



Member Agreement

This Agreement is made and entered into effective _____ (binding date), between the NonProfits' United Vehicle Insurance Pool (hereinafter referred to as "the Corporation") and (Member Agency) _____, a nonprofit organization (hereinafter referred to as "the Member").

Introduction

Whereas, Section 5005.1 of the California Corporations Code provides that corporations that are organized chiefly to provide or fund health or human services and that are exempt from taxation under 501(c)(3) of the Internal Revenue Code may join together to establish a pool to self-insure against tort liability claims or losses.

Whereas, insurance pools established pursuant to Section 5005.1 must have initial pooled resources of not less than two hundred fifty thousand dollars (\$250,000) and all participating corporations must agree to pay premiums to ensure a financially sound risk pool.

Whereas, a Steering Committee consisting of representatives from the California Association for Coordinated Transportation ("CalACT") has caused to be incorporated a social service transportation insurance corporation, NonProfits' United, for the purpose of administering a self-insurance pool.

Whereas, NonProfits' United has provided eligible member corporations with estimated premiums and a description of related services associated with a joint insurance program, the eligible member corporations have reviewed the estimated premiums and coverages and found them to be comparable or better than those currently being provided by their present vehicle insurance program.

Whereas, the Members of the pool have agreed to provide for joint and co-operative action to self-insure and to pool their separate risks and liabilities pursuant to California Corporations Code Section 5005.1.

Therefore, the parties agree as follows:

Article I - Definitions

The following definitions shall govern the interpretation of this Agreement:

- A. "Board" or "Board of Directors" shall mean the Board of Directors of NonProfits' United.
- B. "Bylaws" shall mean the Bylaws of NonProfits' United.
- C. "Coverage Period" shall mean each period for which coverage is provided by the Corporation to the Member under the terms of the Memorandum. Coverage Period and fiscal year shall be the same.
- D. "Covered Loss" shall mean any loss resulting from a claim or claims against the Member which is covered by the Memorandum.
- E. "Incurred Losses" shall mean amount paid or reserved for occurrences as defined in the Memorandum.
- F. "Memorandum of Coverage" or "Memorandum" shall mean the written description of coverage provided to the Member by the Corporation.
- G. "Premium" shall mean the amount estimated by the Corporation to be the Corporation's cost of providing vehicle liability coverage to the Member for one Coverage Period.
- H. "Premium Assessment" shall mean a charge to the Member in excess of the Member's paid Premium for the purpose of paying Covered Losses and operating expenses accruing during a Coverage Period and shall constitute a portion of the consideration paid by the Member to the Corporation for the vehicle liability coverage.

Article II - Term

The initial term of this Agreement shall be from the date first written above to the end of the first coverage year. Thereafter, this Agreement shall automatically renew without notice for successive one-year coverage periods.

Article III - Coverage

The scope and limits of this coverage shall be as set forth in the Memorandum.

Article IV - Premiums

Premiums shall be remitted in full to the Corporation in advance of each Coverage Period unless the Board in its sole discretion shall determine otherwise.

Premiums shall be calculated by applying actuarially developed rates to the Member's vehicles. The rates shall be adjusted by exposure factors such as vehicle use, territory in which vehicle is garaged, and vehicle type. Premiums shall also be modified by loss experience when appropriate. The rating formula may be changed by the Board of Directors at the end of each Coverage Period.

The Corporation shall provide the Member with a preliminary nonbinding premium estimate at least sixty (60) days prior to the beginning of the next Coverage Period and the final Premium at least thirty (30) days prior to the beginning of the next Coverage Period, if practical.

Article V - Premium Assessments

If aggregate Premiums and excess insurance recoveries are insufficient to pay Incurred Losses and administrative expenses for a fiscal year, the Board may assess and collect a Premium Assessment, in addition to Premiums, in an amount not exceeding twenty-five percent (25%) of the Member's Premium allocable to that fiscal year. The member's share of any Premium Assessment shall bear the same relation that the total Premium Assessment charged all Members as the Member's Premium bears to the aggregate Premiums collected from all Members during that fiscal year.

Any Premium Assessment shall be due and payable at such time and in such manner as the Board determines.

The voluntary withdrawal or involuntary expulsion of the Member from the Corporation shall not discharge or affect the Member's obligation to pay Premium Assessments for all Coverage Periods in which the Member participated.

Article VI - Return Premiums

Any surplus funds accumulated during a fiscal year in excess of the amounts necessary to fulfill all obligations for incurred claims, administrative and other program expenses, may be refunded by the Board as return Premiums or as reduced Premiums. For the purposes of determining such return or reduced Premiums the Board shall receive advice from a qualified casualty actuary. The actuary shall calculate the amount of Incurred Losses, which shall include paid and reserved claims, incurred-but-not-reported claims, loss development, loss trending, and a contingency reserve.

Return or reduced Premiums will only be available to Members that received coverage in the applicable fiscal year. The Board shall establish the distribution plan and dates for payment of the return Premiums to the Members.

