

# CLEAT LEGAL SERVICE PLAN DOCUMENT

APPROVED AND AMENDED MARCH 2018

EFFECTIVE MARCH 16, 2018

## PREFACE AND STATEMENT OF PURPOSES

The following document describes certain legal services available to the indicated persons. Such services are provided according to the provisions of this document, which has been adopted as a plan of benefits associated with payments made by or in behalf of the persons described below. This Plan of benefits has been adopted by the Plan Sponsor, Combined Law Enforcement Associations of Texas, Inc., (also referred to as "CLEAT") and the services described are to be provided in connection with membership in CLEAT. Because of the operation of certain definitions at law contained in 29 U.S. §§ 1000 *et sec.*, the Employee Retirement Income Security Act of 1974 ("ERISA,") this document and its provisions are intended to conform with any applicable provisions thereof, and is expressly subject to the requirements of Title I, Parts 1 and 4, of ERISA, as well as § 514 thereof which provides that ERISA supersedes all state laws or actions which might otherwise apply. Further, be advised the definitions contained in Article Eight hereof apply throughout this document, beginning with this paragraph.

## ARTICLE ONE BENEFITS AND SERVICES PROVIDED

1.1. Exclusions and Limitations. All benefits and services set forth in this article or elsewhere in this document are subject to the exclusions and limitations set forth in this Plan or any Schedules attached hereto.

1.2. Disciplinary and Administrative Cases. Subject to Section 1.1 of this article, a Participant against whom a disciplinary or an administrative action has been initiated by an Agency shall be entitled to the following legal services:

(a) Legal representation by a Staff Attorney for any such disciplinary action through any available administrative review;

(b) Legal representation by a Staff Attorney pursuant to a state statutory right, collective bargaining agreement, or other local appeals process established by city charter, ordinance, rule, or procedure, for the appeal of an instance of being passed over for promotion, or to secure departmental compliance regarding the timely promotion of a Participant into a vacant position;

(c) Legal representation by a Staff Attorney pursuant to a state statutory right, collective bargaining agreement, or other local appeals process established by city charter, ordinance, rule, or procedure, as to a challenge or appeal in regard to an issue of fitness for duty, extension of line of duty, leave as a result of injury or illness, or pregnancy leave;

(d) Customary and reasonable expert consulting and witness fees necessary to provide adequate legal representation hereunder, subject to all limits on such expenses otherwise

provided herein.

**1.2.1. Temporary Income Protection.** Subject to Section 1.1 of this Article, a Participant who is paying the current CLEAT dues then in effect on the date of a temporary suspension, or against whom any disciplinary action is taken by the Participant's law enforcement or public safety employer which results in a temporary suspension and a loss of pay, and which is not appealed in any manner, shall be entitled to Temporary Income Protection of One Hundred Dollars (\$100.00) per day of temporary suspension up to a maximum of Five Hundred Dollars (\$500.00) per calendar year. A Participant must make application within 180-days of the date of the temporary suspension on a form, which is available at [www.cleat.org](http://www.cleat.org) or any CLEAT office. The application must be completed in full and a copy of the relevant suspension letter must be attached to the application. The Plan Administrator, or its designee, shall review the application for eligibility and approved applications shall be paid accordingly. Approved payments shall be mailed to the Participant at the address then on file with CLEAT within thirty (30) days of the date the completed application is received by the Plan Administrator or his designee. This paragraph provides maximum benefits of no more than five (5) days for any calendar year in which a claim is submitted. The calendar year shall be construed as beginning January 1, and ending December 31, of each year. Denial of TIPP benefits is not appealable to arbitration.

**1.3. Defense of Civil Actions.** Subject to Section 1.1 of this article, a Participant shall be entitled to the following legal services in regard to civil actions.

(a) Legal defense by a Staff Attorney in a civil action brought against a Participant directly arising from the Participant's official performance of duty as a peace officer, correctional officer, public safety employee, or other Board-approved class of member;

(b) Customary and reasonable legal counseling services by a Staff Attorney in preparation for an action described in subsection (a) hereof, whenever it appears reasonably probable that such an action will be commenced;

(c) Necessary costs of court or of the litigation, to include any reasonable and necessary deposition costs;

(d) Customary and reasonable expert consulting and witness fees necessary to provide adequate legal representation hereunder.

