

REVISED RISK COVERAGE AGREEMENT

Dated as of July 1, 1992

among the

Association of Bay Area Governments

and

City of:

| | |
|-------------------------|------------------------|
| American Canyon | Town of Los Gatos |
| Town of Atherton | Millbrae |
| Belvedere | Milpitas |
| Benicia | Morgan Hill |
| Burlingame | Newark |
| Campbell | Pacifica |
| Town of Colma | Town of Portola Valley |
| Cupertino | Town of Ross |
| Dublin | San Bruno |
| Foster City | San Carlos |
| Gilroy | Saratoga |
| Half Moon Bay | South San Francisco |
| Town of Hillsborough | Suisun City |
| Los Altos | Town of Tiburon |
| Town of Los Altos Hills | Town of Woodside |

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REVISED RISK COVERAGE AGREEMENT

THE RISK COVERAGE AGREEMENT (Coverage Agreement), dated as of June 2, 1986, by and among the ASSOCIATION OF BAY AREA GOVERNMENTS (ABAG), a joint exercise of powers agency duly organized and existing under the laws of the State of California, including, without limitation, Sections 6500, et seq., of the Government Code of the State of California, (ABAG), and the cities listed in Appendix III, each a municipal corporation duly organized and existing under the Constitution and laws of said State (each a "Member Entity" and collectively, the "Member Entities"), is hereby amended and replaced in its entirety by this Revised Risk Coverage Agreement (Agreement) effective July 1, 1992, as follows:

RECITALS

I. The following state laws, among others, authorize the Member Entities to enter into the Revised Risk Coverage Agreement ("Agreement"):

A. Labor Code Section 3700 allowing a local public entity to fund its own workers' compensation claims;

B. Government Code Sections 989 and 990, and Education Code Section 15802, permitting a local public entity to insure itself against liability and other losses;

C. Government Code Section 990.4 permitting a local public entity to provide insurance and self-insurance in any desired combination;

D. Government Code Section 990.8 permitting two or more local public entities to enter into an agreement to jointly fund such expenditures under the authority of Government Code Sections 6500-6515; and

E. Government Code Section 6500-6515 permitting two or more local public entities to jointly exercise under an agreement any power which is common to each of them.

II. Each Member Entity has the power to acquire, operate and maintain personal and real property and to self-fund for casualty losses to its property.

July 1, 1992

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Revised Coverage Agreement

III. ABAG is a joint exercise of powers agency of which Member Entity is a member and ABAG is authorized to exercise necessary powers to implement the purposes of this Agreement.

IV. Each Member Entity desires to contract with the other Member Entities and such additional Member Entities which may be added during the term of this Agreement and ABAG for the purposes of:

A. Developing effective risk management and loss control programs to reduce the amount and frequency of their losses;

B. Pooling their self-insured losses; and

C. Jointly purchasing excess insurance and purchasing or providing administrative services.

V. The governing board of each Member Entity has determined that it is in the Member Entity's best interest and in the public interest that this Agreement be executed.

Now, therefore, the Member Entities and ABAG, by, between and among themselves, in consideration of the mutual benefits, promises and agreements set forth below, hereby agree as follows:

ARTICLE I

PURPOSES

1.1 This Agreement is entered into by Member Entities and ABAG in order to do one or more of the following:

A. Develop self-insurance programs;

B. Develop effective risk management and loss control programs to reduce the amount and frequency of their losses;

C. Share the risk of self-insured losses; and

D. Jointly purchase excess insurance and purchase or provide administrative and other services including, but not limited to: claims adjusting, data processing, risk management, loss control and prevention, accounting services, actuarial services, and legal services in connection with the Programs.

1.2 It is also the purpose of this Agreement to provide procedures for the addition, at a subsequent date, of public entity members of ABAG to become parties to this Agreement and to provide for the removal of Member Entities for cause or upon request.

