

*Group Access  
Legal Service Plan*



*Certificate of  
Legal Services  
Coverage*

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## **Certificate of Legal Services Coverage**

This certificate is issued as evidence that the Covered Individual is entitled to receive benefits in accordance with and subject to all the terms and conditions of this Certificate and the National Legal Office Agreement. Coverage extends to Covered Individuals as defined in this Certificate.

### **National Legal Office Hours and Telephone Numbers**

The National Legal Office is Feldman, Kramer & Monaco, P.C., 330 Vanderbilt Motor Parkway, Hauppauge, NY 11788. The law office can be reached by telephone Monday through Friday from 9 a.m. to 5 p.m. (EST). The office is closed on Saturdays, Sundays and holidays. Telephone numbers for the National Legal Office are: 631-231-1450 (from area code 631), 800-832-5182 (toll-free within New York State) or 800-292-8063 (toll-free nationwide). The legal plan emergency hotline number is 800-292-8063.

### **Florida State Legal Office Hours and Telephone Numbers**

For Florida residents and individuals needing legal assistance for matters arising in the state of Florida, the Florida State Legal Office is Glantz & Glantz, P.A., Wellesley Corporate Plaza, Suite 200, 7951 Southwest Sixth Street, Plantation, FL 33324. The law office can be reached by telephone Monday through Friday from 9 a.m. to 5 p.m. (EST).

The office is closed on Saturdays, Sundays and holidays. Telephone numbers for the Florida State Legal Office are: 954-424-1200 (from area code 954) or 800-654-1945 (toll-free from all other areas). The legal plan emergency hotline number in Florida is 800-654-1945.

## **Outline of Plan Benefits**

The following is a brief outline of Plan benefits. Please consult the appropriate section of this Certificate for limitations and detailed explanation.

- Telephone advice and consultation with an attorney
- Legal letters written and telephone calls made on your behalf
- Guaranteed maximum fees for specific legal matters
- Discounts for uncontested Estates – Probate
- Nationwide Referral Attorney Network
- Last Will & Testament, Health Care Proxy, Living Will
- Power of Attorney
- Guarantee hourly rates
- Advice on identity theft prevention and for identity theft victims
- Assistance with debt consolidation
- Assistance with mortgage foreclosure
- Discounts for personal injury cases
- Document preparation at fixed rate
- Office consultation with an attorney
- Optional Elder Law Rider
- Optional Business Protection Rider

## **How to Use this Plan Most Effectively**

1. All requests for Group Access Legal Services in connection with each new legal matter must first be directed to the National Legal Office.
2. Call the National Legal Office before you sign any document or make any decision that may affect your conduct and have any legal consequences.
3. Always obtain a copy of anything you sign.
4. Always keep copies of contracts, bills, receipts, and other documents in a safe place so they are available if you need them.
5. If you receive legal papers in the mail, call the National Legal Office immediately for advice and an appointment.

6. If you have any doubts about the advice given to you by someone who sought to gain some benefit from you, call the National Legal Office first, before you enter into any commitment.

7. If you cannot keep your appointment with the Plan's attorney, please call the office to reschedule so others may see the attorney at that time.

8. Before you leave your house to keep an appointment with the attorney, check to see if you have all the documents the Plan attorney will need to help you. If you are unsure about which ones will be necessary, call and ask before you leave.

9. Have patience! The legal process sometimes moves slowly. Rest assured, although you may not receive results as quickly as you might desire, your attorney is doing all that is possible within the legal system and will keep you informed periodically of the status of the matter.

## **Confidentiality**

An attorney must follow certain rules, which are called the "Code of Professional Responsibility." These rules require total dedication to the interest of the client, with zeal in maintenance and defense of the client's rights. Thus you have the advantage of dedication, determination and the full defense of your rights while at the same time only the attorneys and staff of the law office will know anything about your legal situation.

No matter what type of case you may have, your lawyer cannot serve your interest without having all the facts. To permit your lawyer to advise or represent you adequately, you should completely inform the attorney of all aspects of your situation, unfavorable as well as favorable.

Your lawyer must see all the documents, papers, contracts, leases, or receipts and bills you have in your possession. These documents will be taken care of by your lawyer and will not be misplaced or destroyed.

## **An Attorney's Professional Responsibility**

The attorney's services shall be provided in accordance with the professional and ethical standards expected of attorneys. In providing such legal services, the attorneys shall adhere to the rules of the Plan as established herein, but shall receive no further instructions, direction or interference from any contributing employers or the trustees of the union or their officers or agents. Their obligations and relations as attorneys shall be exclusively with their clients. They shall maintain the confidentiality of the lawyer-client relationship in accordance with applicable canons of ethics.

They shall refuse to provide services in any matter that they believe to be clearly without merit, repetitious or frivolous, or in which representation would be unethical, improper or inadequate.

### **Definition of Terms**

**Administrator** – NYSUT Member Benefits Trust, 800 Troy-Schenectady Road, Latham, NY 12110-2455, 800-626-8101.

**Agreement** – The actual contract between the NYSUT Member Benefits Trust and the National Legal Office, including all endorsements, riders or amendments thereto, entitled National Legal Office Agreement.