**1.4. Defense of Criminal Civil Rights Prosecutions.** Subject to Section 1.1 of this article, a Participant shall be entitled to the following legal services in regard to criminal civil rights cases:

(a) Legal defense by a Staff Attorney in a case where the Participant is officially charged or indicted with an offense under any section of Chapter 39 "Abuse of Office," including §§ 37.09 and 37.10 of the Texas Penal Code, or under 18 U.S.C. §§ 241 or 242, for acts or omissions arising directly out of the official performance of duty as a peace officer, correctional officer, public safety employee, or other approved category of membership;

(b) Customary and reasonable legal counseling services by a Staff Attorney in preparation for a case described in Subsection (a) hereof, whenever it appears reasonably probable that such a criminal prosecution will be commenced or whenever a criminal

investigation relating to such an offense focuses on the Participant, whichever is earlier;

(c) Necessary costs of court or of the litigation, to include any reasonable and necessary discovery and deposition costs;

(d) Customary and reasonable expert consulting and/or witness fees necessary to provide adequate legal representation hereunder;

(e) Legal representation for any appeal of a criminal civil rights conviction shall be provided only if expressly approved by the Plan Administrator.

**1.5. Other Criminal Prosecutions.** Subject to Section 1.1 of this article, a Participant shall be entitled to the following benefits:

(a) In any case in which a Participant is officially charged by information or indictment for any offense, not otherwise specifically set forth in Section 1.4 of this article, for acts or omissions which are alleged to have occurred during the Participant's official tour of duty and/or at some other time when the Participant, as determined by the Plan Administrator, likely possessed a reasonable belief that such act or omission constituted an action required of a peace officer;

(b) Customary and reasonable legal services and expenses by a Staff Attorney for a case described in Subsection (a) hereof, whenever it appears reasonably probable that such a criminal prosecution will be commenced or whenever a criminal investigation relating to such an offense focuses on the Participant, whichever is earlier;

(c) Provided, however, that the question of the reasonableness of the belief of the Participant in such purposes shall be determined solely by the Plan Administrator in its absolute discretion.

**1.6. Affirmative Civil Litigation.** Subject to Section 1.1 of this article, when legal assistance to a Participant in a given civil case may have a positive effect on law enforcement officers or units, either-locally or statewide, the Plan Administrator, within the restrictions of sound fiscal management of the resources available to the Plan, may in its sole discretion, and on a case-by-case basis, provide part or portion of the following services:

(a) Legal representation by a Staff Attorney to ensure or promote compliance by an employer with prevailing statutory or constitutional provisions intended for the protection of all Participants;

(b) Legal representation by a Staff Attorney to obtain interpretation of prevailing statutes as may apply to both the Participant and to the law enforcement process in general;

(c) Customary and reasonable legal counseling services by a Staff Attorney concerning the legality of political, lobbying, or collective bargaining practices of Local Associations, to the extent such services shall benefit Participants herein;

(d) Reasonable costs of court in actions brought pursuant to Subsections (a) and (b) hereof;

(e) Reasonable expenses in providing services under (a), (b) or (c); and

(f) The cost of customary and reasonable expert consulting and witness fees necessary to provide adequate legal representation as described in this provision.

**1.7. Probate-Related Matters.** Subject to Section 1.1 of this article,

(a) a Participant and his or her spouse are entitled to have simple wills prepared by a CLEAT Staff Attorney; and

(b) further, that a CLEAT Staff Attorney shall provide representation for such persons as is necessary to probate the will and estate thereof; provided that such documents shall have been prepared by or at the direction of a CLEAT Staff Attorney and that the need for probate arises no later than five (5) years after termination of Participant's membership as an active dues paying member of CLEAT. Legal representation for probate matters does not include any filing fees or other costs and expenses associated with the probate of any will, including but not limited to Letters Testamentary and Public Notice in the newspaper; and,

(c) this probate benefit does not include any probate or other legal proceeding resulting from the need to probate a will that requires out of state legal representation. The estate of the decedent shall be financially responsible for all out of state probate matters. This Plan only covers probate matters within the State of Texas.

**1.8. Legal Advice or Counseling.** Subject to Section 1.1 of this article, a Participant may receive the following additional legal services:

(a) Customary and reasonable legal counseling services, as it relates to matters provided for in Section 1.2-1.6 above and concerning the meaning of statutes involving open records, pensions, disability, civil services, collective bargaining, or social security laws and regulations;

(b) Provided, however, this Plan does not provide for such legal counseling to the extent that the Participant may be affected by laws or regulations unrelated to his official duties, including, but not limited to, issues related to taxation;

(c) Notwithstanding any provision herein or foregoing to the contrary, CLEAT may, in its discretion, and upon approval of the Plan Administrator as provided below, extend representation as is deemed necessary or appropriate to a local association, when events requiring such representation arise out of the Local Association's normal course and scope of labor relations or similar activities, as specifically relate to the rights of Participants. Such services will be provided solely at the discretion of the Plan Administrator upon a determination that such action shall benefit individual Participants as a whole.

