



AGREEMENT REGARDING PARTICIPATION IN THE STATE

AGENCY WORKERS' COMPENSATION PROGRAM (SAWC)

ACCEPTANCE INTO PROGRAM – If OIC has determined that an entity has been determined to be either an “executive state agency” or “discretionary participant” (collectively, “Participant”) as those terms are defined in WV Code §33-2-21a(a), and as such is entitled to participate in SAWC, OIC will provide for mandatory workers’ compensation coverage in accordance with WV Code §23-1-1 *et seq.* and rules promulgated thereunder at all times during which Participant remains in SAWC. Compliance with the terms and conditions set forth in this Agreement is expected of all participants, and non-compliance by a discretionary participant may result in removal from SAWC.

PAYMENT OF PREMIUM ASSESSMENT AND FEE – OIC will establish a premium assessment for Participant and a fee that represents Participant’s share of the administrative costs for OIC to operate SAWC. Payment of the premium assessment and fee shall be made within terms stated on invoice. Failure to timely remit the full amount constitutes grounds for removal of Participant from SAWC.

COMPLIANCE – Participant agrees to implement and follow all safety standards and rules governing return to work programs. Participant will ensure that claim reporting obligations are made timely and in the manner established by OIC, the carrier and any of their designees. Participant understands and agrees that any request for policy or procedural changes by the carrier must be initially directed to OIC for its approval.

AUDIT – Participant agrees to undergo and cooperate in periodic audits on all records that relate to the SAWC policy, including but not limited to ledgers, journals, registers, vouchers, contracts, tax reports, payroll and disbursement records, and programs for storing and retrieving data. OIC and its designees (including rating organizations) may conduct audits during regular business hours during policy periods and during the three years after Participant’s participation in SAWC has ended. Information developed by audit will be used to determine final premium.

INSPECTIONS – OIC, the carrier and any of their designees have the right to inspect Participant’s workplaces at any time. Participant must cooperate in any such inspection and must take corrective actions with respect to items identified during the inspection process.



NOTICE OF NON-COMPLIANCE – Grounds for removal of a discretionary participant from SAWC include, but are not limited to, material or repeated noncompliance with safety standards, reporting requirements or other program rules; OIC’s subsequent determination that a discretionary participant does not meet the definition of “discretionary participant”; and any action or failure to act that OIC determines constitutes unacceptable financial or other risk to other SAWC participants. In the event OIC determines that sufficient grounds exist for the removal of Participant from SAWC, OIC will send a notice explaining the basis for the determination and affording Participant an opportunity to cure the violation(s). If OIC thereafter determines that the violation has not been cured in accordance with the terms of such notice, Participant will be sent a notice of removal from SAWC, effective no sooner than 30 days after the date of such notice, and permitting Participant to contest the decision in accordance with the dispute resolution process. Participant agrees to continue premium assessment and fee payments in accordance with this agreement. In lieu of removal from the program, OIC may negotiate with Participant for the imposition of alternative sanctions, including payment of a sum to be used for improvement of the state’s safety programs.

VOLUNTARY WITHDRAWAL FROM SAWC – Upon giving at least 30 days’ notice to OIC a discretionary participant may withdraw from continued participation in SAWC. Depending on the terms of the SAWC policy or of other agreements relative to such coverage and the operation of SAWC, Participant may be charged for premium assessments and other fees arising out of periods of coverage subsequent to the date of withdrawal. For purposes of re-admittance to SAWC, including any issues regarding amounts owed by or to Participant, a voluntary withdrawal shall be treated in the same manner as a removal from SAWC pursuant to the next two paragraphs.

REMOVAL FROM SAWC – Whenever the removal of a Participant from SAWC becomes final, OIC will calculate the amount Participant: (1) owes, in which case OIC will send a bill; or (2) is owed, in which case OIC will reimburse that amount.

RE-ADMITTANCE INTO SAWC – After removal from SAWC, Participant will be eligible for re-admittance on or after the date determined by the Commissioner in the order of removal. Re-admittance is subject to re-application and OIC’s determination that Participant does not owe any pending charges.



DISPUTE PROCESS – Any decision by OIC that affects Participant’s participation in, removal/withdrawal from, or (re-)admittance into SAWC may be disputed by filing a “notice of dispute” in the form and in the manner set forth on the OIC website, but Participant shall continue to pay all required insurance premiums and other fees and assessments during the dispute-resolution period. Upon receipt of a complete form, OIC will proceed in the manner set forth in OIC’s rules (W. Va. Code St. R. title 114, series 13); the filing of a notice of dispute does not, by itself, stay the effect of the disputed action. Upon issuance of a decision by the Insurance Commissioner, Participant may appeal to the Circuit Court of Kanawha County pursuant to WV Code §33-2-14.

NOTICES – Notices sent pursuant to this agreement shall be sent by **both** first-class mail and e-mail to the following; changes to Participant’s contact information must be communicated to OIC as soon as possible:

WV Offices of the Insurance Commissioner
c/o Rates & Forms Division/SAWC
1124 Smith St.
Charleston, WV 25301

E-MAIL: SAWC@wvinsurance.gov

If you have questions, please contact Thomas Judy at 304-558-6279 ext. 1127 or email at Thomas.Judy@wvinsurance.gov. There is additional information provided on the Office of the Insurance Commissioner’s website - <http://www.wvinsurance.gov/SAWC.aspx> .