**Contract Holder** – NYSUT Member Benefits Trust, 800 Troy-Schenectady Road, Latham, NY 12110-2455.

**Covered Dependent(s)** – The term “Covered Dependent” or “Dependent” means (a) a Participant's spouse who is living with the Participant or a Participant's domestic partner who is living with the Participant; (b) a Participant's unmarried children or the unmarried children of the Participant's domestic partner who are under the age of nineteen (19) and wholly dependent upon the Participant for support and maintenance, or

such unmarried children of the Participant or the Participant's domestic partner who are below the age of twenty-five (25), wholly dependent upon the Participant for support and maintenance, and enrolled as full-time students in an educational institution (including stepchildren and legally adopted children); (c) a Participant's parents, provided they are each wholly dependent upon the Participant for their support and maintenance and (d) for purposes of the Elder Law Rider option, the Participant's spouse, domestic partner, parents, grandparents, parents-in-law, and grandparents-in-law.

**Covered Individual** – The term “Covered Individual” means both Participants and Covered Dependents as defined herein.

**Power of Attorney** – A power of attorney enables a grantor to appoint an agent(s) to manage one's financial affairs. It is effective immediately after signing regardless of the health of the grantor. It can be revoked by the grantor at any time. This document gives the agent(s) full control over the grantor's assets and holdings. Possession of this document eliminates the need for a court-appointed guardian in the event of the subsequent incapacity of the grantor.

**Health Care Proxy** – This document enables an individual to appoint an agent to carry out his or her wishes regarding medical treatment options. Additionally, a health care proxy contains direction regarding organ donation. A health care proxy eliminates the need for a court-appointed guardian for health issues should one become incapacitated.

**Legal Terminology** – All legal terminology in this Certificate is utilized by New York State courts and statutes. Comparative terms will be applied and substituted as necessary in other states.

**Living Will** – This document enables an individual to express his or her wishes regarding end-of-life treatment options such as artificial hydration, tube feeding or other life-sustaining measures.

**Participant** – The term “Participant” is an individual who is provided a Group Access Legal Plan.

**Participating Referral Attorney(s)** – Independent lawyers or law firms, partnerships or corporations who have executed a Referral Legal Benefit Agreement with the National Legal Office to provide certain legal services to Covered Individuals at stipulated rates and/or specified maximum fees.

**Real Estate** – Includes attorney fees from contract through closing in connection with the purchase or sale of your one-family primary residence. Does not include other closing costs, such as the cost of title searches, title insurance, survey, filing fees, etc. One hour of post-closing service is also provided. All time beyond that is billable at the hourly rate. Any post-possession or prepossession agreements or other tangential agreement preparation may be billable at the plan rates. The plan maximum legal fee for real estate does not include any additional legal services specifically related to new construction problems.

**Reciprocal Documents** – Documents (e.g., Simple Will, Health Care Proxy) made by spouses or domestic partners in which they make identical provisions in favor of each other (i.e., husband to wife, wife to husband).

**Refinance of Mortgage** – Includes all legal services in connection with the refinance of your mortgage for your primary residence. However, there may be an additional charge if the lending institution is not represented by counsel. Any additional fees will be billed at the plan hourly rate.

**Simple Will** – Will providing for the assets of the estate to be distributed to specifically named beneficiary(ies) outright and not in trust, with an alternate disposition in the event that the primary beneficiary(ies) predeceases the Testator(trix).

**Staff Attorney** – An attorney who provides telephone advice, consultation and other legal services from the National or Florida State Legal Office.



**Uncontested Divorce/Separation** – A situation that requires neither the negotiation of terms nor adversarial representation. Uncontested divorce does not include preparation of separation agreement or divorce by publication or inquest.

## **Legal Benefits**

There are no legal benefits or services provided by this Plan that are not stated in this Certificate.

**1. Unlimited Telephone Advice and Consultation With a National Legal Office Attorney – Legal Letters Written\* and Telephone Calls Made on Behalf of a Covered Individual.** If, in the opinion of the National Legal Office (hereinafter includes Florida State Legal Office if Covered Individual is a resident of Florida), the subject of the legal matter is of such scope and sufficient simplicity to lend itself to a clear understanding between attorney and Covered Individual and, in the opinion of the National Legal Office, the best interest of the Covered Individual is served, the Staff Attorney in his or her sole discretion may dispense counsel and advise Covered Individual through telephone consultation and/or initiate telephonic or written communication to third parties. [***Please Note:** This benefit only applies to the National Legal Office. It does not apply to any Participating Referral Attorneys.*]

All contact between a Covered Individual and the National Legal Office must originate by way of a telephone call from the Covered Individual to the National Legal Office. The National Legal Office can be reached from any location within the continental United States by dialing the telephone numbers listed on the back of the Legal Service Plan Identification Card or on page 2 of this certificate.

**2. Personal Consultation.** Covered Individual is entitled to two (2), free, hour-long initial office consultations per Plan year with the National Legal Office or Participating Referral Attorney.

