

BYLAWS

of

NY Transportation Workers' Compensation Trust

ARTICLE I Definitions .....	1
Section 1.1. Administrator .....	1
Section 1.2. Application and Indemnity Agreement .....	1
Section 1.3. Contribution .....	1
Section 1.4. Fund .....	1
Section 1.5. Fund Year .....	1
Section 1.6. Group .....	1
Section 1.7. Insurer .....	2
Section 1.8. Risk Management Programs .....	2
ARTICLE II Name and Purposes .....	2
Section 2.1. Name and Purposes .....	2
Section 2.2. Location .....	2
Section 2.3. Fiscal Year .....	2
Section 2.4 Governing Instruments .....	2
ARTICLE III Members .....	3
Section 3.1. Members .....	3
Section 3.2. Additional Members .....	3
Section 3.3. Application for Membership .....	3
Section 3.4. Required Vote for Admission .....	4
Section 3.5. Standard for Vote on Admission .....	4
Section 3.6 Certificate of Membership .....	4
Section 3.7. Effect on Membership .....	4
Section 3.8. Powers and Rights .....	4
Section 3.9 Resignation .....	4
Section 3.10. Default .....	5 & 6
Section 3.11. Termination and Removal .....	6
ARTICLE IV Meetings .....	6
Section 4.1. Annual Meeting .....	6
Section 4.2. Regular Meetings .....	6
Section 4.3. Special Meetings .....	6
Section 4.4. Call and Notice .....	7
(a) Annual and Regular Meetings .....	7
(b) Special Meetings .....	7
(c) Sufficient Notice .....	7
(d) Waiver of Notice .....	7
Section 4.5. Quorum .....	7
Section 4.6. Action by Vote .....	7
Section 4.7. Action by Writing .....	8
Section 4.8. Proxies .....	8
Section 4.9. Access to Books, Attorneys .....	8
ARTICLE V Indemnification .....	8

ARTICLE VI Board of Trustees .....	9
Section 6.1. General Duties and Powers .....	9
Section 6.2. Nature of Trustees .....	9
Section 6.3. Number, Election, Term of Office and Qualifications .....	9
Section 6.4. Committees .....	9
Section 6.5. Administrator .....	10
Section 6.6. Regular Meetings .....	10
Section 6.7. Special Meetings and Notice .....	10
Section 6.8. Waiver of Notice .....	10
Section 6.9. Quorum .....	10
Section 6.10. Voting .....	10
Section 6.11. Disqualification .....	10
Section 6.12. Resolution by Arbitration .....	10
Section 6.13. Action by Writing .....	11
Section 6.14. Presence Through Communications Equipment .....	11
Section 6.15. Resignation .....	11
Section 6.16. Removal .....	11
ARTICLE VII Administration of Funds .....	11
Section 7.1 Trustees Responsible for Monies .....	11
Section 7.2. Claims Fund .....	11
Section 7.3. Administrative Fund .....	11
Section 7.4. Investment of Monies .....	11
Section 7.5. Lending and Borrowing Money .....	12
ARTICLE VIII Inspection of Books and Reports to Members .....	12
ARTICLE IX Execution of Papers .....	12
ARTICLE X Personal Liability .....	12
ARTICLE XI Contracting and Other Authority .....	13
Section 12.1. Fund Administrator .....	13
Section 12.2. Contracting Authority .....	13
ARTICLE XII Amendments .....	13
ARTICLE XIII Termination .....	13

## ARTICLE I

### Definitions

The following terms as utilized in these Bylaws shall have the meanings set forth in this Section.

**Section 1.1. Administrator.** The Administrator shall mean an individual, partnership, corporation or unincorporated association engaged by the NY Transportation Workers' Compensation Trust. (the "Trust") pursuant to Article XI of these Bylaws to carry out the policies established by the Board of Trustees and to provide daily management of the Trust.