**1.9. Use of Private Attorney.** If the Participant, for a purpose deemed reasonable in the sole discretion of the Plan Administrator, desires that he or she be represented by an attorney other than a designated Staff Attorney for representation under Article 1.2, 1.3, 1.4, 1.5, or 1.6 of this Legal Plan, such services may be provided only in the sole discretion of the Plan Administrator.

(a) An attorney requested by the Participant and approved by the Plan Administrator, shall agree to represent the Participant in accordance with established payment schedules before CLEAT shall be responsible for payment of any fees or costs, which in all events shall be legal fees or costs which the Plan Administrator deems, in his sole discretion, to be reasonable and customary in the relevant geographical area.

(b) For all matters referred to in Article 1.2, the maximum amounts payable for attorney's fees shall be paid in accordance with this Plan;

(c) Benefit payments pursuant to this Legal Plan may at the sole discretion of the Plan Administrator be determined in such amounts as are reasonable and customary in a particular case and geographical area.

(d) No participant/member of CLEAT has authority to act as agent of CLEAT to bind the organization, CLEAT or any affiliate thereof, to any contract for payment of any legal

services, or any other service, from any vendor under any agreement or contract for services that may result from any event(s) that may be covered under this Plan.

**ARTICLE TWO**  
**ENTITLEMENT TO BENEFITS AND SERVICES**

2.1. A peace officer, correctional officer, public safety employee or other approved class of member who has become a member of CLEAT, or is otherwise included in accordance with the policies of the Plan Administrator as set forth in this section, is eligible for benefits under this Plan, for events that occur after such person becomes a Participant.

2.2. Any active peace officer is eligible for membership. Any correctional officer, public safety employee, or other Board-approved class of member who is currently employed by an agency approved by the Executive Board shall be eligible for membership.

2.3. Payment of membership dues to CLEAT shall be due before the beginning of the month to which such dues apply. After the initial dues payment which must be accepted for deposit on or before the due date successive dues payments shall be deemed made on the date of the postmark on the envelope containing the payment, provided it has been properly addressed to the CLEAT administrative offices. The foregoing shall not apply, however, where payment is made by check and the same has been dishonored at the bank upon which it is drawn or if payment is made by credit card and the charge has been dishonored by the financial institution upon which payment is drawn.

2.4. Membership dues collected by a local association shall be paid to CLEAT within thirty (30) days following the date collected. Any Participant whose dues are collected in conformity with this Section shall not be deemed to be delinquent in payment.

2.5. Membership dues collected by payroll deduction, from an agency providing payroll deduction for CLEAT membership shall be considered current as of the actual date the agency deducts payment from the Participant's paycheck for disbursement to CLEAT.

2.6. In the event such payments are not made as required in this article, benefits under this Plan shall cease for the Participant on the day following the payment due date described in Section 2.4 of this article. Local associations collecting CLEAT dues are responsible for forwarding the member's dues in a timely manner as required by this Plan. Failure of the local association to forward dues in a timely manner may result in a Participant being ineligible for benefits.

2.7. Following a delinquency, entitlement to benefits shall be reinstated on the date of monies owed (plus any interest and liquidated damages as may be established by the Plan Administrator) are paid in full. If payment is made within two months of the payment due date, reinstatement shall be effective retroactively to the original payment due date. Any such late payments shall automatically be applied first to the periods of delinquency and then, if sufficient, to the current period. If the delinquency continues for more than two (2) months, an initial payment shall be required and retroactive coverage shall not be available as

pertains to the period of delinquency.

**2.8.** All benefits for a Participant terminate automatically:

(a) as of the day of which the Participant's membership dues to CLEAT are delinquent; or

(b) as of the day on which the Participant's membership with CLEAT terminates,

(c) Subject to Sections 2.7 and 2.9 of this article, as of the day on which the participant's eligibility for membership in CLEAT terminates.

**2.9.** Notwithstanding anything to the contrary herein, a Participant whose dues were collected by CLEAT shall not be terminated without notice to the Participant's last known address. The Participant shall have thirty (30) days to satisfy all delinquencies.

**2.10.** Notwithstanding Section 2.8(c) of this article, a Participant otherwise entitled to Benefits hereunder (and whose dues have been fully paid) whose Employment has been terminated by his Employer, but who has appealed such termination, shall be entitled to legal service benefits until such appeals seeking his reinstatement from involuntary termination have been exhausted.

**2.11.** Any Participant whose benefits terminate shall not be entitled to any refund or rebate of payments or contributions theretofore paid to the Plan.