*\* Letters regarding Negligence Matters are excluded. Refer to Legal Benefits, Item #9.*

*[Please Note: The free, hour-long, consultation(s) cannot be used to reduce "Plan Maximum Fees," or for the preparation of a Will, Health Care Proxy, Living Will or Power of Attorney, or for estate planning. Nor can they be used for any services provided under the optional Elder Law and Business Protection Riders. Free consultations may not be combined for any one particular legal matter.]*

**3. Referral to Participating Attorneys – Guaranteed Hourly Legal Fees – Limited Document Review.**

If, in the opinion of the National Legal Office, the subject of the legal matter is unclear, complex or telephone consultation would not be in the best interest of the Covered Individual, the National Legal Office may

(a) refer the Covered Individual to a Participating Referral Attorney who will have agreed by contract with the National Legal Office to charge or bill the Covered Individual no more than:

- two hundred and sixty-five dollars (\$265) per hour

or a thirty percent (30%) reduction from the attorney's usual hourly rate, whichever is lower, for legal work related to covered matters, except for Probate matters and Personal Injury cases, which have fee schedules stated in this section under Items #8 and #9, respectively, and also except for all other contingent fee matters and all matters for which attorney fees are established by the court, and all other exclusions set forth herein, or

(b) act in the capacity of a Participating Referral Attorney, if the Covered Individual is in the general geographical area in which the National Legal Office is located, or

(c) in response to specific limited questions regarding simple documents, six (6) pages or less (e.g., purchase agreements, loan agreements, lease agreements, real estate documents and written warranties), direct the Covered Individual to forward a document to the National Legal Office for review.

**4. Legal Security Package (LSP).** The Legal Security Package contains forms required to prepare a Simple Will, Health Care Proxy, Living Will and Power of Attorney (POA); see POA charges in #5. All documents in the LSP must be prepared for the same Covered Individual. You can obtain your LSP by printing it from the Administrator's website at [memberbenefits.nysut.org](http://memberbenefits.nysut.org); click on "Legal & Financial" in the menu at the top of the page. If you prefer to mail the LSP, please call the Administrator at 800-626-8101.

If the Simple Wills, Health Care Proxies and Living Wills are reciprocal (each is naming the other), you are entitled to two (2), one for the Participant and one for his or her spouse or domestic partner. Should you wish to have non-identical documents done in the same year, the first will be free and the second will be charged at the maximum fees listed on page 11. However, if you have not done the documents in your first Plan year, you will be entitled to two (2) sets of documents in your second subsequent Plan year.

If your Group Plan provider has elected to enroll in the coverage with a two-year Participation Agreement commitment, both you and your spouse/domestic partner would each be entitled to a free Legal Security Package (including the POA) in your first year.

**5. Power of Attorney (POA).** The participant or his or her spouse/domestic partner is entitled to one (1) free POA per Plan year. Should you wish to have a second POA prepared within your first Plan year, an additional fee of \$75 would apply. However if you do not use the POA benefit in your first (or a prior) Plan year, you are entitled to two (2) in your second subsequent Plan year. If your Group Plan provider has elected to enroll in the coverage with a two-year Participation Agreement commitment, both you and your spouse/domestic partner would each be entitled to a free Legal Security Package (including the POA) in your first year.

**6. Plan Maximum Legal Fees.** The legal service performed by Referral Attorney(s) in connection with the legal matters listed below shall be subject to the hourly rates set forth in Legal Benefits Item #3 but shall not exceed the maximum fees indicated. Additional fees may be charged for court costs, trial, trial fees, process service, etc.

<b>Legal Matter</b>	<b>Maximum Fee</b>
Divorce (uncontested, without marital agreement)* .....	\$900
Divorce (uncontested, with marital agreement)* .....	\$1,700
Separation (uncontested)* .....	\$900
Real Estate (sale or purchase of primary residence only)	
Up to \$250,000.....	\$850
\$250,000 - \$500,000 .....	\$1,025
More than \$500,000 .....	\$1,325
Refinance of Mortgage (primary residence only) .....	\$425
Traffic Violation (first offense, 3 points or less – up to 2 court appearances) .....	\$700
Misdemeanor (first offense – up to 2 court appearances) .....	\$1,050
Personal Bankruptcy (Chapter 7).....	\$1,425
Name Change (uncontested) .....	\$550
Driving While Intoxicated (first offense – up to 2 court appearances ) .....	\$1,050
Commencement of Proceedings for Modification of Child Support (preparation of pleadings only)* .....	\$550
Office Consultation Re: Simple Will .....	\$110
Simple Promissory Note .....	\$40
Simple Trust.....	\$55
Simple Reciprocal Will with Simple Trust .....	\$110
Minor's Testamentary Trust .....	\$55
Power of Attorney (POA)** .....	\$75
Legal Security Package without POA.....	\$50
Legal Security Package with POA.....	\$100

*\*These benefits only cover representation of the Covered Participant. Covered Dependents are not covered under these benefits.*

*\*\*See page 10 regarding additional POAs.*

**7. Family and Marital Relations – Contested and Uncontested.** The Plan provides coverage only to the Participant at the discounted hourly rate in all stages of both contested and uncontested actions for divorce, separation and annulment. This benefit also includes negotiation and preparation of separation agreements and property settlements. Moreover, the Plan covers

actions and proceedings to enforce agreements and judgments that provide for alimony, child support, property rights, protective orders, custody, and visitation.