**Section 1.2. Application and Indemnity Agreement.** The Application and Indemnity Agreement shall mean each Application and Indemnity Agreement entered into between this Trust and a Member of the Trust or assumed by this Trust and, collectively, all such Applications and Indemnity Agreements as from time to time are in effect, whether before or after the date of adoption of these Bylaws.

**Section 1.3. Contribution.** A Contribution shall be a payment to the Fund made by a Member in response to an assessment in accordance with these Bylaws, the Application and Indemnity Agreement, or any other rules, regulations, policies and procedures pursuant or incident thereto. Without limiting the generality of the foregoing, Contributions shall consist in part of required premium payments and other payments made by Members to cover the costs of purchasing reinsurance or excess insurance, paying regulatory fees, establishing and maintaining a claim fund account, and establishing and maintaining an administrative fund account.

**Section 1.4. Fund.** The Fund shall mean the sum of all Contributions made by Members pursuant to these Bylaws, the Participation and Indemnity Agreement, and any rules, regulations, policies and procedures pursuant or incident thereto; all monies, contracts, policies or properties received by the Trust from the Members for the uses and purposes set forth in these Bylaws, the Participation and Indemnity Agreements, and any rules, regulations, policies and procedures pursuant or incident thereto; and all income, gains and all other increments of any nature whatsoever therefrom.

**Section 1.5. Fund Year.** The Fund Year shall mean a period of twelve (12) consecutive months identified from time to time by the Board of Trustees. The initial Fund Year shall commence on December 1, 2000, and end on December 31, 2001, and each subsequent Fund Year shall commence on January 1 and end on December 31 unless otherwise provided by the Board of Trustees. A Fund Year may be a period of greater or fewer than twelve (12) months if it is the first or last such year of the Fund or a year involving a change in the commencement or termination date of the Fund Year. The Fund Year shall be the same as the Fiscal Year.

**Section 1.6. Group.** The Group shall mean this Trust, a worker's compensation self-insurance group established pursuant to and in accordance with Section 50(3-a) of the New York State Workers' Compensation Law.

**Section 1.7. Insurer.** An Insurer shall mean any insurance company providing an insurance contract to the Trust including, without limitation, any policy that the Board of Trustees or the Administrator deems necessary or prudent for proper operation of the Fund or the Trust; or providing any benefit, direct or indirect, to any Member.

**Section 1.8. Risk Management Programs.** Risk Management Programs shall mean programs instituted by the Administrator acting on behalf of the Board of Trustees and designed to manage and reduce the incidence and severity of illness, injury, and disability on the part of workers employed by the Members. Risk Management Programs limiting or managing workers' compensation claims and losses incurred by each Member. Risk Management Programs shall include, without limitation, the following.

- (a) Injury prevention activities
- (b) Management systems and training, including modified duty programs;
- (c) Medical delivery systems;
- (d) Case management; and
- (e) Management information systems.

## ARTICLE II

Name and Purposes: Location:  
Fiscal Year: and Governing Instruments

**Section 2.1. Name and Purposes.** The name and purposes of the Trust shall be as set forth in the Trust Document.

**Section 2.2. Location.** The principal office of the (sometimes referred to as the "Trust") shall be in the State of New York and shall initially be located at the place set forth in the Trust Document of the Trust.

**Section 2.3. Fiscal Year.** The fiscal year of the Trust shall end on December 31st of each year, unless otherwise decided by the board of Trustees.

**Section 2.4. Governing Instruments.** The administration of the Trust shall be governed by the New York State Workers Compensation Boards Rules and Regulations, the provisions of the Indemnity Agreement and Trust Agreement of the NY Transportation Workers' Compensation Trust and, to the extent not inconsistent therewith, these Bylaws and any administrative rules and regulations adopted by the Board of Trustees from time to time.