ARTICLE II
DEFINITIONS

In this Agreement unless the context otherwise requires:

A. "Actuarial Consultant" means an accredited actuary of national repute in the area of municipal risks.

B. "Administrative Premium" means the amount charged to each Member Entity by ABAG and by the Board of Directors for ABAG's administrative costs and expenses for a Program. An Administrative Premium charged for a specific Program is identified as "Administrative Premium (*Name of Program*).". Administrative Premium shall not include any cost, expense or loss reserve chargeable to a Member Entity under a Program Premium.

C. "Agency Agreement" means the Agency Agreement between ABAG and the Corporation.

D. "Board" or "Board of Directors" is the governing body of the ABAG PLAN Corporation;

E. "Corporation" is the ABAG PLAN Corporation.

F. "Coverage" is the scope of a Program.

G. "Coverage Period" is the term of a Memorandum and, excepting the first coverage period of a Program, shall be July 1 to June 30.

H. "Excess Insurance" is insurance purchased by the Corporation for the benefit of Member Entities to cover losses in excess of the Coverage provided by ABAG under a Memorandum.

I. "Member Entity" includes each public entity which is a party to this Agreement, except ABAG.

J. "Memorandum" is the agreement between ABAG and Member Entities describing a specific Program, the terms and conditions for a Member Entity's participation therein, and the amount and/or the method for determining the amount of Program Premium for such Program. A Memorandum for a specific Program is identified as "Memorandum (*Name of Program*).".

K. "Premium" is the total of all Program Premiums and Administrative Premiums payable by a Member Entity to ABAG for said Member Entity's participation during a Coverage Period.

L. "Program" is the specific type or area of self-funded loss protection offered under this Agreement and defined in a Memorandum, which may include without limitation, the funding of loss reserves, pooled insurance purchase, claims adjustment and management, legal defense, risk management and loss control. A Program may encompass, but not be limited to, areas such as comprehensive general liability, property, worker's compensation, or employee benefits.

M. "Program Committee" is a committee of the Board comprised of one representative from each Program Participant in the Program and an alternate who may vote and exercise all powers of the representative in the representative's absence. A committee for a particular Program is identified as "Program Committee (Name of Program)."

N. "Program Participant" is each Member Entity which participates in a Program. References to Member Entity in its capacity as a participant in a Program shall be to "Program Participant (Name of Program)."

O. "Program Premium" is the sum of money determined pursuant to this Agreement and the Bylaws of the Corporation for a specific Program, as the amount due from each Program Participant for the Coverage Period. A Program Premium for a specific Program is identified as "Retained Equity Program Premium (Name of Program)."

ARTICLE III

PARTIES TO AGREEMENT

Each Member Entity hereby contracts with ABAG, every other Member Entity who is a signatory to this Agreement and, in addition, with such other Member Entity as may later be added as a Member Entity under ARTICLE VIII. The deletion of any Member Entity from this Agreement does not affect this Agreement nor each

Member Entity's intent to contract with the Member Entities then remaining.

ARTICLE IV

TERM OF AGREEMENT

This Agreement became effective as of July 1, 1992 and continues in full force until terminated in accordance with ARTICLE XII.

ARTICLE V

ESTABLISHMENT AND GOVERNANCE OF PROGRAMS

5.1A Program may be established by the approval of (a) a Memorandum describing the Coverage available under such Program, (b) initial Program Premiums and, (c) initial Administrative Premiums by a two-thirds (2/3) vote of the Board. The Board's action shall be based upon an Actuarial Consultant's recommendation that such a Program is, or within a reasonable period of time can become, actuarially sound.

5.2A validly established Program becomes operational upon the approval, execution and delivery of the Memorandum by each of the actuarially determined minimum number of Program Participants and their payment of the Program Premium and the Program Administrative Premium.

5.3 Once a Program is operational, its Memorandum; Program Premiums; standards for admission, expulsion, and withdrawal of Program Participants; and its operating policies shall, subject to policies adopted by the Board, be determined by its Program Committee, except the Liability Program which shall be determined by the Board.

5.4 The Liability Program described in Appendices I and II and Member Entities described in Appendix III are affirmed.

ARTICLE VI

MEMBER ENTITY RESPONSIBILITIES

6.1 Each Member Entity has the obligations and responsibilities set forth in this Agreement, the Articles and Bylaws of the Corporation, the Agency Agreement, and each Memorandum to which it is a signatory.