The Plan's attorneys will also represent you in connection with preparations of premarital contracts. In addition, the Plan covers representation of the Participant in support, family offense, custody, and paternity proceedings in Family Court.

These benefits only cover representation of the Participant. Covered Dependents are not covered under these benefits.

**8. Uncontested Estates – Probate.** In the event of the death of a Participant, Referral Attorney(s) shall extend a thirty percent (30%) reduction of fee to the estate of the Participant. The thirty percent (30%) reduction shall apply to the percentile contingencies (as applied to all assets that are included in the estate for estate tax purposes) set forth, for example, in the New York State Surrogates Court Procedure Act, Section 2307, for New York estates; or New Jersey Surrogates Act, Section 54:34-5C, for New Jersey estates; or the usual and customary fee of the Referral Attorney(s), whichever is less.

**9. Personal Injury Cases.** Contingency fee cases\* arising out of negligence, breach of warranty or products liability, and accepted on a contingent fee basis by a Participating Referral Attorney, shall not be subject to the fee limitations set forth in Legal Benefits Item #5 but instead, Participating Referral Attorney(s) agree to accept as their fee in those cases the following reductions from the standard contingency fees approved by the Court of the applicable state.

- Twenty percent (20%) reduction if case is settled prior to Examination Before Trial.
- Ten percent (10%) reduction if case is settled after Examination Before Trial or if tried to conclusion.

\* *Except professional malpractice.*

**10. Identity Theft.** The National Legal Office will provide advice to Covered Individuals on the Federal laws governing identity theft and will offer Covered Individuals comprehensive advice on how best to avoid having their identity stolen.

Covered Individuals who are victims of identity theft will be offered comprehensive advice and guidance on how best to proceed to reclaim their identity. This advice will include how to file a police report, what credit agencies to contact to place a fraud alert, and guidance on how to construct an appropriate dispute letter to any creditor or agency involved. This benefit shall be limited to advice only, and in appropriate limited circumstances may, in the professional discretion of the National Legal Office attorney, include the writing of up to three (3) letters per Plan year.

**11. Debt Consolidation.** Where appropriate, the National Legal Office will assist a Covered Individual with debtor/creditor issues. Attorneys will advise Covered Individuals regarding their rights under the Federal Fair Debt Collector Practices Act, which governs collector practices. Attorneys will advise Covered Individuals on issues related to Chapter 7 and Chapter 13 bankruptcy alternatives. Where appropriate, attorneys will review a Covered Individual's financial situation and relevant documents, and may contact the Covered Individual's creditor to discuss options available to suspend interest, work out a payment plan and avoid collection lawsuit.

The above services may only be rendered prior to commencement of lawsuit by lender/creditor and shall not include representation in any matter in which a suit has been commenced.

The aforementioned legal assistance may require the Covered Individual to first provide the lender/creditor with written authorization as required by that lender/creditor.

**12. Mortgage Foreclosure.** Where appropriate, the National Legal Office will assist a Covered Individual with mortgage foreclosure issues.

Attorneys will advise a Covered Individual regarding his or her rights under the Federal Fair Debt Collector Practices Act, which governs collector practices. Attorneys will advise a Covered Individual on alternatives to foreclosure, including negotiation of loan where available, short-sale possibilities and Chapter 13 bankruptcy options. Where appropriate and available, attorneys will assist a Covered Individual by reviewing relevant documentation and contacting his or her lender or creditor to discuss options available to avoid foreclosure or collection lawsuit.

The above services may only be rendered prior to commencement of lawsuit and will not include representation in any matter in which a suit has been commenced.

The aforementioned legal assistance may require the Covered Individual to first provide the lender/creditor with written authorization as required by that lender/creditor.

**13. 24-Hour Emergency Hotline.** If a Covered Individual is confronted with a situation that requires immediate legal advice, he or she may call the emergency hotline to talk with an attorney after regular business hours. This emergency service may only be used in situations that cannot wait until the next business day, such as arrest, accident or assault. The Legal Plan emergency hotline number is 800-292-8063.

**14. Small Claims Protection.** The National Legal Office will provide advice regarding procedure and evidence preparation for Small Claims Court matters.

**15. Regulatory Agency Referral.** In matters where a Staff Attorney deems it appropriate, referrals will be made to the appropriate Federal, State or Municipal Agencies.

### **National Legal Office Declination**

The National Legal Office may decline to accept any matter for a Covered Individual if the National Legal Office determines the matter:

1. is lacking sufficient merit to warrant pursuit.
2. has been previously handled by retained legal counsel or matters where the individual represented himself or herself, or has been referred to a Participating Referral Attorney.
3. has been raised to a Staff Attorney an inordinate or unreasonable number of times without substantial change of circumstances.
4. is in conflict with any third-party interest or other client interest.