## ARTICLE III

### Members

**Section 3.1. Members.** The Members of the Trust shall be those entities who from time to time apply for and, upon a determination by the Board of Trustees that they meet the necessary criteria established by the New York State Workers' Compensation Law and regulations and by the Trust are admitted into the Trust (collectively, the "Members" and individually, a "Member") and for as long as they remain Members of the Trust; provided, however, that the number of Members shall at no time be fewer than five (5).

**Section 3.2. Additional Members: Qualifications and Underwriting Considerations.** Additional Members may be added to the Trust by vote of the Board of Trustees, in accordance with these Bylaws, any rules and regulations adopted by the Board of Trustees and any applicable regulations governing workers' compensation self insurance groups adopted from time to time by the State of New York.

- (i) a prospective Member must meet such criteria as to financial qualification as may be established upon consideration of an annual report and such other financial information;
- (ii) a prospective Member's expected loss ratio must be within parameters established from time to time pursuant to rules and regulations adopted by the Board of Trustees;
- (iii) a prospective Member must satisfy all other requirements of the Trust's excess carrier and the New York State Workers' Compensation Board;
- (iv) a prospective Member must adhere to the safety policies and programs, and must satisfy all other requirements of, any rules and regulations, and other policies adopted or issued by the Board of Trustees from time to time.

**Section 3.3. Application for Membership.** Any qualified corporation or other business entity may apply for membership by completing and submitting to the Administrator or Board of Trustees an Application and Indemnity Agreement on a form prescribed by the Board of Trustees, and such other documents as the Board of Trustees or the Workers' Compensation Board shall require, and paying to the Administrator the required fees as established by rules or regulations adopted by the Board of Trustees from time to time. Any such Application and Indemnity Agreement shall be maintained as a permanent record of the Trust. Each applicant shall furnish to the Administrator and Board of Trustees such access to its records and facilities as are deemed necessary by the Administrator or Board of Trustees to permit evaluation of the eligibility for membership of the proposed additional Member. Any approval may be made subject to conditions imposed by the Board of Trustees, including the assessment of any additional fees or charges to offset the administrative cost of establishing the Trust, as well as payment of a pro rated premium if a new Member is admitted to the Trust prior to the beginning of any fiscal year of the Trust.

**Section 3.4. Required Vote for Admission: Date of Admission.** An application shall be approved or ratified upon the affirmative vote of not less than a majority of all Trustees then in office, in accordance with the provisions of Article VI of these Bylaws. Upon approval of any application and satisfaction by the applicant of all other requirements of these Bylaws, and all applicable laws and regulations, the applicant shall be admitted as a Member, subject to any conditions imposed as provided in Section 3.3 above.

**Section 3.5. Standard for Vote on Admission.** The approval or rejection of any application for admission or ratification of an additional Member shall be subject to the sole discretion of the Board of Trustees notwithstanding the qualification of the applicant and the satisfaction of the requirements of these Bylaws and applicable laws and regulations, and the Board of Trustees may approve or reject any such application for any reason whatsoever, and no applicant shall have any entitlement or right to Membership in the Trust.

**Section 3.6. Certificate of Membership.** Each new Member admitted to the Group shall receive from the Trust a certificate of membership and coverage in form acceptable to the Workers' Compensation Board.

**Section 3.7. Effect of Membership.** Upon acceptance, each Member shall agree to be bound by the terms and provisions of the Trust Document, these Bylaws, the Application and Indemnity Agreement, and any other rules, regulations and procedures pursuant or incident thereto, including any rules, regulations, policies and procedures required by an Insurer, then in effect or adopted from time to time by the Board of Trustees.

**Section 3.8. Powers and Rights.** In addition to the powers and rights that are vested in them by law, the Members shall have the power to elect the Trustees as provided in Section 6.3 of Article VI hereof.

**Section 3.9. Resignation.** Any Member may resign and withdraw from the Trust only as of the end of the fiscal year of the Trust, and only upon written notice to the Board of Trustees received at least ninety (90) days before the proposed date of resignation. Notice to the Board of Trustees as aforesaid shall be delivered to the Administrator and shall be effective upon actual receipt thereof by the Administrator. Any such notice of resignation shall not relieve the Member from any obligation to pay premiums or other expenses incurred, accrued or unpaid at any time before the effective date of such resignation.

