee. If there are no Public Entity nominees from the PGL membership for the Public Entity seat, the Executive Committee shall appoint the Committee member from counties participating in the PGL. If, for any reason, there are less than seven (7) nominees from members in the PGL, the Executive Committee shall appoint from members in the General Liability I Program sufficient to constitute the Committee.

The terms of the members of the Committee shall be for two (2) years, except for the Public Entity representative and the alternates whose terms shall be for one (1) year. The expiration dates of the two-year appointments shall be staggered so that terms of no more than three (3) members will expire at any one time. The Committee will annually, at its first meeting of the calendar year, select its officers, consisting of a Chair and Vice-Chair.

The Committee, when necessary to fulfill the purposes of this Memorandum, shall meet on the call of the Chair of the Committee as provided in Article 12 of the Agreement and Article VI of the Bylaws of the Authority (hereinafter referred to as the "Bylaws").

A majority of the members of the Committee shall constitute a quorum for the transaction of business. Except as otherwise provided herein, all actions of the Committee shall require the affirmative vote of a majority of the members of the Committee. Any meeting of the Committee shall be subject to the applicable provisions of Government Code § 54950 et seq., commonly known as the "Brown Act."

3. **Premiums.** The participating members, in accordance with the provisions of Article 14 of the Agreement, shall be assessed an annual premium to fund the PGL. The Committee shall establish annual premium contributions, including administrative costs associated with the PGL.
4. **Cost Allocation.** Each member's share of annual premium shall be determined based on their actuarially determined expected losses. If the Committee determines that because of the size of the member, an individual actuarial analysis of the member's loss experience is unavailable or inappropriate, expected losses will be estimated based on the member's estimated payroll and an average program rate. The Committee may from time to time approve adjustments or modifications to the cost allocation formulas.
5. **Dividends and Assessments.** As a general rule, the annual premium, as determined by the Committee, shall be established at a level which provides adequate overall funding for the purchase of insurance or pooling of risk without the need for adjustments to past policy period(s) in the form of dividends and assessments. Should the Program for any reason not be adequately funded, except as otherwise provided herein, pro-rata assessments to the participating members may be utilized in accordance with the provisions of Article 14(b)(3) of the Agreement. Dividends may also be declared as deemed appropriate by the Committee.
6. **Closure of Policy Periods.** Claims for all program years, rather than individual years, shall be pooled. Notwithstanding any other provision of this MOU, provisions of the General Liability I Program Memorandum of Understanding regarding closure of policy periods is incorporated herein and shall apply to this MOU.
7. **Certificate of Coverage.** The Authority shall issue a Certificate of Coverage to the members setting forth the terms and conditions of coverage under the PGL. The form of the Certificate shall follow, except as otherwise set forth in the Certificate, the coverage of the General Liability I Program Memorandum of Coverage. Except as otherwise provided herein or in the Agreement, the Certificate is controlling with respect to the actions of the members under this Memorandum.
8. **Claims Administration.** The Authority will be responsible for handling all claims affecting the PGL. The Committee shall approve at least two (2) third party claims administrators to provide claims services to members of the PGL. Members may select the claims administrator they will utilize from those authorized by the Committee. The agreements with the claims administrators to provide claims administration services may grant rights or impose duties and obligations on the members. Copies of

agreements currently in effect or subsequently entered into by the Authority shall be provided to members upon request.

9. **Application to the Program.** All applications to join the PGL will be evaluated and subject to approval by the Committee. Any entity which makes application to become a participating member of the PGL who is not already a participating member in the Authority must also be approved in accordance with the provisions of Article 19 of the Agreement.

10. **Withdrawal and/or Cancellation from the Program.** Withdrawal of a member from the PGL shall be in accordance with the provisions of Article 20 or 21 of the Agreement. The PGL may from time to time enter into multiple year insurance and/or reinsurance agreements. The Committee may require current members and new members to agree to remain in the PGL for the duration of the multiple year agreements by executing an "Extended Commitment Period" Addendum to this MOU. Any PGL member that fails to execute any "Extended Commitment Period" Addendum will be considered to have withdrawn from the PGL effective on the next annual renewal date.

11. **Late Payments.** Notwithstanding any other provision to the contrary regarding late payment of invoices or cancellation from a Program, at the discretion of the Executive Committee, any member that fails to pay an invoice when due may be given a ten (10) day written notice of cancellation.

12. **Resolutions of Disputes.** Any question or dispute with respect to the rights and obligations of the parties to this Memorandum shall be determined in accordance with Article 31 of the Agreement, Dispute Resolution.

13. **Amendment.** This Memorandum may be amended by a majority vote of the Committee and signature on the Memorandum by the member's designated representative who is authorized to execute this Memorandum. Should a member of the PGL fail to execute any amendment to this Memorandum within the time provided by the Committee, the member will be deemed to have withdrawn from the PGL on the next annual renewal date which is beyond any applicable commitment period.

14. **Complete Agreement.** Except as otherwise provided herein, this Memorandum constitutes the full and complete agreement of the members.

15. **Severability.** Should any provision of this Memorandum be judicially determined to be void or unenforceable, such determination shall not affect any remaining provision.

16. **Effective Date.** This Memorandum shall become effective on the date of coverage for the member or upon approval by the Committee of any amendment, whichever is later.

17. **Execution in Counterparts.** This Memorandum may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.

**In Witness Whereof**, the undersigned have executed this Memorandum as of the date set forth below.

Dated: 10/19/2010

  
\_\_\_\_\_  
CSAC Excess Insurance Authority

Dated: \_\_\_\_\_

\_\_\_\_\_  
Member Entity

APPROVED AS TO FORM:  
COUNTY COUNSEL  
By Barbara Booth Stenwald  
Deputy 20101160