

**MARYLAND RESTAURANT AND HOSPITALITY
SELF INSURANCE FUND, INC.**

TRUST AND INDEMNITY AGREEMENT

Amended and Adopted as of
August 30, 2005

**MARYLAND RESTAURANT AND HOSPITALITY
SELF INSURANCE FUND, INC.**

TRUST AND INDEMNITY AGREEMENT

Table of Contents

| <u>Section</u> | <u>Page</u> |
|--|--------------------|
| Parties | 1 |
| Preamble | 1-2 |
| ARTICLE I DEFINITIONS | |
| 1.01 Definitions..... | 2-7 |
| 1.02 Interpretation..... | 7 |
| ARTICLE II DIRECTORS | |
| 2.01 Composition of Board of Directors..... | 7 |
| 2.02 Powers of Directors..... | 7 |
| 2.03 Delegation to Program Manager, Program Sponsor, and Service Company.. | 8 |
| ARTICLE III MEMBERSHIP | |
| 3.01 Eligibility Requirements | 8 |
| 3.02 Approval of Membership | 9 |
| 3.03 Cancellation and Termination of Membership | 9- 10 |
| 3.04 Premiums | 10 |
| 3.05 Obligations, Duties and Liabilities of Members..... | 10-11 |

Section

Page

ARTICLE IV

ACCEPTANCE OF TRUST

| | | |
|------|---|-------|
| 4.01 | Acceptance..... | 11-12 |
| 4.02 | Future Members..... | 12 |
| 4.03 | Members' Duties and Obligations | 12-14 |
| 4.04 | Liability of Representatives and Directors..... | 14-15 |

ARTICLE V

OPERATION OF FUNDS; REVENUES

| | | |
|------|---|----|
| 5.01 | Collection of Contributions | 15 |
| 5.02 | Establishment of Separate Funds by Directors..... | 15 |
| 5.03 | Establishment of Revolving Fund | 15 |
| 5.04 | Surplus Fund | 16 |
| 5.05 | Assessments..... | 16 |
| 5.06 | Excess Insurance..... | 16 |
| 5.07 | Investment of Moneys..... | 16 |

ARTICLE VI

OPERATION OF THE CORPORATION

| | | |
|------|---------------------------|-------|
| 6.01 | Office..... | 17 |
| 6.02 | Meetings..... | 17 |
| 6.03 | Extraordinary Votes | 17 |
| 6.04 | Indemnification | 17-19 |

ARTICLE VII

PURPOSE OF THE CORPORATION; POWERS OF THE DIRECTORS

| | | |
|------|-----------------------------|-------|
| 7.01 | Purpose of Corporation..... | 19 |
| 7.02 | Powers of Directors..... | 19-22 |

| <u>Section</u> | <u>Page</u> |
|--|-------------|
| ARTICLE VIII | |
| AMENDMENTS | |
| 8.01 Method of Amendment | 22 |
| 8.02 Limitation on Amendments | 22 |
| ARTICLE IX | |
| DISSOLUTION OF CORPORATION | |
| 9.01 Term of Corporation..... | 22 |
| 9.02 Dissolution | 22 |
| ARTICLE X | |
| MISCELLANEOUS | |
| 10.01 Title to the Trust Fund..... | 23 |
| 10.02 Execution of Documents | 23 |
| 10.03 Notice | 23 |
| 10.04 Choice of Law..... | 23 |
| 10.05 Counterparts | 23 |
| 10.06 Program Manager as Attorney-in-Fact..... | 23 |
| 10.07 Defense by Corporation..... | 24 |
| 10.08 Limitation of Liability..... | 22-23 |
| 10.09 Severability of Invalid Provisions | 23-24 |
| 10.10 Service of Process | 24 |
| 10.11 Cooperation by Members..... | 24 |

**MARYLAND RESTAURANT AND HOSPITALITY
SELF INSURANCE FUND, INC.**

TRUST AND INDEMNITY AGREEMENT

This Trust and Indemnity Agreement (this "Agreement" or "Trust Agreement"), dated as of December 7, 2004, is hereby made and entered into by certain members of the Restaurant Association of Maryland ("RAM"), which are now, or who may become hereafter, signatories to this Agreement (the "Members"), and the Restaurant Association of Maryland Self-Insurance Trust, Inc., a group self-insurance Corporation organized as a non-stock Member corporation in accordance with the Annotated Code of Maryland.

WITNESSETH:

WHEREAS, the Annotated Code of Maryland authorizes an employer to satisfy the requirements of the Workers' Compensation Law (as hereinafter defined) by participation in a self-insurance group; and

WHEREAS, certain members of RAM, under the auspices of RAM, desire to form the Maryland Restaurant and Hospitality Self-Insurance Trust, Inc. ("the Corporation"), to minimize the cost of Workers' Compensation and Employers' Liability Insurance (as hereinafter defined), and related claims and administration, to the Members, while providing the requisite statutory coverage; and

WHEREAS, the Members desire the Corporation to provide such Workers' Compensation and Employers' Liability coverage for their employees beginning when the Corporation obtains a certificate of authority to operate as a self-insurance group; and

WHEREAS, funds will from time to time be paid by the Members to the Corporation, which funds will constitute a Trust Fund (as hereinafter defined) to be held for the exclusive benefit of the Members and the Members' employees; and

WHEREAS, the Members desire the Corporation's Directors to hold, invest, reinvest and otherwise to administer the Trust Fund and to administer the Corporation, and the Directors have indicated their willingness to do so, all pursuant to the terms of the Agreement; and

WHEREAS, the Members and the Corporation desire to establish the terms and conditions under which the Corporation will be operated;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and for other good and valuable consideration, the receipt of which is hereby acknowledged by each party, one to the other, the Members do hereby give and assign in trust certain sums as identified in related documents, and all income and profits therefrom, and such other sums, income and profits as hereinbefore or hereinafter have been or are made part of the Trust Fund, to the Corporation, and the Corporation hereby accepts the trusts herein contained and declares that it will administer, manage, collect, receive, dispose of and distribute such trust property for the benefit of the Members as hereinafter provided, all parties agree to abide by the terms and covenants contained in this Agreement, as follows:

ARTICLE I

DEFINITIONS

1.01 Definitions. The terms defined in this Section 1.01 and in the preamble hereto (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Agreement and of any amendment or supplement hereto shall have the respective meanings specified in this Section 1.01 and said preamble.