**Section 3.10. Default.** A Member shall be deemed to be in default upon occurrence of any one (1) of the following conditions:

- (a) Termination of or default under the Application and Indemnity Agreement executed by the Member;
- (b) Failure by the Member to timely make any Contribution or payment required under the Trust Document, these Bylaws, the Application and Indemnity Agreement, or any rules, regulations, policies and procedures pursuant to incident thereto;
- (c) Failure by the Member to continue to meet any criteria or provide any information required by the Board of Trustees, the Administrator, or an Insurer, including without limitation underwriting criteria;
- (d) Failure by the Member to comply with any term of these Bylaws, the Application and Indemnity Agreement, or any rules, regulations, policies and procedures pursuant to incident thereto;
- (e) Failure of the Member to use best efforts to cooperate with and participate in any safety policies or programs adopted by the Board of Trustees;
- (f) Voluntary or involuntary bankruptcy, dissolution, or termination of existence of the Member or cessation of the Member's business activities;
- (g) Any action or conduct by the Member that is determined by the Board of Trustees, in its sole and absolute discretion, to warrant termination;
- (h) Failure of the Member to provide any information required by the Board of Trustees, the Administrator or an Insurer; or
- (i) Failure of the Member to cooperate with claims agents or attorneys representing the Trust.

With respect to a default upon occurrence of a failure to make a required payment including but not limited to a failure to make a payment pursuant to the provision of the Application and Indemnity Agreement or pursuant to the conditions described in Section 9(c) of this Article III, written notice of a default shall be delivered promptly to the Member by the Administrator or the Board of Trustees. If the Member corrects the condition giving rise to the default within five (5) days following receipt of such a notice of default and simultaneously with making the required Contribution or payment to the Administrator pays interest on the required Contribution or payment at a floating rate equal to the prime rate (published in the Wall Street Journal), plus six percent (6%) per annum, or if such rate is illegal, at the maximum rate allowed by law with interest to be paid from the date the Contribution or payment is due until it is paid, then the default shall be deemed to be cured. There shall be no notice or cure period for any other default hereunder. If the correction does not occur with the said five (5) day period, or if no notice or cure period is provided for hereunder, all rights and privileges of the Member shall terminate in accordance with Section 3.1 of this Article III.

**Section 3.11. Termination and Removal.** The Membership in the Trust of any Member may be terminated, and such Member may be removed, by vote of not less than two-thirds (2/3) of the Trustees entitled to vote thereon, pursuant to the provisions of Article VI of these Bylaws. The effective date of any such termination shall be no earlier than thirty (30) days after written notice of termination is actually delivered to the Administrator and the office of the chairman of the New York State Workers' Compensation Board.

#### **ARTICLE IV** **Meetings**

**Section 4.1. Annual Meeting.** The annual meeting of the Members shall be held on the third Tuesday of May of each year or, if that date is a legal holiday in the place where the meeting is to be held, then on the next succeeding day not a legal holiday. The annual meeting may be held at the principal office of the Trust or at such other place within the United States as the Members or the Board of Trustees shall determine.

**Section 4.2. Regular Meetings.** Regular meetings of the Members may be held at such places within the United States and at such times as the Members may determine.

**Section 4.3. Special Meetings.** Special meetings of the Members may be held at any time and at any place within the United States. Special meetings of the Members may be called at any time by a majority of the Members or the Board of Trustees.