### **Participating Referral Attorney Declination**

A Participating Referral Attorney may decline to accept any matter for a Covered Individual that such Participating Referral Attorney determines:

1. is out of the area of his or her usual and customary practice.
2. is in the Covered Individual's best interest to retain other legal counsel.
3. is in conflict with any third-party interest or other client interest.
4. is lacking sufficient merit to warrant pursuit.
5. has been raised to a Participating Referral Attorney an inordinate or unreasonable number of times without substantial change of circumstances.
6. is a pre-existing matter that has been handled by an attorney or where the individual has represented himself or herself.

### **Continuation of Coverage**

If your Group Access Legal Service Plan is cancelled, specific representation in progress on your behalf shall be continued by the National Legal Office for a period not to exceed ninety (90) days from the date of such termination; and by a Participating Referral Attorney to the conclusion of a specific matter already in progress, at the legal



fees stipulated in this Certificate for any case, item, matter, or service then being performed.

## **Terms and Conditions**

Benefits are provided under the following conditions:

1. All requests for legal services in connection with each new legal matter must first be directed to the National Legal Office.
2. All legal services must be for personal benefit as distinguished from business-oriented benefit of the Covered Individual. Business matters are all matters involving the pursuit of income. Business matters may be covered under the optional Business Protection Rider (refer to Business Protection Rider section on page 25 for further details).
3. The Contract Holder and National Legal Office shall have absolutely no responsibility, liability or obligation whatsoever in relation to the quality or quantity of legal work performed by a Participating Referral Attorney(s) nor in relation to any communication whatsoever between the Participating Referral Attorney and Covered Individual.
4. A Participating Referral Attorney's fees for legal services together with any costs, disbursements and expenses paid or advanced by the Participating Referral Attorney on behalf of a Covered Individual shall be paid in full by the Covered Individual directly to the Referral Attorney.
5. Hourly fees may be imposed for all time that an attorney incurs while representing Covered Individuals, including: court time, office time, telephone time, travel time, etc. Attorney(s) may require a retainer fee prior to delivering services.
6. Matters wherein a Participating Referral Attorney(s) may bill at their usual and customary rates subject to agreement with a Covered Individual(s):

- (a) Any appeal, class action, intervention, and amicus curiae filings, or where the fee is provided by statute from any fund subjudice, or where the Covered Individual's attorney's fees are paid or payable by a party other than the Covered Individual.
- (b) Except as otherwise set forth in the Legal Benefits Section of this Certificate, any legal matter which, in the opinion of the Participating Referral Attorney, is subject to such attorney's usual and customary client-attorney contingency fee arrangement.

## **Exclusions**

All Participants should know that if the Plan's attorneys have represented your spouse in any other matter during which any of the Plan's attorneys have received significant information about your spouse's financial interests, that may cause a conflict of interest to exist.

The following items are specifically excluded and shall not be interpreted as included benefits, and no Covered Individual shall be entitled to receive an excluded benefit or service.

1. Any legal matter arising outside the continental United States.
2. Exclusions applicable to the National Legal Office – Any case, item, matter, or service that, in the opinion of the National Legal Office and Staff Attorney, cannot be adequately or properly handled by such Staff Attorney exclusively by use of the telephone or United States mail.
3. Exclusions applicable to both the National Legal Office and Participating Referral Attorneys –
  - (a) Any case, item, matter, or service involving an adversary relationship between parties or implied parties to the Group Access Legal Service Plan, including, but not limited to: Covered Individual, Contract Holder, any organization affiliated with the Contract Holder or any

organization with which the Contract Holder is affiliated, Staff Attorney, National Legal Office, Participating Referral Attorney(s), Administrator, Trustees of the Plan, Covered Individual's collective bargaining representative, or Covered Individual's employer, and any case, item, matter, or service arising out of an employer-employee relationship (except as specifically set forth herein).

- (b) Any matters relating to proprietorship, partnership, corporations, or any business venture (refer to Business Protection Rider section on page 25 for covered business matters).
- (c) Matters relating to Federal Court, patent, copyright, trademark, Securities Exchange Commission tax matters, immigration or naturalization, admiralty, pensions, foreign laws, or other specialized areas of law.
- (d) Fines, court costs, penalties, expert witness fees, telephone, postage, photocopy costs, disbursements, and other related expenses are not covered by the Plan and shall be paid by the Covered Individual.

### **Miscellaneous Provisions**

1. The services provided for herein are for the sole benefit of Covered Individuals. Such services shall not inure to the benefit of, nor vest in, any other person or entity, public or private, such as a trustee in bankruptcy under the National Bankruptcy Act or to any assignee for the benefit of creditors or otherwise. Services provided under the Plan cannot be assigned and cannot be accumulated from year to year.
2. The Plan shall be subrogated to all rights of a Covered Individual to recover attorney fees and costs against any person or entity. Covered Individuals shall execute and deliver to the Plan any instruments or papers and do whatever else is necessary to secure such rights for the Plan; and they shall do nothing to prejudice such rights.

3. No Covered Individual is required or obligated to consult with or be represented by any attorney employed or retained by the Plan as a condition of union membership or otherwise, and such Covered Individual shall remain free to consult with or be represented by any other attorney concerning any matter at his or her own expense. Benefit allowances only apply to Plan attorneys.

4. Certain statistical and other information concerning cases will be provided every six (6) months to the Plan Purchaser. Release and disclosure of such information are expressly agreed and consented to by the use of Plan benefits.