(a) "Act" means the Labor & Employment Article of the Annotated Code of Maryland, including any successor statute and any regulations promulgated pursuant thereto.

(b) "Administrator" means an officer of RAM who is designated as the program sponsor's coordinator with the Corporation. The administrator's compensation and duties shall be as agreed by the Board of Directors.

(c) "Agreement" or "Trust Agreement" means the Restaurant Association of Maryland Self-Insurance Trust, Inc. Trust and Indemnity Agreement, as set forth herein, and as amended from time to time.

(d) "Annual Meeting" means that meeting held by the Board of Directors each Fiscal year.

(e) "Applicant" means an entity who applies for membership in the Corporation in a form approved by the Directors.

(f) "Board" or "Board of Directors" or "the Directors" means the Board of Directors established pursuant to Article II hereof.

(g) "By-Laws" means the by-laws adopted from time to time by the Members to implement this Agreement.

(h) "Cancellation" or "Cancelled" means the expulsion of a Member from the Corporation by action of the Directors as provided in Section 3.03(a) hereof.

(i) "Commissioner" means the Insurance Commissioner of the State of Maryland.

(j) "Contribution" or "Premium" means that sum of money determined by the Directors pursuant to Section 3.04 hereof and assessed annually to each Member.

(k) "Corporation" or "the Corporation" means the Restaurant Association of Maryland Self-Insurance Trust, Inc., a group self-insurance corporation organized as a non-stock member corporation in accordance with the Annotated Code of Maryland.

(l) "Delinquent Premium" means a Premium which has not been paid by the due date as provided in the By-Laws.

(m) "Dividend" means a return of Surplus Money to a Member at a time and in an amount to be determined in the discretion of the Directors in accordance with the provisions for rebate in the Regulations.

(n) "Employers' Liability Insurance" means indemnity of Members' liability for any Loss. Loss in this context includes:

1. The amount paid on behalf of the Member in settlement of claims for legal damages;
2. The amount paid on behalf of the Member in satisfaction of awards or judgments for damages;
3. Court costs, interest upon awards and judgments and allocated investigation, adjustment and legal expenses pertaining to Members' employers' liability claims. This does not include salaries paid to the Member's employees.

Employers' Liability Insurance applies to Losses paid on behalf of the Members as a qualified group self-insurer of employers' liability for bodily injury by accident or by disease, including death, which arises in the course of the injured employee's employment by the Member.

Damages in this context include:

1. Damages for which the Member is liable to a third party by reason of a claim, suit or proceeding against the Member to recover damages obtained by an injured employee of the Member from the third party;
2. Damages for care and loss of services of an injured employee of the Member.
3. Damages for consequential bodily injury to a spouse, child, parent, brother or sister of the injured employee of the Member;
4. Provided such damages in 1 or 2 above are the direct consequence of bodily injury that arises out of and in the course of the injured employee's employment; and
5. Damages because of bodily injury to an employee arising out of and in the course of employment claimed against the Member in a capacity other than as an employer of such injured employee.

The following exclusions apply to the Employers' Liability Insurance hereunder:

This insurance does not cover:

1. Liability assumed by the Member under a contract. This exclusion does not apply to a warranty that the Member's work will be done in a workmanlike manner;
2. Punitive or exemplary damages because of bodily injury to an employee employed in violation of law;
3. Bodily injury to an employee while employed in violation of law with the Member's actual knowledge or the actual knowledge of any of its executive officers;
4. Any obligation imposed by a workers' compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law;
5. Bodily injury intentionally caused or aggravated by the Member;
6. Bodily injury occurring outside the United States of America, its territories or possessions, and Canada. This exclusion does not

apply to bodily injury to a citizen or resident of the United States of America or Canada who is temporarily outside these countries;

7. Damages arising out of coercion, criticism, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination against or termination of any employee, or any personnel practices, policies, act or omissions;
8. Bodily injury to any person in work subject to the Longshore and Harbor Workers' Compensation Act (33 USC Sections 901-950), the Nonappropriated Fund Instrumentalities Act (5 USC Sections 8171-8173), the Outer Continental Shelf Lands Act (43 USC Sections 1331-1356), the Defense Base Act (42 USC Sections 1651-1654), the Federal Coal Mine Health and Safety Act of 1969 (30 USC Sections 901-942), any other federal workers' or workmen's compensation law or other federal occupational disease law, or any amendments to such these laws;
9. Bodily injury to any person in work subject to the Federal Employers' Liability Act (45 USC Sections 51-60), any other federal laws obligating an employer to pay damages to an employee due to bodily injury arising out of or in the course of employment, or any amendments to those laws;
10. Bodily injury to a master or member of the crew of any vessel;
11. Fines or penalties imposed for violation of federal or state law; and
12. Damages payable under the Migrant and Seasonal Agricultural Worker Protection Act (29 USC Sections 1801-1872) and under any other federal law awarding damages for violation of those laws or regulations issued thereunder, and any amendments to those laws.

(o) "Escrow Account" means any interest or non-interest bearing checking account established pursuant to Section 5.03 of this Agreement

(p) "Fiscal Agent" means a financial institution designated by the Directors to hold the Trust Fund to invest and reinvest all or part of the principal and interest of the various funds and accounts of the Trust Fund.

(q) "Fiscal Year" means the fiscal year of the Corporation, beginning on July 1 of each calendar year the Corporation is in operation and ending on June 30 of the following calendar year.

(r) "Loss" means the amount actually paid by the Member for damages imposed upon the Member by law.