**2.12.** Retired Members, who are in good standing with the CLEAT Retiree Association, and their spouse who has a valid and current license to carry permit at the time of an alleged covered incident, shall also be able to call and consult with a CLEAT Staff attorney in the event of a critical incident caused by their justified and lawful use of a firearm. Justified and Lawful use of a firearm is defined as the discharge or display of the firearm as authorized in Chapter 9, Texas Penal Code. Consultation with a CLEAT Staff attorney will also be allowed if there is a need for a statement to law enforcement officials investigating the critical incident.

A Retired Member, who is in good standing with the CLEAT Retiree Association, and their spouse who has a valid and current license to carry permit at the time of an alleged covered incident, will receive legal coverage, both civil and criminal, should the member be investigated for the lawful and justified use of a firearm. Coverage under this subsection for such lawful and justified use of the firearm will not exceed the coverage afforded to an active member of CLEAT and under the same conditions as stipulated in Article One herein, or as applicable.

Dues for Retired Members in the CLEAT Retiree Association are \$14.50 monthly, or \$150.00 yearly, and \$19.50 monthly for member and spouse coverage, or \$200.00 yearly, for member and spouse and are payable as of the first day of each month, or first day of the annual anniversary as the case may be, for continuous coverage, and are delinquent if not received by the respective date.

No benefit under this subsection is available to any person if the dues to the CLEAT Retiree Association are delinquent.

**ARTICLE THREE**  
**REQUESTS FOR LEGAL SERVICES**

3.1. In order to receive Benefits under this Plan, a Participant requesting representation, following some event or action at law, as provided hereunder, shall notify the nearest CLEAT office, which shall notify the Plan Administrator of such claim for benefits or legal services.

Telephone numbers for individual CLEAT offices during normal business hours and after-hours emergencies are listed in Schedule A, attached.

3.2. To request legal representation when a critical incident has occurred and when the Participant has called the emergency number to report the critical incident, the participant will be eligible to receive \$1,000 if an attorney does not arrive at the location of the participant within two hours of receipt of the call.

3.3. When a Participant calls the emergency number to report a critical incident, it is guaranteed that the next person that the Participant speaks with after making the initial call will be an attorney or the Participant will receive \$1,000.

3.4. In an emergency situation where, for whatever reason, a Participant is unable to secure benefits as provided in the procedures described herein, the Participant should contact his regional director or local association president, who is authorized to secure temporarily provided legal services and benefits under this Plan to cover such emergencies. Only after all the foregoing attempts have been exhausted may the Participant temporarily obtain benefits directly from a regional attorney. In this article "temporarily" means until the next business day. On such day the Participant and attorney are required to make a claim to a Plan office or forfeit benefits until the claim is made.

3.5. A Staff Attorney, upon being notified of an Event hereunder and receiving a claim, will submit it to the Plan Administrator or its designee, who will review it and either submit for approval, or, if so empowered, approve or reject it in accordance with standing instructions.

3.6. The Plan Administrator may approve or cause to be approved any claim entitling a Participant to benefits under this Plan. In the event of denial of a claim, the procedures described in Article 7 hereof shall apply and all remedies therein shall be exhausted before a Participant may file a claim for arbitration in regard to such denial.

**ARTICLE FOUR**  
**AMENDMENT AND TERMINATION OF THE PLAN**

4.1. In order that the Plan Administrator may carry out the obligation to maintain, within the limits of available financial resources budgeted by the Executive Board, a program dedicated to providing the maximum possible benefits for all Participants, the Executive Board expressly reserves the right, in accordance with Sections 4.2 or Section 4.3, at any time and from time to time, but upon a non-discriminatory basis,

(a) To amend or terminate this Plan or any benefit hereunder, even though such amendment or termination affects cases already accepted as claims, provided that claims for legal services previously rendered shall not be affected;

(b) To amend or rescind any other provision of this Plan; and

(c) To annually review rates for coverage hereunder paid by or on behalf of Participants based upon past experience and to adjust the rates and benefit schedules in the best interest of CLEAT and Participants.

4.2. By majority vote the Executive Board may terminate, alter, amend, or modify this Plan as provided in Section 4.1 at any regular or special meeting, including telephone meetings.

4.3. This Plan and any clause thereof may be amended, altered, modified, terminated, reduced or increased in any manner by the Executive Board, by a majority vote thereof, so long as in accordance with the constitution of CLEAT and the Constitution and laws of the United States and of the State of Texas.