#### Section 4.4. Call and Notice.

(a) Annual and Regular Meetings. No call or notice shall be required for annual or regular meetings of members, provided that reasonable notice (i) of the first regular meeting following the determination by the Members of the times and places for regular meetings shall be given to absent Members, (ii) of an annual meeting not held at the principal office of the Trust shall be given to each Member, (iii) specifying the purpose of an annual or regular meeting shall be given to each Member if there is to be considered at the meeting contracts or transactions of the Trust with interest persons, amendments to these Bylaws (as adopted by the Board of Trustees or otherwise) or removal or suspension of a Member or Trustee and (iv) shall be given as otherwise required by law, the Trust Document or these Bylaws.

(b) Special Meetings. Reasonable notice of the time and place of special meetings of the Members shall be given to each Member. Such notice need not specify the purposes of a meeting, unless otherwise required by law, the Trust Document, or these Bylaws or unless there is to be considered at the meeting (i) contracts or transactions of the Trust, with interested persons, (ii) amendments to these Bylaws (as adopted by the Board of Trustees or otherwise), or (iii) termination or suspension of a Member or Trustee.

(c) Sufficient Notice. Except as otherwise required by law, the Trust Document or these Bylaws, it shall be sufficient notice to a Member to send notice by mail or commercial expedited delivery, addressed to the last known address of the Member, at least ten but not more than sixty days before the meeting or to give notice in person, by telephone, or by telecopier to a duly authorized representative of the Member at least five business days before the meeting.

(d) Waiver of Notice. Whenever notice of a meeting is required, such notice need not be given to any Member if a written waiver of notice, executed by a duly authorized representative of the Member before or after the meeting, is filed with the records of the meeting. A waiver of notice need not specify the purposes of the meeting unless such purposes were required to be specified in the notice of such meeting. Notice shall be deemed to be waived by any member who attends the meeting without protesting the lack of notice prior thereto or at its commencement.

**Section 4.5. Quorum.** A quorum at a meeting of the Members and for the transaction of business shall be present whenever a majority of the Members are represented in person by a duly authorized representative or by proxy as permitted by these Bylaws, except when a larger quorum is required by law, by the Trust Document or by these Bylaws. Any meeting may be adjourned to such date or dates not more than ninety (90) days after the first session of the meeting by a majority of the votes cast upon the question, whether or not a quorum is present, and the meeting may be held as adjourned without further notice.

**Section 4.6. Action by Vote.** Each member shall have one vote. When a quorum is present at any meeting, a majority of the votes properly cast by Members present in person or duly represented shall decide any question, including election to any office, unless otherwise provided by law, the Trust Document or these Bylaws.

**Section 4.7. Action by Writing.** Any action required or permitted to be taken at any meeting of the Members may be taken without a meeting if all Members entitled to vote on the matter consent to the action in writing and the written consents are filed with the records of the meetings of the Members. Such consents shall be treated for all purposes as a vote at a meeting.

**Section 4.8. Proxies.** Members may vote either in person (which person may be an authorized representative of the Member) or by written proxy dated not more than eleven months before the meeting named therein, which proxies shall be filed before being voted with the Secretary or other person responsible for recording the proceedings of the meeting. Unless otherwise specifically limited by their terms, such proxies shall entitle the holders thereof to vote at any adjournment of the meeting but the proxy shall terminate after the final adjournment of such meeting.

**Section 4.9. Access to Books, Attorneys.** Members shall allow, the Workers Compensation Board of the State of New York ("WC Board"), the Board of Trustees, the Administrator, and the agents, servants, employees or attorneys from the Workers' Compensation Board, the Board of Trustees or the Administrator, reasonable access to their respective facilities and to all records, including but not limited to financial records and budget and audit information for any fiscal year, which reasonably relate to the purposes or powers of the Trust. Members shall agree to be represented by attorneys employed by the Trust, by the Administrator or by an Insurer in connection with investigations, settlement discussions, and all levels of litigation arising out of any claim made against a Member within the scope of workers' compensation and employer's liability protection furnished by the Trust, and shall cooperate fully with any such attorney.