(s) "Member" means any Member which is a party to this Agreement or which becomes a Member pursuant to Article III of this Agreement and the membership of which has not terminated pursuant to this Agreement.

(t) "NCCI" means the National Council on Compensation Insurance.

(u) "Premium" or "Contribution" means that sum of money determined by the Trustees pursuant to Section 3.04 hereof and assessed annually to each Member.

(v) "Program Manager" means that person or entity engaged by the Directors to carry out the policies established by the Corporation, to be responsible for overseeing underwriting and fiscal matters, and to provide overall management and administration of the Corporation; and such other duties as may be specified in an applicable contract.

(w) "Program Sponsor" means that person or entity engaged by the Directors to sponsor the Corporation and its programs, and perform such other duties as may be specified in an applicable agreement.

(x) "RAM" means the Restaurant Association of Maryland, a not-for-profit trade association representing certain service providers, and entities providing similar services, in Maryland.

(y) "Regulations" means regulations promulgated by the Commissioner at Md. Reg. Code Title 09, Subtitle 30, Chapter 73, and any successor provisions.

(z) "Representative" means an individual identified by a Member to act on the Member's behalf, including the casting of any votes.

(aa) "Safety Coordinator" means any agent engaged by the Directors who is given responsibilities by the Corporation for loss prevention and loss control services, and such other duties as may be specified in an applicable Contract.

(bb) "Service Company" means an agent, engaged by the Directors, to be responsible for claims adjustment, administration of the Claims Fund and such other duties as may be specified in an applicable contract.

(cc) "State" means the State of Maryland.

(dd) "Surplus Fund" means a fund established by the Directors under Section 5.04 hereof to hold Surplus Moneys. Any Dividends to the Members shall be made from the Surplus Fund.

(ee) "Surplus Moneys" means moneys in any Policy year in excess of the amount necessary to fund all obligations of the Corporation for that Policy year, including necessary and appropriate reserves.

(ff) "Termination" or "Terminated" means the voluntary withdrawal of a Member from the Corporation in accordance with Section 3.03(b) hereof.

(gg) "Trust Fund" means the assets held hereunder by the Corporation from time to time, including but not limited to Premium payments, assessments and any other contributions made by Members pursuant to this Agreement, all property and property rights of any kind whatsoever acquired in connection with the investment thereof and any and all income therefrom and increments and/or other assets as from time to time are received by the Corporation hereunder, all of the foregoing constituting a trust corpus.

(hh) "Workers' Compensation Law" means Title 9, Section 9-101 et seq. of the Labor and Employment Article, Annotated Code of Maryland (1991 Replacement Volume and 1992 Cumulative Supplement) and any successor statute thereto and any regulations promulgated pursuant thereto.

1.02 Interpretation. The words "hereof", "herein", "hereunder," and other words of similar import refer to this Agreement as a whole. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural number and vice versa unless the context shall otherwise indicate. Headings or titles to Articles, Sections, and other subdivisions of this Agreement are for convenience only and shall be given no effect, meaning or construction whatsoever and shall not define or limit any provision of this Agreement.

ARTICLE II

DIRECTORS

2.01 Composition of Board of Directors. The Corporation shall be administered by a Board of Directors which shall consist of persons duly elected in accordance with the By-laws.

2.02 Powers of Directors. The Directors shall exercise all powers and duties of the Corporation, except for those expressly reserved by the Members.

2.03 Delegation to Program Manager, Program Sponsor, and Service Company. The Directors may delegate to the Program Manager, Program Sponsor, Service Company, or other agent, the authority to act on claims or other matters between meetings of the Directors.

ARTICLE III

MEMBERSHIP

3.01 Eligibility Requirements.

(a) In order to participate as a Member of the Corporation, each applicant shall:

(i) be a RAM member in good standing;

(ii) satisfy any requirements of the Commissioner; and

(iii) submit evidence satisfactory to the Directors that the Member is authorized to participate in the Corporation.

(b) The Directors may establish other criteria for membership in the Corporation.

(c) The Directors may not exclude an Applicant from the Corporation:

(i) for any reason based in whole or in part upon the race, color, creed, sex, or disability of the Applicant's employees, or for any arbitrary, capricious, or unfairly discriminatory reason;

(ii) by the application of standards which are not reasonably related to the Corporation's economic and business purposes; or

(iii) by requiring the existence of special conditions, facts, or situations as a condition to acceptance or continuance in the Corporation of the Applicant in an arbitrary, capricious or unfairly discriminatory manner based in whole or in part upon race, creed, color, sex, religion, national origin, place of residency, sexual orientation, or disability of the Applicant's employees.

3.02 Approval of Membership.

(a) An Applicant who applies for membership in the Corporation shall submit an Application to the Directors in a form established by the Directors, along with such documentation as the Directors may require.

(b) The Directors may establish an application fee to be submitted to the Corporation with the Application.

(c) Upon approval of the Applicant, the Applicant's designated Representative shall execute a document confirming the Applicant's agreement to be bound by all of the terms and conditions of this Trust and Indemnity Agreement, and any By-Laws enacted pursuant to it, and thereupon shall become a Member. The Program Manager shall maintain a copy of that agreement as executed by each Member, and any Member shall promptly execute an additional copy of such an agreement if requested to do so by the Program Manager.

3.03 Cancellation and Termination of Membership. Membership of a Member shall continue until it ceases under one of the following provisions:

(a) Cancellation. Failure to comply with the standards and requirements set forth in this Agreement and in the By-laws and the Regulations, including, but not limited to, the failure to pay a Delinquent Premium, will subject a Member to Cancellation. Cancellation for failure to pay a Delinquent Premium shall be made in accordance with the By-Laws, and no liability shall accrue to the Corporation for any claim otherwise covered under Section 10.08 or 10.09 hereof, any of which arises after the effective date of such Cancellation. Notice of Cancellation shall be sent also to the Commissioner and the Workers' Compensation Commission of the State.