4.4. This Plan shall be amended as necessary to conform to the Constitution of CLEAT.

#### **ARTICLE FIVE** **EXCLUSIONS AND LIMITATIONS**

5.1. Exclusions. In addition to the exclusions and limitations set forth elsewhere in this Plan, the following shall apply:

(a) No benefit shall be provided under this Plan to a Participant for events occurring before the Participant became a member in good standing;

(b) No benefits shall be provided under this plan for any action, event, or case arising out of an alleged violation of coverage by provisions of the Federal Equal Employment Opportunity Act (42 U.S.C. § 2000[3] *et seq.*) or any other similar state, county, or city law, statute, ordinance, regulation, or rule of a similar type or description;

(c) No benefits shall be provided under this Plan for any action to obtain, protect, preserve, or set aside pension or retirement benefits without thirty (30) days advanced written notice to the local association by the Participant seeking such as an affirmative action;

(d) Except as above, no benefits shall be provided under this Plan for any action to: (1) obtain a promotion or assignment. (2) establish any position for a Participant on an eligibility list for any promotion or assignment. (3) challenge the validity or accuracy of any promotional test question(s);

(e) No benefits shall be provided under this Plan for legal services to one Participant when such legal service if successful would cause legal injury to another Participant unless the Plan Administrator first approves services for defense of a Participant against such a potential injury. If prior to the case or controversy arising the Executive Board adopts a policy on construction of a statutory provision which, if accepted by a court, would necessarily result in a decision for an interest(s) and against a competing interest(s) representation of that interest(s) favored by the policy may be approved to the exclusion of the competing interests. Approval of legal representation for such competing interests shall be at the broad discretion of the Executive Board in the best interests of the Plan;



(f) No benefits shall be provided to a Participant in a civil action opposed to a local association even if legal services are provided to that local association, notwithstanding any language in 5.1(d) above;

(g) No benefits shall be provided under this Plan to cover any monetary award for damages or otherwise, whether by judgment, settlement, or otherwise, against a Participant in any action;

(h) No benefits shall be provided to cover the attorney's fees or costs of an opposing party, or any party other than the Participant, which are awarded against a Participant in any action;

(i) No benefits shall be provided under this Plan related to proceedings brought against a Participant for breach of an agreement with his employer to remain employed;

(j) Except for the benefits provided in Section 1.2 (c) above, no benefits shall be provided under this Plan related to proceedings involving the medical condition of a Participant, including, but not limited to, workmen's compensation claims or appeals;

(k) No benefits shall be provided under this Plan, which are otherwise available to the Participant, except as specifically provided by this plan in Section 5.2 of this article.

**5.2. Further Limitations.** The provision of benefits under this Plan shall be subject to the following additional limitations:

(a) No benefits shall be provided under this Plan in any proceeding in which the Participant's employer or its insurer, whether by agreement, policy or operation of law (e.g.) agrees or undertakes to provide a defense;

(b) In the event the employer and its insurer refuse to defend a Participant in a civil action, the Participant may be represented under Section 1.3 of this Schedule of Benefits only where the Participant presents proof of a written request delivered to his employer and where the Participant executed an agreement subordinating his rights against his employer or its insurer;

(c) In the event a Participant shall recover from any third person or party any amounts as damages (other than for lost compensation), attorney's fees or costs in a case in which the benefits have been provided under this Plan, the Plan shall be entitled to reimbursement from such Participant to the full extent of the expenditures made by the Plan on behalf of said Participant hereunder. Participant agrees to cooperate with the Plan in this regard, and to that end, upon request, execute any and all documents necessary or convenient to facilitate such recovery by the Plan. If such Participant shall have a right of action against any such third party for such damages, attorney's fees or costs and does not wish to pursue the same, the Participant will upon request, assign such right of action to the event lawfully permissible and assist the Plan in the prosecution of such cause of action;

(d) No benefits shall be provided to a Participant who is untruthful with his/her counsel, or who does not cooperate with his/her counsel. In such a case, the right of said Participant to legal services hereunder may be terminated or suspended by the Plan Administrator subject to appeal to the Executive Board or its designated committee. Furthermore, if benefits are provided to a Participant based upon misrepresentation by the Participant to the Plan Administrator or Executive Board, the Plan Administrator or Executive Board shall be entitled to terminate or suspend benefits hereunder, and to reimbursement from the Participant of the cost of benefits provided based on the misrepresentation;

(e) No provision of this Plan shall require its employees or attorneys, or attorneys

associated with them, to perform any act in violation of the Code of Professional Responsibility of the State Bar of Texas including, but not limited to, the prohibition against interference by any organization interfering with or controlling the performance of an attorney's duty to his client;

(f) Benefits shall be terminated in the event it is determined by the Plan Administrator that it is in the best interests of the Participant to cease his representation in a case, e.g., in cases where continued proceedings may subject the Participant to more severe civil, criminal or administrative sanctions, to damages or attorney's fees, and costs from the proposed defendants;