## **ARTICLE V**

### **Indemnification**

The Members and the Group shall comply with the provisions of the New York State Workers' Compensation Law ("WC Law"), as from time to time amended. Each Member shall defend, indemnify and hold harmless each and every other Member of the Group against any claim or damage arising from the Member's noncompliance with a provision of said WC Law. Although recourse for any and all payments of workers' compensation and employers' liability benefit covered by the Trust's certificate of coverage to a Member shall first be made to the Trust's assets (but not the individual assets of any Member of the Group), the Members understand, acknowledge and agree that, under said "WC Law", each member is jointly and severally liable for the workers' compensation and employers' liability obligations of the Trust and its Members which were incurred during the Member's period of Membership in the Trust irrespective of the subsequent termination of the Member's membership in the Trust, the insolvency or bankruptcy of another Member of the Trust, or other facts or circumstances. Notwithstanding and any other provision of these Bylaws, this Article V shall not be amended without the approval of the "WC Board", so long as the statutory requirements of such joint and several liability remain in place.

## ARTICLE VI

### Board of Trustees

**Section 6.1. General Duties and Powers: Policies.** The affairs of the Trust shall be managed by its Board of Trustees, which shall have such duties and powers as are set forth in these Bylaws and who shall have and may exercise all the powers of the Trust except those powers reserved to the Members by law, the Trust Document or these Bylaws. Without limiting the generality of the foregoing, the Board of Trustees shall not adopt written policies in accordance with the State of New York's regulations concerning workers' compensation insurance, and shall thereafter amend such policies from time to time in such manner as may be determined by the Board of Trustees and consistent with these Bylaws, any rules or regulations adopted by the Board of Trustees, and applicable law. The Board shall maintain minutes of all its meetings.

**Section 6.2 Nature of Trustees.** At least two thirds (2/3) of the Trustees shall be individuals who are affiliated with (as employees, directors, or officers) Members in good standing of the Trust. If one of those Trustees ceases to be affiliated with a Member in good standing of the Trust, that Trust shall be deemed to have resigned as a Trustee, and the vacancy created by such resignation shall be filled as provided in Article VI. Each trustee shall be resident of the State of New York or an officer of a corporation authorized to do business in the State of New York.

No person employed by the Administrator of the Trust, or by any company or organization affiliated with the Administrator, shall be eligible to serve as a Trustee. All Trustees shall be residents of the State of New York or officers of corporations authorized to do business in the State of New York.

**Section 6.3. Number, Election, Term of Office and Qualifications.** The number of Trustees of the Trust shall be no fewer than three (3) and no more than eleven (11). The Board of Trustees shall be divided as evenly as possible into three (3) groups so that there will be staggered terms of office for each group of Trustees. Except for a Trust and Director elected to fill a vacancy for an unexpired term of office, the term of office of each Trustee shall be three (3) years. Each Trustee shall hold office for his or her stated term or, if sooner, until he or she dies, resigns, is removed, or becomes disqualified.

Upon the expiration of each Trustee's term, one or more successor Trustees shall be nominated by the Board of Trustees (or by any nominating committee established by the Board of Trustees from time to time). The nominee(s) shall be presented to the Members for approval at the first Annual Meeting of the Members following such expiration. The Members shall be free to nominate additional successor Trustees.

**Section 6.4. Committees.** The Board of Trustees may elect or appoint one or more committees and may delegate to any such committee or committees any or all of their powers. Any committee to which the powers of the Trustees are delegated shall consist solely of Trustees. Unless the Trustees otherwise designate, committees shall conduct their affairs in the same manner as is provided in these Bylaws for the Board of Trustees. The members of any committee shall remain in office at the pleasure of the Trustees.

**Section 6.5. Administrator.** The Board of Trustees shall appoint an Administrator, and may delegate to such Administrator such powers and duties of the Board as are permitted by law, the Trust

Document or these Bylaws. The Administrator shall serve at the pleasure of the Trustees in accordance with the terms of the contract, if any, between the Trust and the Administrator.