(b) Termination by Member. A Member may Terminate its membership by withdrawal from the Corporation upon no less than thirty (30) days prior written notice to the Corporation, in a form specified by the Directors (and which shall contain the effective date of such Termination):

(i) Such notice of Termination shall simultaneously be sent to the Commissioner and the Workers' Compensation Commission of the State and no liability shall accrue to the Corporation for any claim otherwise covered under Sections 10.07 or 10.08 hereof, any of which arises after the effective date of such Termination.

(ii) In the event a Member Terminates its membership in the Corporation within thirty (30) days of the end of a Policy year, such Terminating Member shall pay a Premium to cover the entire period of time until such Termination becomes legally effective.

(c) Liability of Group after Termination or Cancellation. A Member shall be entitled to a return of any unearned Premium but no encumbered reserves shall be returned to a Cancelled or Terminated Member.

3.04 Premiums. Premiums and other Contributions shall be established by the Directors in accordance with criteria established in the By-Laws and the Regulations.

3.05 Obligations, Duties and Liabilities of Members.

(a) IN THE EVENT OF INSOLVENCY OF THE CORPORATION, EACH MEMBER AGREES TO ASSUME AND DISCHARGE, JOINTLY AND SEVERALLY, WITH ALL OTHER MEMBERS, THE OBLIGATIONS AND LIABILITIES OF THE CORPORATION FOR ANY AND ALL MEMBERS.

(b) Each Member hereby agrees to comply with the Act and the Workers' Compensation Law, and to fulfill all obligations and duties established by this Agreement, including but not limited to, the prompt payment of Premiums.

(c) Each Member agrees to be bound by the provisions of the By-Laws duly adopted by the Corporation, and the Regulations.

(d) A Member is liable under this Agreement for (i) the payment of Premiums; (ii) the payment of any sum assessed by the Directors in accordance with this Agreement and the By-Laws and the Regulations; and (iii) the maintenance of any excess insurance contracted for by the Directors in accordance with this Agreement and the By-Laws and the Regulations.

(e) Each Member agrees to institute and implement any and all reasonable safety regulations that may be recommended by the Directors, or any Service Company acting for the Corporation pursuant to an applicable contract, for the purpose of minimizing or eliminating hazards or risks that could contribute to workers' compensation losses. Notwithstanding the foregoing, each Member shall remain solely responsible for all decisions concerning its safety program and practices.

(f) Each Member agrees to promptly report all reportable injuries as required by the Workers' Compensation Law or the Directors, and Members also agree that they will cooperate with any Service Company in investigating and defending claims. Members agree to cooperate with any attorneys representing the Corporation in a workers' compensation claim, an employers' liability insurance claim or subrogation efforts arising from such claims.

(g) Each Member agrees to designate a Representative, by written notice to the Program Manager. The Directors, the Program Manager, or any Service Company shall not be required to contact any other individual except the Representative. Any notice to or any agreements with the Representative shall be binding upon the Member. The Member reserves the right to change the Representative from time to time by giving written notice to the Group, sent to the Program Manager.

(h) Each Member agrees to execute authorization forms permitting the Corporation and the Program Manager to obtain from the Injured Workers' Insurance Fund, NCCI and any previous insurers, the loss experience for the Member that is necessary to calculate the Member's experience.

(i) Each Member agrees that any suit brought by one of its employees pursuant to the Workers' Compensation Law, or for bodily injury to a Member's employee which arises out of and in the course of the injured employee's employment by the Member, shall be defended in the name of the Member by counsel selected by the Directors. Full cooperation shall be extended by such Member to supply any information needed or helpful in such defense.

(j) In the event an injury to the employee of a Member is caused by a third party and any recovery from the third party is made, the Member agrees that the amount of said recovery shall apply first to reimburse the Corporation for its compensation and medical payments and expenses in handling and defending said claim until the Corporation is fully reimbursed. The Member agrees that the Corporation may assert any rights of the Member afforded under the Workers' Compensation Law. Each Member agrees that it shall not waive or encumber any of its subrogation rights without the prior written permission of the Directors.

(k) In the event of an accident or a reported injury or claim, a Member shall make immediate provision for remedial care of its employee and give prompt notification to the Corporation or, if required, to a designated Service Company, on the prescribed forms. Costs of remedial care shall be paid by the Corporation to the extent required by the Workers' Compensation Law.

ARTICLE IV

ACCEPTANCE OF TRUST

4.01 Acceptance. Members hereby accept the trusts imposed upon them by this Agreement and agree to perform said trusts in accordance with the terms and conditions of this Agreement. The Members shall hold legal title to the Trust Fund and shall have absolute and exclusive power and control over the management and conduct of the business of the Corporation.

4.02 Future Members. Whenever any change shall occur in the Membership, the legal title to the property hereby created by this Trust shall pass to those Members then in good standing. Each future Member accepted in accordance with this Agreement shall accept the terms and conditions of this Agreement in writing.

4.03 Members' Duties and Obligations.

(a) The Members shall discharge their duties and obligations under this Agreement insofar as it is consistent with the Act, solely in the interests of the Corporation, for the exclusive purpose of paying benefits to the Members' employees and defraying reasonable expenses of administering the Corporation, with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like purpose.

(b) In connection with their management and control of the Corporation, the Members shall have the following duties, which they may delegate, in whole or in part, to the Directors:

(i) Administer the Corporation in compliance with the Act.

(ii) Provide for proper accounting and reporting requirements and procedures for each Member so that the Members shall be kept advised at all times of the nature of the claims arising, the manner in which these claims are being handled, and the impact of those claims upon the Corporation.

(iii) Purchase any bonds or other securities in compliance with applicable law or regulations.

(iv) Determine methods for the assessment of Members in the event that any claim or claims exceed the money available in the Corporation and any excess insurance such amounts shall be certified as necessary for that purpose to the Members.

(v) Hold all property received by the Corporation hereunder, which together with the income and gains therefrom and additions thereto, shall constitute the corpus of the Trust Fund. The Directors shall manage, invest and reinvest the corpus of the Trust Fund, collect the income thereof and make payments therefrom or delegate such duties all as provided herein.