6.2 At a minimum, each Member Entity shall:

A. Participate in the Liability Program and be a member of ABAG during the term of its participation in any Program;

B. Pay all Premiums promptly to ABAG when due;

C. Provide the Corporation with loss experience, statistical data and other information as may reasonably be required; and

D. Cooperate with and assist the Corporation and any insurer, claims adjuster or legal counsel retained by the Corporation in matters relating to this Agreement, any pertinent Memorandum(a), Corporation Articles and Bylaws, and policies and procedures adopted by the Board.

ARTICLE VII

OBLIGATION TO PAY PREMIUM

7.1 Notwithstanding any dispute between or among ABAG, the Corporation or any Member Entity(ies), including a dispute as to the scope or nature of Coverage provided under a Memorandum or the sufficiency of amounts in the Claims Fund, or for any other reason, each Member Entity shall make all Premium payments when due and shall not withhold any Premium payments pending the final resolution of such dispute.

7.2 In the event a Member Entity fails to pay any Premium, the amount in default shall continue as an obligation of the Member Entity until the amount in default shall have been fully paid, and, in addition to any other remedies available hereunder with respect to such default, the Member Entity agrees to pay the same with interest thereon, at the highest rate permitted under California

Civil Code Section 3289, as it may be amended from time to time, from the date such amount was originally due.

7.3 Each Member Entity understands that pursuant to the Agency Agreement ABAG has assigned its right to receive and collect all Premiums, to the Corporation and each Member Entity consents to such assignment.

ARTICLE VIII

NEW MEMBERS

8.1 A new public entity may be admitted as a Member Entity only upon a two-thirds (2/3) vote of the Board. Admission as a Member Entity shall automatically admit the Member Entity into the Liability Program.

8.2 A Member Entity may participate in any other Program upon approval by the Program Committee.

8.3 Each applicant for membership shall pay all costs and expenses incurred by the Corporation or ABAG in processing the application and any application fee set by the Board.

ARTICLE IX

CLAIMS FUND

9.1 Program Premiums for a Program shall be deposited into a Claims Fund for the Program and shall not be commingled with any other funds or moneys. A Claims Fund for a Program shall be identified as "Claims Fund (*Name of Program*)."

9.2 Each Claims Fund is irrevocably held in trust for the benefit of the Program Participants and for the purposes specified in the Program Memorandum, and such moneys, and any income or interest earned thereon, shall be expended only as provided in the Memorandum and as directed by the Program Committee, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of ABAG, the Corporation or any Member Entity. ABAG shall be the trustee of all Claim Funds.

9.3 Moneys in Claims Fund shall be invested and reinvested on maturity by ABAG subject to investment guidelines adopted by the Board and applicable state law.

9.4 Any income, profit or loss on the investment of moneys held by ABAG in a Claims Fund(s) shall be held in and credited to the same Claims Fund.

9.5 ABAG shall furnish to the Board an accounting of all investments made by ABAG as required under Cal. Gov't. C. Section 53687. ABAG shall obtain a fidelity bond in an amount approved by the Board. ABAG shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with this section.

ARTICLE X WITHDRAWAL

10.1A Member Entity may not withdraw from the Liability Program for a three (3) year period commencing on the date of its entry or reentry into said Program. After the three (3) year period, a Member Entity may withdraw from the Liability Program only at the end of a Coverage Period, provided it has given ABAG one hundred and eighty (180) days prior written notice of its intent to withdraw and has complied with all conditions and requirements of this Agreement, the Program Memorandum and applicable procedure.

10.2 Withdrawal from the Liability Program shall automatically, and simultaneously, result in the withdrawal of the Member Entity from all other Programs in which it may be a participant.

10.3 Any and all notices of withdrawal shall include a report by an actuarial consultant approved by the Board containing all of the following:

A. A finding that withdrawal of the Member Entity shall not cause the Program to become actuarially unsound; and

B. A formula for determining, or a determination of the amount of all payments necessary to cover any claims for which the

withdrawing Member Entity is responsible under all pertinent Memoranda (withdrawal assessment); and

C. A formula for determining, or a determination of, the amount of retained equity to be credited to the withdrawing Member Entity.