### **Optional Elder Law Rider**

Your Group Access Legal Service Plan may already include the optional Elder Law Rider. If not, you may choose to purchase this rider for fifty-five dollars (\$55) per Plan year by contacting the Administrator at 800-626-8101. The Elder Law Rider may be added at any time by the Participant. However, there shall be no proration of the additional fee where the Elder Law Rider is purchased after your Group Access Legal Service Plan year has started.

***Please Note:** The definition of Covered Dependents is expanded, only within the parameters of the Elder Law Rider, to include the Participant's parents, parents-in-law, grandparents, and grandparents-in-law.*

### **Introduction to Elder Law**

The Elder Law Rider provides access to legal services in the specialized field of Elder Law. Elder Law Panel attorneys will assist with health and estate planning issues. Elder Law lawyers can advise on State law and assist in putting a health and estate plan in effect, which can maximize eligibility for coverage of nursing home and home care costs while preserving one's estate and assets.

Elder Law lawyers could also be of assistance if net worth exceeds \$1 million and you reside in New York State (check your state's estate tax exemption or call the National Legal Office for more details) or

asset structure is unusually complex. The National Legal Office has contracted with this sector of the bar in anticipation of specific needs in this area of law.

The attorneys who will provide the listed services specialize in the subject of Elder Law and health law, estate planning, wills, trusts, pre-nursing home planning, probate, and conservatorship issues. They have distinguished themselves in the eyes of other attorneys and are known experts in the field of Elder Law.

Many states do not permit attorneys to say they are specialists in a particular legal subject because, in most states, there are not specific certification procedures. Contrary to the custom of the medical profession, attorneys usually are not designated as “Board Certified Specialists” by the State. In many states, it is therefore improper to advertise that one has a “specialty;” however, a national panel of highly respected attorneys who substantially limit their practice to Elder Law issues is available with this rider.

The Elder Law fee schedule is commensurate with the high level of experience that these attorneys have. The National Legal Office attorneys will be pleased to discuss all issues concerning estate planning in an effort to determine if the services of one of the specialized firms are advisable for a particular case. In many cases, the involvement of a specialist may be unnecessary; however, the attorney from the National Legal Office will recommend the services of an Elder Law attorney when he or she believes it is advisable. Alternatively, one is free to ask for a referral.

### **Elder Law Attorney Fees**

Through the Elder Law Rider, Elder Law attorneys’ usual fees are reduced by twenty percent (20%) by virtue of their contract with the National Legal Office. The fees set forth herein are general guidelines only. When you are referred to a specific firm, the National Legal Office will advise you regarding that firm’s discounted billing rate.

*[Please Note: The guaranteed hourly legal fees and free office consultation described in the Legal Benefits section of this Certificate do not apply to this rider.]*

## **Elder Law Rider Benefits**

### **1. Free Legal Security Package**

**One (1) package within a Plan year.**

As an added benefit for those purchasing the optional Elder Law Rider, a Covered Individual is entitled to one, free, “limited” Legal Security Package per Plan year. The free documents within the Legal Security Package consist of a Simple Will, Health Care Proxy and Living Will. If you would like to include a Power of Attorney to complete your Legal Security Package, there will be an additional charge of \$75.

To obtain the Legal Security Package, print it from the Administrator’s website at ***memberbenefits.nysut.org***; click on “Legal & Financial” in the menu at the top of the page. If you do not have Internet access, contact the Administrator at 800-626-8101 and a Legal Security Package will be sent to you.

All documents included in the Legal Security Package must be prepared for the same Covered Individual. A Participant who has the Elder Law Rider may purchase additional Legal Security Packages for Covered Dependents directly from the National Legal Office (please see Maximum Fees on page 11). *(Please Note: There will be an additional charge for the Power of Attorney, see above).*

### **2. Elder Law Consultation**

**Average Fee with Discount..... \$400**

An Elder Law consultation is the heart of the relationship with the client and the source of legal strategies. It can be used:

- (a) to ensure the client’s health care and financial wishes are carried out;

- (b) to provide the best health care available, including, where appropriate, utilization of available government programs and resources (such as Medicare and Medicaid);
- (c) to assist in the coordination of other community-based resources, such as private geriatric care managers and nonprofit agencies that service the needs of senior citizens; and
- (d) to plan a strategy regarding estate and tax planning matters.

An Elder Law consultation generally includes the following:

- (a) Financial review and analysis, including review of all assets, real and personal; how the assets are held; examination of all sources of income in addition to income produced by assets, including pension benefits, Social Security benefits, payments from annuities, and other instruments such as trusts, contracts of sale, mortgage notes, and other secured or non-secured obligations; and review of all life insurance held, including the face value and cash surrender values thereof.
- (b) Health Care insurance review, including an analysis of existing Medicare and Medicare Supplement benefits as well as long-term care insurance benefits.
- (c) Health Care analysis, including review of existing conditions, inquiry into competency, review of discharge planning, and available options, where appropriate.
- (d) Review of current documentation, including existing wills, trusts, powers of attorney, health care proxies, and health care declarations.
- (e) Summary of consultation and recommendations in letter format to client.