(vi) Contract with a Program Manager who shall act at the direction of the Directors to oversee underwriting matters, collection of Premiums, reports to the Commissioner as required by the Act, and operation and supervision of the Corporation. The Program Manager shall be authorized by the Directors to act for and bind the Corporation and the Members in all transactions relating to or arising out of the operation of the Corporation. The

services of the Program Manager shall be performed pursuant to an applicable contract and the Program Manager shall be compensated by the Corporation for such services as provided in such contract.

(vii) Contract with RAM to serve as the Program Sponsor for the Corporation's insurance programs and related activities, and to perform such other duties as may be required by the Directors. The services of the Program Sponsor shall be compensated by the Corporation as provided in any applicable contract.

(viii) Contract with and oversee an independent service company, approved by the Commissioner, to act as the Service Company and delegate to it the responsibility for claims administration and disbursement, and other duties specified in an applicable contract. The services of the Service Company shall be performed pursuant to such a contract and the Service Company shall be compensated by the Corporation for such services as provided in such contract.

(ix) Require the Service Company and the Program Manager each to furnish an employee fidelity bond indemnifying the Corporation. The proper limit of liability for each such bond shall be as determined by the Directors, but a limit of not less than one hundred thousand dollars (\$100,000) per loss shall be established, unless a limit in a greater minimum amount shall be required by statute or regulation.

(x) Contract for excess insurance with the advice of a licensed insurance broker or insurance advisor, which may be the Program Manager.

(xi) Contract with a Safety Coordinator to provide industrial safety engineering, loss control and prevention services and other duties which may be agreed upon.

(xii) Set requirements for the admission of Members to the Corporation which shall include such preconditions and limitations as the Members shall deem appropriate to promote the safe and proper operation of the Corporation.

(xiii) Endeavor to see that the Corporation is prudently administered to ensure its financial stability and to secure the best return on the Corporation's investments which may be safely obtained for the benefit of the Corporation.

(xiv) Engage a certified public accountant to conduct an annual audit of the financial statements of the Corporation at the close of the Fiscal year, such audit report to be submitted to the Commissioner and the Members on or before one hundred and eighty (180) days after the close of the Fiscal year.

(xv) Engage attorneys for claims defense and to provide general legal counsel to the Corporation.

(xvi) Contract with a Fiscal Agent and delegate to it the duties to hold the Trust Fund and to invest and reinvest all or part of the principal and interest of the Trust Fund and such other funds as may be established in accordance with the requirements of the Act and this Agreement.

(xvii) File reports as to financial standing, payroll records, insurance coverage, accident experience, and compensation payments at such times and in such manner as are required by the Commissioner under the Act.

(xviii) Periodically review and consider the Members' claims and loss experience (including reserves for future claims), in order to evaluate the loss experience and costs of the Corporation and its Members, in order to endeavor to develop and maintain the Corporation in a manner in which the Directors deem to be reasonable and equitable as applied to each Member.

(xix) Prescribe the Premiums to be paid by each Member for the purpose of funding the liability of the Corporation and its expenses; and establish procedures for resolving any dispute regarding the calculation of any Member's Premium.

(xx) Perform any other function required or permitted by the Act and other laws of the State.

(xxi) Adopt By-Laws for the management and control of the Corporation, so long as such By-Laws are not inconsistent or in conflict with the terms and provisions of this Agreement. The By-Laws may be amended by the Members in accordance with provisions for amendments set forth in such By-Laws.

4.04 Liability of Representatives and Directors.

(a) No Representative or Director shall be liable for errors of judgment either in holding property originally conveyed to them or in acquiring and afterwards holding additional property, in the performance of their duties hereunder, nor for any act or omission to act, performed or omitted by them, in the execution of the trusts created hereunder.

(b) Every act done, power exercised or obligation assumed by any Representative or Director, pursuant to the provisions of this Agreement, or in carrying out the trusts herein contained, shall be deemed to be done, exercised or assumed by them in their capacity as acting on behalf of the Corporation, and not as individuals, and every person or entity contracting with the Corporation shall look only to the Corporation and property of the Corporation for payment under such contract, or for the payment of any debt, mortgage, judgment or decree or the payment of any money that may otherwise become due or payable on account of the trusts herein provided for, and any other obligation arising out of this Agreement

in whole or in part, and neither the Representative, or the Member's other employees, present or future, or the Director, shall be personally liable therefor.

(c) A Representative or Director shall be liable in connection with the performance of his or her duties hereunder only for his or her own willful misconduct or gross negligence.

ARTICLE V

OPERATION OF THE FUNDS; REVENUES

5.01 Collection of Contributions. The Program Manager shall be the agent for the Corporation to collect all Premiums and deposit them in a claims account, operating account or with the Fiscal Agent as provided in this Article V.

5.02 Establishment of Separate Funds by Directors. The Program Manager shall divide the Trust Fund corpus received from time to time into two separate funds in a proportion to be determined by the Directors and shall segregate and hold each as a separate fund pursuant to the following trusts:

(a) The Trust Fund, which shall be an interest bearing account in the name of the Trustees' and shall consist of that portion of the Premium which is not held in the Claims Fund or operating account. All administrative costs, including but not limited to, service fees, costs of bonds, fees imposed under the Act, insurance premium costs, the Corporation's counsels' fees, accountants' fees, auditors' fees, taxes and assessments levied and imposed by law, compensation and expense reimbursements and deposits with the State Treasurer, shall be paid by the Program Manager from the Trust Fund as authorized by the Directors.

(b) The Claims Fund, which shall be an account in the name of the Corporation. The amount of the total Premium allocated to the Claims Fund shall be sufficient to pay current claims and claims costs. The Claims Fund may contain a contingency loss or reserve fund as determined by the Directors. The Service Company shall notify the Program Manager of the amounts necessary to pay current claims, and such amounts in the Claims Fund shall be transferred to the Revolving Fund. All payments of liabilities imposed under the Workers' Compensation Law or Employers' Liability, including settlements, awards, judgments, legal fees and costs shall be paid from the Claims Fund.