10.4The difference between a withdrawing Member Entity's withdrawal assessment and its retained equity shall be paid to or by the withdrawing Member Entity within ninety (90) days of final determination of both amounts.

10.5Withdrawal of a Member Entity from any other Program shall be effected pursuant to the same procedures set forth above excepting only that a Member Entity may withdraw after an initial one (1) year period.

ARTICLE XI EXPULSION

11.1A Member Entity may be expelled by a two-thirds (2/3) vote of the Board for a material breach of this Agreement or the Corporation's Articles or Bylaws. Whether the breach is material shall be determined by the two-thirds (2/3) vote of the Board. Such expulsion shall automatically, and simultaneously, terminate the Member Entity's participation in any and all Programs in which it may be a Program participant.

11.2The procedure for hearing and notice of expulsion and conditions which must be met prior to expulsion of a Member Entity shall be as provided in the Corporation Bylaws.

11.3Any and all notices of expulsion shall include a report by an actuarial consultant approved by the Board containing all of the following:

A. A finding that expulsion of the Member Entity shall not cause any Program to become actuarially unsound; and

B. A formula for determining, or a determination of the amount of, any payment necessary to cover any claims for which the expelled Member Entity is responsible under all pertinent Memoranda (expulsion assessment); and

C. A formula for determining, or a determination of, the amount of retained equity to be credited to the expelled Member Entity.

11.4 The difference between expelled Member Entity's expulsion assessment and its retained equity shall be paid to or by the expelled Member Entity within ninety (90) days of final determination of both amounts.

ARTICLE XII

TERMINATION AND DISTRIBUTION

12.1 This Agreement may be terminated by the written consent of two-thirds of the Member Entities. However, this Agreement and the Corporation shall continue to be in force and to exist after termination for the purpose of disposing of all claims, distribution of assets and all other functions necessary to conclude the obligations and affairs of the Corporation.

12.2 Upon termination of this Agreement, the Corporation shall cause an actuarial consultant to prepare a report setting forth each Member Entity's retained equity and a formula for determining, or a determination of, the amount due from each Member Entity to cover all claims for which such Member Entity is responsible for each Program in which it is a participant plus all costs reasonably determined by the Board to be necessary to wind up.

12.3 The difference between the Member Entity's termination assessment and its retained equity shall be paid by or to it within ninety (90) days after the final determination of both amounts.

ARTICLE XIII

INDEMNIFICATION AND RELEASE

13.1 Each Member Entity shall and hereby agrees to indemnify and save ABAG and the Corporation harmless from and against all third party claims, losses and damages, including legal fees and expenses, arising out of (i) any breach or default on the part of such Member Entity in the performance of any of its obligations under this Agreement, the Articles and Bylaws of the Corporation, or any Memorandum; or (ii) any act or negligence of such Member

Entity or its agents, contractors, servants, employees or licensees with respect to any Program. No indemnification is made under this Section or elsewhere in this Agreement for claims, losses or damages, including legal fees and expenses arising out of the willful misconduct, negligence, or breach of duty under this Agreement by ABAG or the Corporation or any of their officers, agents, employees, successors or assigns.

13.2 NONE OF ABAG, THE CORPORATION OR ANY MEMBER ENTITY MAKES ANY WARRANTY OR REPRESENTATION, EITHER EXPRESSED OR IMPLIED, AS TO THE ADEQUACY OF THE COVERAGES OR THE PROGRAM PROVIDED THROUGH THIS AGREEMENT FOR THE NEEDS OF THE MEMBER ENTITIES.

ARTICLE XIV

PROHIBITION AGAINST ASSIGNMENT/FUND ACCESS

No Member Entity may assign any right, claim, or interest it may have under this Agreement. None of the Member Entities nor ABAG nor any creditor, assignee or third party beneficiary of a Member Entity or ABAG has a right, claim or title to any part, share, interest, fund, premium or asset of any other Member Entity or ABAG.