**Section 6.6. Regular Meetings.** Regular meetings of the Board of Trustees shall be held at such times and places as may be designated by resolution of the Board of Trustees, without other notice than such resolution.

**Section 6.7. Special Meetings and Notice.** Special meetings of the Board of Trustees may be called by the Chairman or by a majority of Trustees then in office. Written notice of any special meeting of the Board of Trustees, stating the place, day and hour of the meeting and the purpose or purposes for which it is called, shall be delivered to each Trustee not less than three (3) nor more than thirty (30) days before the date of meeting. Such notice shall be given by the Administrator personally or by mail, at the direction of the Chairman or the Trustees calling the meeting. If mailed, such notice shall be deemed delivered two days after being deposited with postage prepaid in the United States mail, addressed to the Trustee at the address of such Trustee last appearing on the records of the Trust. Such notice may also be delivered by telecopier or by recognized overnight courier (Federal Express, e.g.), and notice delivered by such means shall be deemed delivered (i) if by telecopier, at the time transmitted, or (ii) if by overnight courier, the day after such notice is given to such courier for next-day delivery.

**Section 6.8. Waiver of Notice.** Notice of any meeting of the Board of Trustees may be waived by any Trustee by executing a written waiver of notice either before or after the meeting. Notice shall be deemed to have been waived by any Trustee who attends the meeting without protesting the lack of notice prior thereto or at its commencement.

**Section 6.9. Quorum.** A quorum at a meeting of the Trustees and for the transaction of the business shall be not less than one-half (1/2) of the Trustees then in office, represented in person or by proxy, unless otherwise provided by law.

**Section 6.10. Voting.** Each Trustee shall have one vote on all matters presented to the Trustees. Except for such matters which, pursuant to law, the Trust Document, or these Bylaws, require more than a simple majority vote, the vote of a majority of the Trustees then in office and entitled to vote shall be the act of the Board of Trustees.

**Section 6.11. Disqualification.** No Trustee may vote upon any resolution that, by its terms, relates specifically by name to any Member with which such Trustee is affiliated, including without limitation a resolution to terminate such Member's Membership in the Trust pursuant to Article III, Section 3.11 of these Bylaws.

**Section 6.12. Resolution by Arbitration.** Whenever as a consequence of the terms of any proposed resolution submitted to the Trustees such number of Trustees would be disqualified from voting upon the resolution pursuant to Section 6.9 of this Article VI as would render a quorum impossible to obtain for purposes of considering such resolution, the approval or disapproval of the resolution shall be determined, in equity, by a single neutral arbitrator as designated by the Members at a Special Meeting called for that purpose.

**Section 6.13. Action by Writing.** Any action required or permitted to be taken at any meeting of the Trustees may be taken without a meeting if all the Trustees consent to the action in writing and the written consents are filed with the records of the meeting of the Trustees. Such consents shall be treated for all purposes as a vote at a meeting.

**Section 6.14. Presence Through Communications Equipment.** Unless otherwise provided by law or the Trust Document, Members of the Board of Trustees may participate in a meeting of such Board by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.

**Section 6.15. Resignation.** Any Trustee may resign at any time by delivering his or her resignation in writing to the Chairman of the Board of Trustees or the Trust at its principal office. Such resignation shall be effective upon receipt unless specified to be effective at some other time.

**Section 6.16. Removal.** A Trustee may be removed with or without cause by a vote of a majority of the Members. A Trustee may be removed with cause by the vote of a majority of the Trustees then in office. A Trustee may be removed for cause only after reasonable notice and opportunity to be heard before the body proposing to remove such Trustee.

## **ARTICLE VII**

### **Administration of Funds**

**Section 7.1. Trustees Responsible for Monies.** The Board of Trustees shall be responsible for all monies collected or disbursed from the Trust.