(g) The Temporary Income Protection provided in Article 1.21 above to Participants, is not insurance. Nothing contained in this document shall be construed as an insurance contract pursuant to the Texas Insurance Code or any other applicable state or federal law. TIPP shall not be construed as bestowing "consumer" status upon any member or members as such term is defined in the Texas Deceptive Trade Practices Act. Nor does this document entitle a member or members to bring suit under the Texas Deceptive Trade Practices Act against CLEAT, the CLEAT Executive Board, and its Plan Administrator, any officer of CLEAT, or employees or agents of CLEAT. Nothing contained in this document or any provision of the TIPP shall be construed as establishing an employee-employer relationship between CLEAT and its member or members.

**5.3. Coordination of Benefits.** Benefits under this Plan shall not be provided to the extent they are furnished to a Participant by any other plan, program or policy which provides group legal services to peace officers, correctional officers, public safety employees, or other board approved classes of members.

**5.4. Executive Policy and Attorney Selection.** Benefits under this Plan will be provided in accordance with the policies of the Executive Board, and legal representation in each case shall be by counsel selected by the Plan Administrator, subject to appeal to the Executive Board.

## **ARTICLE SIX** **GENERAL PROVISIONS**

**6.1. Limitation of Rights.** Neither the establishment of the Plan, nor any modifications thereof; nor the creation of any fund or account, nor the provision or payment of any benefits, shall be construed as giving any Participant or other person any legal or equitable right of action, or any recourse against CLEAT, its officers, agents or employees, except as provided in this Plan, or a summary plan description.

**6.2. Applicable Laws and Regulations.** Shall mean a particular section(s) of any applicable statute(s) and any regulation(s) pertinent thereto, as amended from time to time, and expressly to include the Employee Retirement Income Security Act of 1974 ("ERISA") and the Internal Revenue Code of 1986.

**6.3. Confidentiality.** It is agreed and understood that each Participant to whom assistance is rendered under this Plan is entitled to the same rights and consideration,

including the right of confidentiality, to which any other client of an attorney is entitled. The Plan Administrator and Staff Attorney shall not be required to, nor will they reveal any confidentiality to any other persons who are not attorneys involved in providing legal services to the Participant, including the Plan Administrator, CLEAT, its officers, agents or employees, any matters revealed to them in confidence by the Participant in the course of their representation.

6.4. Governing Law; Venue. This Plan shall be governed by and construed in accordance with the laws of the United States, to include ERISA, and to the extent applicable, the laws of the State of Texas, and it is intended to be performed in accordance with, and only to the extent permitted by all applicable laws, ordinances, rules and regulations. Venue for any grievance, as allowed under Article 7 herein, growing out of or related to this Plan shall be brought solely in Travis County, Texas.

6.5. Severability. If any provision of this Plan, or the application thereto to any person or circumstance, shall be declared void, such provision as applied to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

6.6. Intervening Events. Neither the Plan Administrator, CLEAT, nor its officers, agents, nor employees shall in any way be responsible under this Plan for any acts, occurrences, or events which are caused by acts of God or by some other person including the Participant, which may affect, disrupt or terminate this agreement and thereby prevent appointed attorneys from performing the services contemplated hereunder.

6.7. Headings. The headings contained in this Plan are for reference purposes only and shall not in any way affect the meaning or interpretation thereof.

6.8. Use of Nouns and Pronouns. Pronouns used in the masculine gender shall apply equally to the feminine gender. Further, nouns or pronouns used in a singular tense may be read to also include the plural tense where consistent with this document as a whole, and conversely nouns or pronouns used in a plural tense may be read to also include the singular tense where consistent with this document as a whole.

6.9. Waiver. No failure to enforce strictly any provision of this Plan shall be construed as a waiver of such a provision. The Plan Administrator and CLEAT reserve the right to enforce strictly each and every provision of the Plan at any time, regardless of the nature or number of prior occurrences or the similarity of the circumstances.

## **ARTICLE SEVEN**

### **CLAIMS PROCEDURES, COMPLAINTS, DENIALS, AND APPEALS**

7.1. Denial and Appeal of Claims. In the event the Plan Administrator shall deny any claim for benefits not covered hereunder, or any claim excluded or limited from coverage, it shall inform the claimant that he or she may appeal such initial denial to such committee of the Executive Board as shall have been appointed to hear appeals, in writing or in person at a

hearing, within sixty (60) days of receipt of such notice, or else waive such appeal. Such appeal shall be submitted in a manner or format to be determined by the Plan Administrator. If all required information is not reasonably available, the Participant shall have until the expiration of one (1) year from the date a disputed expense was incurred to provide such information, unless the Participant is legally incapacitated, in which event the time period shall be as provided by ERISA.