ARTICLE XV

AMENDMENTS

This Agreement may be amended by a vote of all the Member Entities and ABAG approving the amendment. A proposed amendment must be submitted to each Member Entity at least thirty (30) days in advance of the date when the Member Entity considers it. An amendment is to be effective immediately unless otherwise designated. Proposed amendments not approved within one hundred eighty (180) days after submission shall be withdrawn. Appendices to this Agreement may be amended by a two-thirds (2/3) vote of the Board without separate action by the Member Entities.

ARTICLE XVI

SEVERABILITY

If a section, term, condition or provision of this Agreement is determined by a court to be illegal or in conflict with a law of

the State of California, or is otherwise rendered unenforceable or ineffectual, the validity of the remaining sections, terms, conditions and provisions is not affected.

ARTICLE XVII

ATTORNEYS' FEES AND EXPENSES

In the event any party to this Agreement should default under any of the provisions hereof and the nondefaulting party(ies) should employ attorneys or incur other expenses for the collection of moneys or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party contained herein, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party.

ARTICLE XVIII

NO ADDITIONAL WAIVER IMPLIED BY ONE WAIVER

In the event any agreement contained in this Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

ARTICLE XIX

CORPORATION TO EXERCISE RIGHTS

Certain rights and remedies given to ABAG under this Agreement have been assigned by ABAG to the Corporation under the Agency Agreement, to which assignments the Member Entities hereby consent. Such rights and remedies shall be exercised by the Corporation as provided herein.

ARTICLE XX

MISCELLANEOUS

20.1 Except as otherwise provided herein, all notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received five

(5) business days after deposit in the United States mail in certified form, postage prepaid, to the Member Entities ABAG and the Corporation at the following addresses:

If to the Member Entity: See Appendix III

If to ABAG: Association of Bay Area Governments
MetroCenter
P.O. Box 2050
Oakland, California 94604
Attn: Executive Director

If to the Corporation: ABAG PLAN Corporation
c/o Association of Bay Area Governments
MetroCenter
P.O. Box 2050
Oakland, California 94604
Attn: President

ABAG, the Corporation and the Member Entities, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

20.2 This Agreement shall inure to the benefit of and shall be binding upon ABAG and the Member Entities and their respective successors and assigns.

20.3 This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

20.4 This Agreement shall be governed by and construed in accordance with the laws of the State of California.

In Witness Whereof, ABAG has caused this Agreement to be executed in its name by its duly authorized officers; and the Member Entities have caused this Agreement to be executed in its name by its duly authorized officers, as of the date first above written.

ASSOCIATION OF BAY AREA GOVERNMENTS,

Date: _____ By:

Name

Title

MEMBER ENTITY

Date: _____ By:

Name

Title

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APPENDIX A
LIABILITY PROGRAM DOCUMENTS

| | |
|-------------|---|
| Appendix I | Memorandum of Coverage - Liability (1997) |
| Appendix II | Liability Program Procedures |

APPENDIX II
LIABILITY PROGRAM PROCEDURES

1. Premium Setting

1.1 Approval of Premium Formulas. Formulas for setting premiums, and all supporting documentation, shall be submitted to the Board of Directors by the Chief Financial Officer no later than _____ immediately preceding commencement of the fiscal year in which the formulas will first become effective. Upon approval by two-thirds (2/3) of the membership of the Board of Directors, the formulas shall be used to set and allocate Program Premiums (Liability), commencing in the fiscal year designated by the Board of Directors.

1.2 Determination of Premiums and Adjustments. No later than _____ immediately preceding commencement of the fiscal year in which the premiums will be charged, an Actuarial Consultant shall submit a schedule, or schedules, of Program Premiums (Liability) to the Board of Directors. Upon approval by two-thirds (2/3) of the membership of the Board of Directors, a schedule of Program Premiums (Liability), as submitted, or as modified by the Actuarial Consultant pursuant to the direction of the Board, shall be adopted and levied against each Member Entity.

1.3 Notice. Each Member Entity shall receive written notice of its Program Premiums (Liability) no later than the _____ immediately preceding commencement of the fiscal year.