**Section 7.2. Claims Fund.** A Trust Fund shall be established to make payments on behalf of Members as required by the Workers' Compensation Law. Net premium shall be placed in the Claims Fund sufficient to cover the Trustee's general workers' compensation liability including the payment of claims and attorneys' fees as well as the costs of reinsurance.

**Section 7.3. Administration Fund.** Any remaining net premium shall be placed in an Administrative Fund for the payment of taxes, general regulatory fees, assessments and administration costs.

**Section 7.4. Investment of Monies.** Any funds not needed for current obligations may be invested in accordance with the provisions of Section 11-2.2 of the New York State Estates, Powers and Trusts Law.

#### Section 7.5. Lending and Borrowing Money.

a. The Board of Trustees shall not extend credit to individual Members for payment of premium, except pursuant to payment plans approved by the Workers' Compensation Board. Nor shall the Board of Trustees lend money for any purpose without obtaining the prior written approval of the Workers' Compensation Board.

b. The Board of Trustees shall not borrow any money on behalf of the Trust except in the ordinary course of business, without first obtaining prior written approval from the Workers' Compensation Board.

### **ARTICLES VIII**

#### Inspection of Books and Reports to Members

Books, accounts and records of the Members shall be open to inspection by the Administrator during the normal business hours of the Member. The Board of Trustees shall as soon as reasonably possible after the close of each Fund Year, or more often if convenient to the Board, submit to the Members a report of the operations of the Fund for such Fund Year.

### **ARTICLE IX**

#### Execution of Papers

Except as the Board of Trustees may generally or in particular cases authorize the execution thereof in some other manner, all deeds, leases, transfers, contracts, bonds, notes, checks, drafts and other obligations made, accepted or endorsed by the Trust shall be signed by the Chairman or by any two Trustees.

### **ARTICLE X**

#### Personal Liability

The Trustees of the Trust shall not be personally liable for any debt, liability or obligation of the Trust. All persons, corporations or other entities extending credit to, contracting with, or having any claim against, the Trust, may look only to the funds and property of the Trust for the payment of any such contract or claim, or for the payment of any debt, damages, judgment or decree, or of any money that may otherwise become due or payable to them from the Trust.

## ARTICLE XI

### Contracting and Other Authority: Fund Administrator

**Section 12.1. Fund Administrator.** At the first meeting of the Board of Trustees following the Annual Meeting of the Members, the Trustees shall select an Administrator who shall have authority to perform all necessary function to administer, manage and operate the Trust and its funds consistent with the direction of the Board of Trustees, and except as otherwise provided by law, in the Trust Document or these Bylaws. The Fund Administrator shall record in books kept for that purpose all the votes and proceedings of the Members and Trustees at their respective meetings, shall keep on record all written consent instruments as contemplated by these Bylaws, and shall perform such other duties as are prescribed by these Bylaws or by the Board of Trustees.

**Section 12.2. Contracting Authority.** Except as otherwise authorized by the Board of Trustees from time to time or by these Bylaws, the Administrator shall not have authority to approve or execute any contracts on behalf of the Trust without the express approval of the Board of Trustees.

## ARTICLE XII

### Amendments

These Bylaws may be altered, amended or repealed at any annual or special meeting of the Members, notice of which shall specify the subject matter of the proposed alteration, amendment or repeal or the sections to be affected thereby, by vote of the Members. These Bylaws may also be altered, amended or repealed by vote of the Trustees then in office, except with respect to any provision thereof which by law, the Trust Document or these Bylaws requires action by the Members. Not later than the time of giving notice of the meeting of Members next following the amending or repealing by the Trustees of any Bylaws, notice thereof stating the substance of such change shall be given to all Members. Any Bylaw so altered, amended or repealed by the Trustees may be further altered or amended or reinstated by the Members in the above manner.

## ARTICLE XIII

### Termination

In the event that this Trust is for any reason unable to function as a workers' compensation self-insurance group in accordance with Section 50(3-a) of the New York State Workers' Compensation Law the Trust shall be terminated in accordance with the provisions of law.