**3. Complex Last Will and Testament/Testamentary Trusts**  
**Average Fee with Discount..... \$1,750 to \$2,750**

Complex Wills containing the following provisions commonly utilized in the Elder Law context are available as necessary:

- (a) **Federal Credit Shelter Trust:** To preserve the unified credit of each spouse while providing for the financial care of the surviving spouse.
- (b) **Special/Supplemental Needs Trust:** To provide for the supplemental care of the surviving spouse or children. This is offered to take advantage of the Federal provisions under the Omnibus Budget Reconciliation Act (OBRA), which permits discretion in testamentary trusts (something that is clearly not available in lifetime trusts). This form of trust permits the trustees to utilize the trust funds in a manner that supplements the care provided by existing governmental programs rather than substituting for such care.

**4. Living Trusts**

These lifetime trusts can be utilized for ordinary estate planning reasons (such as avoiding probate) to more complex trusts for health care planning.

- (a) **Revocable Living Trust or QTIP Trust**  
**Average Fee with Discount ..... \$2,500 to \$3,500**

Revocable Living Trusts are utilized for ordinary estate planning purposes.

- (b) **Irrevocable Living Trusts**  
**Average Fee with Discount ..... \$3,500**

Utilized in health care planning, Irrevocable Living Trusts usually involve a stream of income to the Settlor of the trust or the Settlor's spouse with remainder to the children, or possibly to the trustees of a trust created under the Last Will & Testament of the Settlor.



**5. Fair Hearing**  
**Average Fee with Discount.....\$3,500**

In the event that a Medicaid application is rejected, one is entitled to a “Fair Hearing.” This representation includes appearances at hearings as required; preparation of memorandum of law and/or brief, if necessary; affidavits; and meetings and correspondence.

**6. Preparation of Application for Medical Assistance – Average Fee with Discount – \$4,500 to \$6,000**

Preparation, review or clarification of applications for Medical Assistance, and assistance with the filing of the application.

**7. Deeds**  
**Average Fee**  
**with Discount.....\$535 + recording fees**

For estate planning purposes, it may be advisable for an Elder Law attorney to prepare a deed that retains a life estate and/or special Power of Appointment. These features are incorporated to avoid or reduce gift tax and capital gains tax as well as to protect assets from Medicaid.

**8. Probate or Administration of Estate**

When a Covered Individual is deceased, a probate or administration proceeding may be necessary. The fees charged vary a great deal from state to state; therefore, a twenty percent (20%) discount from the attorney’s standard billing amount has been established.

**9. Family Court Representation**  
**Average Fee with Discount ..... \$3,500**

To recover spousal income or defend suit against Department of Social Services that may result from a Medicaid Lien.

**10. Medicaid Appeal for Nursing Homes and Hospitals – Average Fee with Discount – 25% of amount recovered**

**11. Hourly Rate for All Other Matters**  
**Range of Fees: .....\$325 to \$400**

**Please Note:** All additional correspondence, telephone communications, negotiations, and coordination with geriatric care managers or social workers are billed at hourly rates, appropriately discounted. In addition, disbursements made on behalf of the client, such as long distance telephone charges, facsimiles, photocopies, overweight postage, etc., are billed to the client at cost. All exclusions and qualifications of the basic Legal Plan apply to this Elder Law Rider as well.

## **Optional Business Protection Rider**

You may choose to purchase the optional Business Protection Rider for sixty dollars (\$60) per Plan year by contacting the Administrator at 800-626-8101. The optional Business Protection Rider may be added at any time by the Participant. **However**, there shall be no proration of the additional fee where the Business Protection Rider is purchased after your Group Access Legal Service Plan year has started. Covered Individuals are entitled to the following benefits in relation to business or professional matters.

Free document review (up to 6 pages), legal letters (limit of 10), and telephone consultations are included as described in the Legal Benefits section of this Certificate. *(Please Note: Free office consultations do not apply to this Rider.)*

**1. Collection Matters** – An attorney’s services in relation to business collection matters shall be provided on a reduced sliding scale, applicable to debts evidenced by proper written documentation.

- (a) 25% of first \$300 recovered  
(\$25 minimum)
- (b) 23% of the next \$1,700 recovered
- (c) 18% of balance recovered

**2. Attorney Services** – Attorney services for most business matters are covered and shall be provided at the reduced rate as previously set forth in this Certificate of Coverage – see Legal Benefits, Item #3.

**3. Maximum Fees** – The following are subject not only to reduced hourly rates, but also to maximum fees for services rendered, regardless of time spent on the matter. All of the following rates exclude court costs and trial fees.

- (a) Incorporation – Preparation and filing of Certificate of Incorporation and preparation of initial corporate minutes  
Maximum fee ..... **\$385**
  
- (b) Preparation of Contract and Closing of Title regarding purchase or sale of business, excluding realty  
Maximum fee:  
Sale price up to \$60,000 ..... **\$660**  
Sale price above \$60,000..... **1% of sale price**
  
- (c) Preparation of Shareholders Agreement (3 Shareholders or less, excludes negotiation)  
Maximum fee ..... **\$745**
  
- (d) Preparation of Partnership Agreement (3 Partners or less, excludes negotiation)  
Maximum fee ..... **\$745**
  
- (e) Review and legal analysis of Covered Business employment contract with employees (excludes collective bargaining agreements)  
Maximum fee ..... **\$165**
  
- (f) Per diem trial – The reduced hourly rate as previously set forth in this Certificate of Coverage – see Legal Benefits, Item #3.

applies to an attorney’s services in relation to court proceedings pertaining to business and/or professional matters.