7.2. Telephone Hearings. In the case of claims where, in the sole judgment of the Plan Administrator, delay in review of an appeal may result in legal harm to a Participant who has expressed an intention to appeal, the Plan Administrator, or its appointees, may conduct a telephonic to hear appeals and determine whether the Participant is entitled to receive benefits, and as to the extent thereof, under this Plan Document.

7.3. Hearing of Appeal. A committee appointed by the President shall hear any timely appeal brought by a Participant arising from a partial or total denial of requested benefits by the Plan Administrator. The Participant may be represented on appeal by his regional director or a designee of the President of his or her local association, or such other personal representative as the Participant may select, or as permitted by ERISA. If a claim has been denied in whole or in part, the Plan Administrator shall provide the claimant with written notice of such denial setting forth in a manner to be understood by the claimant the specific reasons for such denial and an explanation of the review procedures. To appeal an adverse determination, the claimant or his authorized representative must file an application for review in writing or by means of a hearing within sixty (60) days of the receipt of a notice of denial. The Participant may have all such rights in connection with such review as are required by ERISA. Unless otherwise required by law, the Participant shall have no right to receive documents other than the ERISA information described above, nor shall the Participant or his representative be permitted to call and examine or cross-examine witnesses other than the Participant. In all events, a final determination shall be rendered no later than 120-days after the request for the review. It is expressly provided that no action at law or equity may be brought to recover a claim hereunder until all claims and appeal procedures herein have been completed and all remedies hereunder are exhausted. In all events, any such action shall be brought within two (2) years of the date on which this Plan requires presentation of proof of loss.

7.4. Arbitration. Any denial of benefits from the CLEAT Executive Board is appealable to an independent arbitrator. The Participant will have ten (10) calendar days to send written notice to the Plan Administrator of their decision to appeal the denial to arbitration. The Plan Administrator will then request a list of seven neutral arbitrators/hearing examiners from AAA (American Arbitration Association). The parties will then alternately strike the list until there is only one arbitrator remaining. The parties shall flip a coin to determine who begins the first strike. The arbitrator will be notified by the Plan Administrator of the selection and a request will simultaneously be made for available dates for hearing of the matter. If an agreeable date can't be agreed to within sixty (60) days of the selection of the arbitrator, additional dates will be requested until agreeable dates are found. The hearing on the matter will be held at the CLEAT Administrative Office in Austin, Travis County, Texas. The AAA rules of expedited arbitration will be used without exception.

7.5. Arbitration Decisions on Appeals. A decision by an arbitrator regarding an appeal from a denial of the CLEAT Executive Board is final and binding concerning the Executive Board decision, on the interpretation and application of this Plan.

7.6 Costs of Arbitration. The costs of arbitration shall be borne by the party incurring same. The parties will evenly split the costs and fee of the Arbitrator for the hearing.

## ARTICLE EIGHT DEFINITIONS

**8.1. Administrative Office.** The Administrative Office of CLEAT and the Plan Administrator currently located at 400 West 14th Street, Suite 100, Austin, Texas 78701, which address may be changed by the Plan Administrator or the President of CLEAT after notice to the CLEAT Executive Board.

**8.2. Agency.** The employer of the Participant at the time of the alleged or actual occurrence, which results in prosecution, litigation or disciplinary action covered by this Plan.

**8.3. Association** Shall in all events refer to CLEAT.

**8.4. Attorney.** The licensed legal counsel provided by CLEAT to represent the Participant qualified for coverage under this Plan; such term expressly excludes any attorney for any other person or party.

**8.5. Correctional Officer.** Full-time paid jailer, guard or detention officer employed by the State of Texas or its political subdivisions.

**8.6. CLEAT.** The Combined Law Enforcement Associations of Texas, Inc., a nonprofit corporation incorporated under the laws of State of Texas.

**8.7. CLEAT Retiree Association.** An association established by CLEAT for peace officers, and other law enforcement personnel, who have honorably retired from their agency and were required to hold a license from TCOLE

**8.8. Critical Incident.** Any conduct, act, or omission that occurs during the course and scope of a Participant's duties that results in:

- (a) The death or serious bodily injury of a person; or
- (b) Could have resulted in the death or serious bodily injury of a person as a result of Participant intentionally discharging his or her firearm.

**8.9. Emergency.** An unexpected happening or event requiring immediate legal representation.

**8.10. Employment.** Employment as a peace officer, correctional officer, public safety employee or other Board-approved class of member as that term is defined herein.