5.03 Establishment of Revolving Fund. The Program Manager shall establish a Revolving Fund, which may be an interest or non-interest bearing account in the name of the Corporation. The Service Company shall be authorized to disburse moneys from the Revolving Fund as necessary to pay claims. The amount of moneys to be held in the Revolving Fund shall be established by the Directors.

5.04 Surplus Fund.

(a) After payment of claims and claim expenses and after provision for open claims, including reserves for reported but unpaid claims and incurred but not reported claims, and the costs and expenses described in §5.02(a) above, the Directors may set aside Surplus Funds from the Trust Fund and the Claims Fund as it finds appropriate for the purpose of establishing and managing a Surplus Fund to be used for the benefit of the Corporation.

(b) The Surplus Fund shall be established and administered by the Fiscal Agent at the direction of the Directors.

(c) Surplus Moneys from the Surplus Fund may be returned to Members as Dividends from time to time but not less than eleven (11) months after the end of the applicable Fiscal year. The Dividend will be returned only to those Members who have participated in the Corporation for the Fiscal year for which the Dividend is being made and whose premiums are fully current at the time the Dividend is to be returned. Any Member who participated for less than the entire Fiscal year for which the Dividend is being made shall receive a pro rata Dividend based upon the percentage of the Fiscal year which the Member participated in. Such Dividend shall be authorized and approved by the Directors in accordance with the provisions for dividends in the Regulations. No surplus accumulations may be returned if such payment will, in the judgment of the Directors, impair the capital stability and/or security of the Corporation.

(d) Any Member which is Cancelled or which has Terminated shall not be eligible to receive any Dividend or other return from the Surplus Fund.

5.05 Assessments. In the event of an assessment, the Directors may adopt any plan deemed equitable, including but not limited to, the assessment of all Members in the proportion which the Premiums of each bears to the total Contributions for all Members in the Fiscal year in which such deficit occurs. Each applicable Member and former Member agrees to pay promptly each prescribed Contribution and assessment and shall not be relieved of the obligation to do so by reason of the default of any other Member in making such payments.

5.06 Excess Insurance. Such excess insurance coverage as the Directors deem appropriate, and as required in the Regulations, shall be provided for the Corporation.

5.07 Investment of Moneys. The Directors shall invest the Corporation's funds in accordance with the By-Laws and the Regulations.

ARTICLE VI

OPERATION OF THE CORPORATION

6.01 Office. The Directors shall designate a principal office of the Corporation. Such principal office shall be in the State of Maryland. At such principal office there shall be maintained the books, reports and records pertaining to the Corporation and its administration. The principal office may be the office of the Program Manager.

6.02 Meetings. There shall be an Annual Meeting of the Members on a day and at a place designated by the Directors. At the Annual Meeting, the Members shall elect a Board of Directors, in accordance with the provisions set forth in the By-Laws, and transact such other business as may come before them. The Members shall hold such other meetings and shall establish such procedures for the conduct of those meetings as they shall provide in the By-Laws.

6.03 Voting. Each Member shall have one (1) vote. A vote of two-thirds (2/3) shall be required to amend this Agreement. The two-thirds (2/3) requirement shall be applied to the number of Members who cast a vote on the issue in question, rather than the total number of Members eligible to vote. All other issues shall be determined by a majority of the Members who cast a vote on any given issue.

6.04 Indemnification.

(a) The Corporation shall indemnify: (i) each Representative and each member of the Board of Directors, and the estate, executor, Program Manager, personal representatives, heirs, legatees and devisees of any such person; and (ii) every officer and employee of the Corporation and the estate, executor, Program Manager, personal representatives, heirs, legatees or devisees of such person; against all judgments including interest, fines, amounts paid or agreed upon in settlement, reasonable costs and expenses including attorneys' fees and any other liability that may be incurred as a result of any claim, action, suit or proceeding, whether civil, criminal, administrative, or other, prosecuted or threatened to be prosecuted, for or on account of any act performed or omitted or obligation entered into, if done or omitted in good faith without intent to defraud and within what he or she reasonably believed to be the scope of his or her employment or authority and for a purpose which he or she reasonably believed to be in the best interest of and in connection with the administration, management, conduct or affairs of the Corporation, and with respect to any criminal actions or proceedings, in addition, had no reasonable cause to believe that his or her conduct was unlawful. Provided, however, that if any such claim, action, suit, or proceeding is compromised or settled, it must be done with the prior and express approval of the Directors or such other persons as may be authorized to make determinations with respect to indemnification pursuant to subparagraph (d) of this Section.

(b) Such indemnification shall not depend upon whether or not such person is a Representative or member of the Board of Directors at the time such claim, action, suit or proceeding is begun, prosecuted or threatened, nor on whether or not the liability to be indemnified was incurred or the act or omission occurred prior to the adoption of this Section.

(c) The right of indemnification hereunder shall not be exclusive of other rights such person may have as a matter of law or otherwise.

(d) In each instance in which a question of indemnification hereunder arises, determination in the first instance of the right to indemnification hereunder, and of the time, manner and amount of payment thereof, shall be made by a majority vote of a quorum of the Board of Directors provided, however, that no member of the Board of Directors seeking indemnification hereunder as a result of the same occurrence shall participate in the determination. In the event that a majority of the members of the Board of Directors are seeking indemnification hereunder as a result of the same occurrence or the number of Board of Directors' members eligible to vote does not constitute a quorum, such determination in the first instance shall be made by independent legal counsel retained by the Corporation for the purpose of making the determination. Nothing in this paragraph is intended to make an adverse determination finally binding upon the person seeking indemnity under this Section, or to preclude any such person from appealing an adverse determination against him or it, or from instituting legal proceedings to enforce a right of indemnification under this Section.

(e) The indemnification provided for in this Section shall be deemed to be an expense of the Corporation to which all of the Members shall contribute.