**4. Bankruptcy and Chapter 11 Matters** – Attorneys will provide analysis and advice on the topic of Bankruptcy and Chapter 11 or other alternatives at the reduced hourly rate as previously set forth in this Certificate of Coverage – see Legal Benefits, Item #3.

**5. Business Protection Rider Exclusions** – The following types of matters are specifically excluded and no Covered Individual shall be entitled to receive any Plan benefits with regard thereto:

- (a) Fines, court costs, penalties, Expert Witness fees, disbursements, telephone, postage, photocopying, and other related expenses.
- (b) Any matter not governed by the law of the United States, the Domiciliary State of Covered Individual or a subdivision of said State.
- (c) Any legal service where the attorney is to be paid by contingent fee (except collection matters, which are specifically covered) or where the fee is provided by statute from any fund or where the Covered Individual's legal fees are paid or payable by a party other than the Covered Individual.
- (d) Any matter where the covered business has a right to defense or other legal representation through any policy of insurance or any other arrangement providing legal services to the Covered Individual.
- (e) Preparation, filing and advice in connection with tax returns and tax matters.
- (f) Any matter related to federal, state, county, or municipal filings, mergers, acquisitions, consolidations, reorganizations, mining, water, purchase or sale of real property, tax matters, immigration, patent, trademark, copyright, Admiralty Law, Federal Employees' Liability Act, problems relating to the laws of international trade or of a foreign government, and corporate securities work subject to S.E.C. and certain state rules and regulations, pension and profit sharing.

## **Grievance and Arbitration**

In the event that any controversy or complaint arises in connection with the terms and procedures contained in this Certificate involving the National Legal Office, Florida State Legal Office, Administrator, Contract Holder, Participating

Referral Attorney, Covered Individual, or any combination thereof, the following procedure should be followed.

**FIRST:** Fully exhaust all possibilities of resolving the dispute with the other party or parties involved. When all such possibilities have been exhausted, the Covered Individual may then;

**SECOND:** Notify the Grievance Department of the National Legal Office, c/o Feldman, Kramer & Monaco, P.C., 330 Vanderbilt Motor Parkway, Hauppauge, NY 11788, in writing, as to the nature of the dispute and all of the relevant particulars. In the event that the Grievance Department of the National Legal Office is unable to effectuate a satisfactory resolution, the Covered Individual may then;

**THIRD:** Appeal to the office of the Administrator for its help toward resolving the complaint or controversy by writing to the NYSUT Member Benefits Trust, 800 Troy-Schenectady Road, Latham, NY 12110-2455. In the event that the Administrator is unable to effectuate a satisfactory resolution, the Covered Individual may then;

**FOURTH:** Initiate the submission of the complaint or controversy to binding arbitration in accordance with the then current commercial arbitration rules of the American Arbitration Association. The arbitrator or arbitrators shall have the power to decide any dispute among the parties and individuals involved concerning the application or interpretation of the terms of this Certificate and the performance thereunder.

Said decisions shall be final and binding upon all parties, but said arbitrator or arbitrators shall have no power to change or add to the provisions of this Certificate. Each disputing party shall pay an equally proportionate share of the cost of arbitration, including the fees of the arbitrator (except attorney's fees and costs).

In the event that the National Legal Office shall be a party included in any such arbitration, the venue for such arbitration shall be the office of the American Arbitration Association that is nearest to the National Legal Office. In addition to the above mentioned grievance procedure, a Covered Individual has the option of presenting a dispute to a Bar Association or other lawyer disciplinary forum.

### **Additional Information**

The name, business address and telephone number of the Plan Administrator:

NYSUT Member Benefits Trust  
800 Troy-Schenectady Road  
Latham, NY 12110-2455  
800-626-8101

### **Statement of ERISA Rights**

The Statement of ERISA Rights as set forth in Section 30.01 of Article 30 of the Summary Plan Description for the NYSUT Member Benefits Trust is hereby incorporated by reference.

### **Note**

All the information and comments printed in this Certificate are for your information and guidance only. The Group Access Legal Service Plan's benefits may be changed, amended or modified from time to time at the discretion of the trustees. Nothing contained in this Certificate may be used as a basis for any claim whatsoever against the Trustees of the NYSUT Member Benefits Trust.

The Group Access Legal Service Plan provided through Feldman, Kramer & Monaco, P.C. is a NYSUT Member Benefits Trust (Member Benefits)-endorsed program. Member Benefits has an endorsement arrangement of 15% of annual participation fees received for this program. All such payments to Member Benefits are used solely to defray the costs of administering its various programs and, where appropriate, to enhance them. Member Benefits acts as your advocate; please contact Member Benefits at 800-626-8101 if you experience a problem with any endorsed program.