Article VII - Corporation's Obligations

The Corporation shall provide coverage in accordance with the Memorandum and otherwise carry out the provisions of Section 5005.1 of the Corporations Code and the Bylaws.

The Corporation will operate according to a financial plan adopted by the Board which sets forth in general terms: the loss protection provided by the pool, applicable deductible levels and retention amounts, and the maximum liability which the pool will retain; and the amount of reinsurance or excess insurance to be purchased by the pool. Such financial plan may be amended or modified from time to time by the Board. Notice of all such amendments or modifications shall be promptly given in writing to each Member.

Article VIII - Member's Obligations

The Member shall:

- A. Remit to the Corporation in the manner and time requested all Premiums and Premium Assessments;
- B. Comply with any risk management standards adopted by the Corporation;
- C. Comply with and perform this Agreement, the Bylaws, the Memorandum, and any interpretive rules or policies which from time to time may be adopted by the Board of Directors;
- D. Provide the Corporation with such financial and loss-experience data as may be requested by the Board of Directors; and
- E. Report all occurrences with the potential of producing claims against the Member irrespective of any retention or deductible with such information thereon as shall be requested. Claims and loss reports shall be in accordance with the procedures established from time to time by the Board.

The failure to comply with the provisions of this Article or any of them shall be deemed a material breach of this Agreement and shall constitute grounds for expulsion of the Member and termination of the Member's Memorandum of Coverage. The Board of Directors may waive any such breach and may hold any expulsion in abeyance subject to such terms and conditions as the Board, in its discretion, deems appropriate. Any such waiver shall constitute a waiver of any subsequent breach or of the Corporation's rights under this Article.

Article IX - Voluntary Termination, Expulsion, and Dissolution

- A. The Member may not voluntarily terminate this Agreement and withdraw from the Corporation during the initial coverage year. After expiration of the initial coverage year a Member may voluntarily terminate this Agreement and withdraw by giving the Corporation thirty (30) days written notice prior to the end of any Coverage Period. Such withdrawal shall be effective at the end of the Coverage Period. Withdrawal shall be subject to the Member's continuing obligations as set forth in this Agreement, specifically, without limitation, to pay Premium Assessments for all Coverage Periods in which the Member was a participant.
- B. The Corporation may terminate this Agreement and expel a Member at any time for failure to make timely payments of any Premium or Premium Assessment; for failure to comply with the Bylaws, Memoranda of Coverage or this Agreement, or for risk management purposes. This termination shall be in accordance with Article 3, Section 5 of the Bylaws.

In the event of the proposed expulsion of a Member, the Member shall be given reasonable notice of the meeting at which the proposed expulsion will be considered and the reasons for the proposed expulsion.

The Member shall be given a reasonable opportunity as determined by the Board to address and remedy the reasons for the proposed expulsion. The Board may hold any expulsion in abeyance subject to such terms and conditions as the Board, in its discretion, deems appropriate.

- C. Upon dissolution of the Corporation, assets net of liabilities shall be distributed among the Members in proportion to their contributions. No assets net of liabilities will be distributed to or accrue to the benefit of any entity other than the Member organizations. The Board of Directors shall determine such distribution within six months after all Covered Losses and pending claims have been resolved.

Article X - Miscellaneous

- A. If any provision of this Agreement is held invalid, such invalidity shall not affect other provision of this Agreement which can be given effect without the invalid provision, and to that end the provisions of this Agreement are severable.
- B. This Agreement supersedes any and all Agreement, either oral or written, between the parties and contains all of the covenants and agreements between the parties. Each party acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied in this Agreement. Any modification of this Agreement will be effective only if it is in writing and signed by the party to be charged.

- C. Neither this Agreement nor any duties or obligation under this Agreement may be assigned by either party without the prior written consent of the other.
- D. Any controversy between the parties involving the construction or application of any of the terms, covenants or conditions of this Agreement shall on written request of one party served on the other be submitted to arbitration and such arbitration shall comply with and be governed by the provisions of the California Arbitration Act, Sections 1280 and through 1294.2 of the California Code of Civil Procedure. The cost of arbitration shall be borne equally by the parties.
- E. If any action at law or in equity, including any action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to a reasonable attorneys' fees.
- F. The failure of either party to take action upon the breach of any term or condition by the other party shall not constitute a waiver of that breach or any subsequent breaches.

Article XI - Notice

The Corporation shall address all notices and communications to the Member as follows:

The Member shall address all notices and communications to the Corporation at the office of the Corporation as set forth in the Bylaws.

Article XII - Duplicate Counterparts

This Agreement is executed in duplicate counterparts, either one of which shall be deemed an original for all purposes.

I have received the following documents from NonProfits' United:

- Corporation Bylaws
- Risk Management Standards

Member Agency

Signature Date

Please print Member signator name Title

NonProfits' United

Monica Griffin Interim CEO Date