(f) The indemnification provided by this Section shall be secondary to any benefits to which the person may be entitled to receive from any applicable insurance policy providing Directors and Officers, Errors and Omissions or other applicable insurance coverages which have been procured by the Corporation or for which the Corporation paid the required premium. The indemnification provided by this Section shall be primary over any indemnification provided by a Representative or Director at his or her own expense.

(g) (i) Notwithstanding any other provision of this Section to the contrary, a person may seek, and the Corporation may pay, advance indemnification prior to the rendering of a final determination of entitlement to indemnification pursuant to the provisions of subparagraph (d) of this Section. Any award of such advance indemnification by the Corporation shall be discretionary and subject to the provisions of this Section.

(ii) In each instance where a question of advance indemnification hereunder arises, determination of the right to indemnification and of any conditions or restrictions attached thereto shall be made by a majority vote of a quorum of the Board of Directors, provided, however, that no member of the Board of Directors seeking indemnification hereunder as a result of the same occurrence shall participate in the determination. In the event

that a majority of the members of the Board of Directors are seeking indemnification as a result of the same occurrence or the number of members of the Board of Directors eligible to vote does not constitute a quorum, such determination shall be made by independent legal counsel retained by the Corporation for the purpose of making the determination.

(iii) Any determination of advance indemnification shall be discretionary and may provide for the time, manner and amounts advanced hereunder and shall include such limitations as may be deemed appropriate in the particular circumstances on rate of payment, the total amount to be advanced and the security, if required, for repayment of such advances.

(iv) Any advance authorized hereunder shall be repaid to the Corporation if the person on whose behalf the advance was made is not entitled to indemnification of his or her costs and expenses under the provisions and in accordance with the standards for indemnification provided in this Section.

ARTICLE VII

PURPOSE OF THE CORPORATION; POWERS OF DIRECTORS

7.01 Purpose of Corporation. The purpose and objective of the Corporation is to provide economical Workers' Compensation and Employers' Liability Insurance coverage for the Members, to reduce the amount and frequency of losses, and to do all necessary and proper things incident to the provision of Workers' Compensation and Employers' Liability Insurance in such manner as to be in the best interest of the Members.

7.02 Powers of Directors. The Directors shall have the power to control and manage the Corporation and to perform such acts, enter into such contracts, engage in such proceedings, and generally to exercise any and all rights and privileges, although not specifically mentioned herein, as the Directors may deem necessary or advisable to administer the Corporation or to carry out the purposes of this Agreement. Any determination made by the Directors in the exercise of these powers shall be binding upon all Members. In addition to the powers set forth elsewhere in this Agreement, the powers of the Directors in connection with their managing and controlling the Corporation shall include, but shall not be limited to, the following:

(a) To invest and reinvest all or part of the principal and income of the Trust Fund, without distinction between principal and income, as the Directors determine, pursuant to applicable State law.

(b) To receive, hold, manage, invest, reinvest, and control all moneys at any time forming part of the corpus of the Trust Fund.

(c) To purchase contracts of insurance through such broker or brokers as the Directors may choose and to pay premiums on such policies.

(d) To borrow or raise money for the purposes of the Corporation, in such amounts, and upon such terms and conditions as the Directors shall deem advisable; and for any sum so borrowed to issue the promissory note of the Corporation, and to secure the repayment thereof by creating a security interest in all or any part of the Trust Fund; and no person lending such money shall be obligated to see that the money lent is applied to the Corporation's purposes or to inquire into the validity, expedience or propriety of any such borrowing.

(e) To hold cash, uninvested, for such length of time as the Directors may determine without liability for interest thereon.

(f) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance, including but not limited to, deeds, leases, mortgages, conveyances, contracts, waivers and releases, and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted.

(g) To engage suitable agents, advisors and counsel as the Directors may deem necessary and advisable for the efficient operation and administration of the Corporation, to delegate duties and powers hereunder to such agents, advisors and counsel to the extent permitted by the Act, and to charge the expense thereof to the Corporation. Directors are entitled to rely upon and may act upon the opinion or advice of any attorney or agent approved by the Directors in the exercise of reasonable care. Directors shall not be responsible for any loss or damage resulting from any action or non-action made in good faith reliance upon such opinion or advice.

(h) To continue to have and to exercise, after the termination of the Corporation and until final distribution, all of the title, powers, discretions, rights and duties conferred or imposed upon the Members hereunder, or by law.

(i) To construe and interpret this Agreement.

(j) To receive from Members, Members' employees and other relevant sources, such information as shall be necessary for the proper administration of the Corporation.

(k) To furnish such reports with respect to the administration of the Corporation as may be required by the Act.

(l) To maintain bank accounts for the administration of the Corporation and to authorize the Program Manager, Service Company or other appropriate persons to make payments from any such account for purposes of the Corporation.

(m) To receive and review reports of the financial condition and of the receipts and disbursements of the Corporation.

(n) To have a judicial settlement of the Corporation's accounts and judicial determination of any questions in connection with the Directors' duties and obligations hereunder, or in connection with the administration or distribution thereof. The costs and expenses, including accounting and legal fees, for such judicial settlement of accounts or other judicial determination shall be paid by the Corporation as a general administrative expense to the extent permitted by applicable law.

(o) To purchase as a general administrative expense of the Corporation's so-called directors' and officers' liability insurance and other insurance for the benefit of the Corporation and/or the protection of the Representatives, Directors, employees of the Corporation, if any, or agents against any losses by reason of errors or omissions or breach of fiduciary duty or negligence.

(p) To enter into any and all contracts and agreements for carrying out the terms of this Agreement and for the administration and operation of the Corporation and to do all acts as they, in their discretion, may deem necessary or advisable, and such contracts and agreements and acts shall be binding and conclusive on Members and Members' employees. All such contracts and agreements, or other legal documents herein authorized, shall be approved by the Directors and shall be executed by individuals authorized by the Directors..