1.4 Deposit of Premiums. All amounts attributable to the Member Entity's Program Premiums (Liability) shall be deposited into the applicable Claims Payment Fund except for the portions, if any, of the Program Premium (Liability) attributable to premiums or premium adjustments resulting from the purchase of commercial insurance or reinsurance, or excess insurance shall be deposited in the operations fund.

2. Claims Management, Legal Defense, Risk Management Programs and Administrative Premium

2.1 Administrative and Legal Defense Programs. The Board of Directors shall cause to be created an administrative program consisting of the claims management and risk management programs as set forth in Sections 2.2 and 2.4, and a legal defense for the Liability Program as set forth in Section 2.3. The Board of Directors shall also establish administrative premiums for all administrative costs including the costs of the administrative program but not including legal defense costs which shall be paid from the Claims Fund (Liability).

2.2 Claims Management Program (Liability Program).

(a) Settlement by Member Entity.

(i) A Member Entity, or its designee, may settle any claim against it which is for property damage only and demands an amount equal to or less than ten percent (10%) of its deductible.

(ii) If any legal defense is necessary, Member Entity may use only attorneys and law firms on the latest Defense Counsel List in settling such claims.

(iii) For each claim described in Subsection (a)(i), each Member Entity shall provide a written report to the Corporation setting forth the claimant, nature of claim, demand, reserves amount or settlement and such other information as the Corporation may, from time to time, request.

(iv) Paragraph (d) of this Section 2.2 shall also apply to all claims described in Subsection (a)(i).

(v) All other claims may only be settled pursuant to the provisions of the rest of this Section 2.2.

(b) Notification of Corporation. Except for claims described in Subsection (a)(i) of this Section 2.2, each Member Entity shall immediately forward to the Corporation at the address designated by it, all claims against the Member Entity with such information as the Corporation may from time to time request.

(c) Claimant Contact. Except for claims described in Subsection (a)(i) of this Section 2.2, all contact with the claimant or a claimant's employees, agents, representatives and

attorneys regarding the claim or the events giving rise to the claim shall be referred to the Corporation, or its designee.

(d) Subrogation. The Corporation shall be subrogated to all rights of a Member Entity arising out of a claim paid in whole or in part by the Corporation, and such Member Entity shall cooperate fully with the Corporation in the prosecution of subrogated claims. If a subrogated claim is against another Member Entity, all such claims arising out of the same occurrence which have not been reduced to a final judgment shall be submitted to arbitration, and such arbitration shall comply with and be governed by the provisions of the California Arbitration Act, Sections 1280 through 1294.2 of the California Code of Civil Procedure.

(e) Claims Committee Approval. Any claim against a Member Entity which the Corporation proposes to settle for an amount which, in addition to defense costs, exceeds the Member Entity's deductible shall be submitted to the Claims Committee for approval. All claims against a Member Entity which the Corporation settles on its behalf for an amount which, in addition to defense costs, is less than or equal to such Member Entity's deductible shall be reported to the Member Entity and the Claims Committee. For such Settlement, the Member Entity or the Corporation may, upon written notice delivered within seven (7) days after receipt of the notice identifying the proposed settlement, require consideration and approval by the Claims Committee.

2.3 Legal Defense Program.

(a) Scope. Legal defense of all covered claims, except those described in Subsection (a)(i) of Section 2.2 shall be governed by this Section 2.3.

(b) Defense Counsel List. Legal defense of all covered claims may only be provided by attorneys or law firms listed on the latest Defense Counsel List.

(c) Determination of Defense Counsel List. The Corporation's claims manager shall circulate an initial Defense Counsel List to each director and alternate director who shall be

given a reasonable opportunity to recommend the addition of defense counsel not on the list or request the deletion of defense counsel. The director or alternate shall set forth the qualifications of each defense counsel nominated for addition to the List and the reasons for requesting deletion of defense counsel currently on the List. The Defense Counsel List, with the comments of directors and alternates, responses by the claims manager and recommendation for the final Defense Counsel List, shall be submitted to the Claims Committee for review and approval. The Defense Counsel List shall be updated at the direction of and upon approval by the Claims Committee.