**8.11. Event(s).** An act or omission of a Participant while acting in the official performance of their employment, which may or does give rise to a civil, criminal, or administrative action against the Participant, which occurs wholly after the Participant is a member in good standing.

**8.12. Executive Board.** The Executive Board of CLEAT, as defined by its Constitution, and which shall serve as the governing and interpreting body of this Plan as herein authorized.

**8.13. Experts.** Persons employed as paid professional witnesses or consultants in a case or controversy.

**8.14. Good Cause.** Substantial reason(s) depending upon the circumstances of the individual case.

**8.15. Good Standing.** A status of CLEAT membership wherein a Participant is current in the payment of all dues.

**8.15 Local Association.** Any affiliated chapter of CLEAT chartered under the Constitution of CLEAT.

**8.16. Member or Participant.** A member of CLEAT in good standing.

**8.17. Monitor.** Actions by the Plan Administrator or its designee to observe the progress of a civil proceeding against a Participant in which a defense has been tendered by the Participant's Agency, to determine whether the appointment of a Staff Attorney as individual counsel for the Participant is necessary, such an action may include, but shall not be limited to, receipt and review of pleadings, discovery documents, and status reports from the Agency's appointed legal counsel, and discussion with such legal counsel when necessary.

**8.18. Official Performance of Duties.** Acts by a Participant while on or off duty which are required of a peace officer by law.

**8.19. Peace Officer or Reserve Law Enforcement Officer.** A person elected, employed or appointed as a peace officer or reserve law enforcement officer under Article 2.12 of the Texas Code of Criminal Procedure or other laws.

**8.20. Plan Administrator.** CLEAT or that person or party which CLEAT may designate to administer the Plan and to serve as Plan Administrator as such term is defined in ERISA, or to otherwise direct staff legal services in accordance with this Plan and the policies of the Executive Board.

**8.21. Plan or Plan Document.** This writing as amended by the Board of Directors or the Executive Board in accordance with Article 6 hereinafter and the Plan of benefits provided herein.

8.22. Public Safety Employees. A non-peace officer, correctional officer or reserve law enforcement officer employed by a law enforcement agency or other criminal justice agency.

8.23. Private Attorney(s). Attorneys selected from each region by the Plan Administrator with the advice and counsel of the Executive Board to represent members pursuant to this plan on a case-by-case basis.

8.24. Retired Member. A member in good standing of the CLEAT Retiree Association.

8.25. Staff Attorney. Any attorney who is an employee of CLEAT to represent Participants.

8.26. TCOLE. Texas Commission on Law Enforcement as defined in Chapter 415, Government Code, or other laws.

8.27. Working Day. A shift of work for eight, ten, twelve or other length of hours.

**IN WITNESS WHEREOF**, the undersigned have set their hands hereto as indicated below, this document to be effective the 16<sup>th</sup> day of March, 2018.

Approved: \_\_\_\_\_

Todd Harrison, President  
Combined Law Enforcement Associations of Texas, Inc.

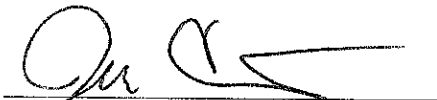
Date: 9-19-18

Witnesses:



Ervey Banda, Vice President  
Combined Law Enforcement Associations of Texas, Inc.

Date: \_\_\_\_\_



Juan Contreras, Vice President  
Combined Law Enforcement Associations of Texas, Inc.

Date: 9/19/18

\_\_\_\_\_  
Dean Gilliam, Vice President  
Combined Law Enforcement Associations of Texas, Inc.

Date: \_\_\_\_\_

**SCHEDULE A**  
**Contact Telephone Numbers.**

Telephone numbers for individual CLEAT offices during normal business hours and emergencies are:

<u>Austin:</u>	<u>800-252-8153 or 512-495-9111</u>
<u>Corpus Christi:</u>	<u>800-752-5328 or 361-883-3224</u>
<u>El Paso:</u>	<u>800-328-9940 or 915-533-4924</u>
<u>Ft. Worth:</u>	<u>800-825-3281 or 817-882-9548</u>
<u>Houston:</u>	<u>800-422-5328 or 713-263-7600</u>
<u>Lubbock:</u>	<u>800-825-3281 or 806-472-9111</u>
<u>San Antonio:</u>	<u>800-752-5328 or 210-826-1899</u>
<u>Rio Grande Valley</u>	<u>800-752-5328 or 956-378-4025</u>

**NOTICE: CLEAT will also maintain a 24-hour emergency toll free number. The 24 hour toll free emergency number is 1-800-752-5328.**

(The above telephone numbers are subject to change from time-to-time.)