(q) To write off as uncollectible any Member's Premium or any other indebtedness or other obligation as the Directors may deem appropriate. A decision to write off as uncollectible shall be deemed appropriate if the Directors determine that the likelihood of collection or the anticipated expense of collecting justifies such action. The Directors shall not have authority to extend credit to individual Members for payment of Premium.

(r) To collect Premiums, contributions or payments, but such Premiums, contributions or payments may not be utilized for any purpose unrelated to the purposes of the Corporation.

(s) To pay or contest any claim or to settle a claim by or against the Corporation by negotiation, compromise, litigation, arbitration, or otherwise.

(t) To pay taxes, assessments, and other expenses incurred in the collection, care, administration, and protection of the Corporation.

(u) To review Applications for memberships in the Corporation submitted to them and to approve or disapprove such Applications.

(v) To Terminate the membership of any Member in accordance with the terms of this Agreement and the Act.

(w) To do all acts, whether or not expressly authorized herein, which the Directors may deem necessary or proper in connection with the Corporation, although the power to do such acts is not specifically set forth herein.

ARTICLE VIII

AMENDMENTS

8.01 Method of Amendment. The terms and provisions of this Agreement may be amended at any time, except as provided in Section 8.02 hereof, by a vote of two-thirds (2/3) of the Representatives casting votes in conjunction with such proposed amendment.

8.02 Limitation on Amendments. No amendment shall be adopted which alters the basic purpose of the Corporation, or which causes the use or diversion of any part of the Corporation's assets for purposes other than those authorized herein.

ARTICLE IX

DISSOLUTION OF CORPORATION

9.01 Term of Corporation. The Corporation shall continue unless and until dissolved pursuant to law or in accordance with the By-Laws.

9.02 Dissolution. In the event of dissolution of the Corporation, the Members covenant and agree to make any provision for payment of claims against the Corporation as may be required by the Directors, including the deposit with the Corporation of funds, surety bonds, or such other guarantees of payment as deemed required and sufficient by the Directors. Upon dissolution, the Directors shall continue to serve as Directors to wind up the affairs of the Corporation, including providing for all outstanding obligations, and each Member shall be entitled to receive distribution of its share of any remaining funds, the calculation of such distribution to be determined by the Directors. Dissolution of the Corporation shall comply with applicable statutes and regulations.

ARTICLE X

MISCELLANEOUS

10.01 Title to the Trust Fund. Title to the Trust Fund shall be vested in and remain exclusively with the Corporation to carry out the purposes hereunder and no Member or employee of any Member or any individual shall have any right, title or interest in the Trust Fund or any right to Premiums made or to be made thereto, nor any claim against any Member on account thereof, except to the extent of the right of Members to receive their pro rata share of any excess funds as provided hereunder.

10.02 Execution of Documents. The Directors may authorize the Program Manager, the Service Company, or other agent, to execute any notice, certificate or other written instrument relating to the Corporation (except an instrument of amendment or dissolution) and all persons, partnerships, corporations, or associations may rely upon such notice or instrument so executed as having been duly authorized and as binding on the Corporation.

10.03 Notice. All notices, requests, demands and other communications related to this Agreement, unless otherwise so provided herein, shall be in writing and shall be deemed to be duly given when sent by first-class, registered or certified mail postage paid, return receipt requested, when personally delivered by hand, or when transmitted by facsimile, or email to such addresses as have been last provided to the Corporation. The address for such notices, requests, demands or other communications to the Corporation shall be to the principal office of the Corporation as designated by the Directors. The address for each Member shall be that address given by the Member on its Application. The parties shall notify each other in writing as to any change in address.

10.04 Choice of Law. This Agreement shall be governed by the laws of the State without regard to any conflicts of laws provisions.

10.05 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all such counterpart pages, together with this Agreement, shall constitute the complete Agreement among all the parties hereto.

10.06 Program Manager as Attorney-in-Fact. Each Member hereby appoints the Program Manager as its agent and attorney-in-fact to act on its behalf and to execute all contracts, reports, waivers, and agreements to make or arrange for payment of claims, medical expenses, and all other things required or necessary under the terms of this Agreement.

10.07 Defense by Corporation. The Corporation shall defend in the name of and on behalf of the Member any claims, suits or other proceedings which may at any time be instituted against the Member on account of injuries or death covered by the Workers' Compensation Law or Employers' Liability, or otherwise asserting the Member's liability under the workers' Compensation Law, including suits, other proceedings, allegations or demands which may be wholly groundless, false, or fraudulent, and to pay all costs reasonably incurred in any legal proceeding defended by the Corporation, including interest accruing after entry of judgment, and all expenses incurred for investigation, negotiations or defense. Legal representation for such claims, suits or other proceeds shall be as determined by the Directors.

10.08 Limitation of Liability. Liability of the Corporation to any Member is specifically limited to such obligations as are imposed by law against the Member under the Workers' Compensation Law. For Employers' Liability, the liability of the Corporation to any Member is limited to no less than one million dollars (\$1,000,000) per each accident. The Corporation shall have no liability for, and no coverage under the Agreement shall exist, with respect to, punitive or exemplary damages asserted by, or awarded to any employee of any Member.

10.09 Severability of Invalid Provisions. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Agreement and such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, and the remaining parts of this Agreement shall be construed so as to give practical realization to the purposes intended to be achieved by the parties as if such invalid or illegal or unenforceable provision had never been contained herein.

10.10 Service of Process. The Members hereby appoint the Commissioner as attorney-in-fact for the Corporation to receive service of legal process issued against it in the State, and this appointment shall be irrevocable, shall bind any successor in interest and shall remain in effect for so long as there is any obligation or liability of the Corporation in the State under the Workers Compensation Law.

10.11 Cooperation by Members. Each Member shall cooperate with the Corporation and, upon the Directors' request, assist in investigation, in making settlements, in the conduct of suits, and in enforcing any right of contribution, indemnity or subrogation against any person or organization who may be liable to a Member because of injury or damages with respect to which coverage is afforded by the Corporation; and a Member and any of its employees that the Corporation's attorneys deem necessary, shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.

9/21/04