(d) Selection of Defense Counsel. Once the Corporation's claims manager determines that defense counsel should be engaged for a particular claim, the Corporation shall so notify the Member Entity against whom the claim has been made. The Member Entity shall be given a reasonable opportunity to request specific defense counsel and to set forth the reasons for such request. Final selection of the defense counsel shall be at the Corporation's sole discretion, provided that approval of a Member Entity's request for specific defense counsel shall not be unreasonably withheld.

(e) Management of Legal Defense. Except as provided in (f) of this Section 2.3, legal defense of all claims shall be directed by the Corporation.

(f) Legal Defense Under Reservation of Right. In all instances where the Corporation provides legal defense under a reservation of right to dispute the Corporation's obligation to pay a claim, legal defense shall be directed by the Member Entity against whom the claim is made. However, the Corporation shall have the right to associate into the action attorneys or law firms who shall act at the Corporation's direction.

2.4 Risk Management Program.

(a) Each Member Entity shall appoint an employee of the Member Entity to be responsible for the risk management function

within that Member Entity and to serve as liaison between Member Entity and the Corporation as to risk management.

(b) Each Member Entity shall supply the Corporation with information regarding Member Entity's physical facilities, maintenance procedures, operational procedures and any other information regarding the conduct of Member Entity's operations as may be reasonably requested by the Corporation in auditing the Member Entity's risk management practices.

(c) Each Member Entity shall consider all recommendations of the Corporation regarding Member Entity's risk management practices and shall reply in writing describing its acceptance or rejection of the recommendations and any action taken thereon.

(d) Each Member Entity shall maintain its own set of records as a loss log in all categories of loss and shall permit the Corporation to review or obtain a copy of same.

(e) Each Member Entity shall comply with risk management policies and procedures as adopted by the Board of Directors upon a two-thirds (2/3) vote of the members of the Board.

2.5 Administrative Premium.

(a) Administrative Costs Allocation Formula. Administrative Costs Allocation formula may be adopted by a two-thirds (2/3) vote of the members of the Board of Directors. Any proposed revision to the Administrative Costs Allocation formula, and all supporting documentation shall be submitted to the Board of Directors by the Chief Financial Officer no later than _____ prior to the commencement of the fiscal year in which the revised formula will first become effective. Upon approval by the Board of Directors, the revised formula shall become the formula for allocating Administrative Costs, commencing in the fiscal year designated by the Board of Directors.

(b) Administrative Premiums. No later than _____ prior to commencement of the fiscal year in which the Administrative Costs shall be paid, a budget for Administrative

Costs shall be submitted to the Board of Directors by the Chief Financial Officer. Upon approval by a majority of the membership of the Board of Directors, the Administrative Costs shall become the costs to which the Administrative Costs Allocation formula shall be applied to yield each Member Entity's Administrative Premium.

(c) Notice. Each Member Entity shall receive written notice of its Administrative Program Premium by _____ prior to the commencement of the fiscal year in which it is charged.

3. Purchase of Insurance

Upon a majority vote of the membership of the Board of Directors the Corporation may purchase commercial insurance or reinsurance or terminate commercial insurance or reinsurance.

4. Cancellation of Coverage

4.1 Cancellation. For any Program in which a Member Entity is in default with respect to its obligation to pay Program Premiums (Liability), the Board of Directors may cancel all coverage rights of the defaulting Member Entity upon a two-thirds (2/3) vote of the other Member Entities.

4.2 Reinstatement. For any Member Entity whose coverage has been canceled pursuant to Section 4.1, Coverage may be retroactively or prospectively reinstated upon two-thirds (2/3) vote of the other Member Entities and payment by said Member Entity of all premiums due and payable upon the date of reinstatement with interest thereon at the rate set forth in Civil Code Section 3289 and the payment of all costs incurred by the Corporation, including but not limited to fees for actuarial consultants, attorneys and insurance consultants, incurred by the Corporation in canceling and reinstating said Member Entity.

