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**MIDWEST PUBLIC RISK OF MISSOURI**

**BYLAWS**

**Date of Adoption:** \_\_\_\_\_

**Effective Date: July 1, 2016**

**WHEREAS**, it is in the mutual interest of the parties hereto to join together to establish and to operate a cooperative program of loss control and risk management, and to provide risk services and risk coverages and other programs which are designed to meet the unique needs of governmental entities; and

**WHEREAS**, RSMo. Section 537.620, as amended, authorizes three or more Missouri political subdivisions to form a not for profit business entity to provide liability and all other risk coverages for its members; and

**WHEREAS**, RSMo. Section 537.620 further authorizes qualifying governmental entities in Missouri and any other state to join such entity; and

**WHEREAS**, all of the governmental entities which are party to these Bylaws desire to become members of Midwest Public Risk of Missouri (“MPR Missouri”) and intend that these Bylaws shall constitute a contract among them;

**NOW THEREFORE**, in consideration of the mutual advantages to be derived herefrom and by the execution of these Bylaws as a contract, all of the parties hereto agree as follows:

**ARTICLE 1  
DEFINITIONS**

Unless the context requires otherwise, the following terms shall have the following meanings:

“**Act**” shall mean RSMo. Chapter 355, the Missouri Nonprofit Corporation Act.

“**Contribution(s)**” shall mean any payment required by MPR Missouri to be paid for the receipt by a Member of any MPR Missouri Program or Service, or to satisfy any other Member obligations under these Bylaws.

“**Coverage Document(s)**” shall mean the written documents approved by MPR Missouri and which are either issued by MPR Missouri or purchased through commercial insurance companies, which set forth the terms and conditions of any Program.

“**Interlocal Agreement**” shall mean an agreement between MPR Missouri and one or more of (1) a State, (2) another association or entity that operates as a self-insured association of governmental entities, or (3) any governmental entity authorized by the statutes or applicable laws



of the state in which it is located. An Interlocal Agreement must be entered for purposes of (1) establishing or maintaining MPR Missouri's program of loss control and risk management; or (2) providing risk services, risk coverages (including employee benefits and property/liability) or other services to MPR Missouri Members.

**"Member(s)"** shall mean any governmental entity which is authorized by the statutes or other applicable law of the State of Missouri to enter into contracts or other arrangements for the purpose of pooling resources for liability and other risk coverages and related services and which qualifies as a political subdivision, public governmental body, or quasi-public governmental body as specified in RSMo. Section 537.620. The constituent individual participants in any Member entity whose purpose or function is to administer or sponsor such participants as a collective body shall not be deemed to be Members of MPR Missouri, and only such administering or sponsoring Member entity shall be entitled to single Member status upon such terms and conditions as the Board of Directors shall determine.

**"Member Representative(s)"** shall mean the individual, who shall be either an elected official or a full-time employee of a Member, who has been duly appointed by a Member to represent the Member's interest in MPR Missouri and to carry out the obligations of a Member Representative under these Bylaws.

**"Nominating Committee"** shall have the meaning set forth in Section 6.6 hereof.

**"Policy(ies) or Procedure(s)"** shall mean any rules or guidelines which may be promulgated from time to time by the MPR Missouri Board of Directors or President/CEO which are not Coverage Documents and which shall be necessary to carry out the purposes of MPR Missouri.

**"Program(s)"** shall mean any coverages which are provided through MPR Missouri to its Members from time to time including, but not limited to, property and liability, workers' compensation, and employee benefits.

**"Resolution(s)"** shall mean any ordinance, resolution or other edict or means by which the governing body of a Member takes official action on behalf of, or takes official action which is intended to be binding upon, the Member.

**"Service(s)"** shall mean those services which are provided through MPR Missouri to its Members from time to time which are not Programs and which include, but shall not be limited to, loss control, risk management, administration, claims adjusting, legal defense, and education.

## **ARTICLE 2**

### **NAME; PRINCIPAL OFFICE**

#### **Section 2.1 Name; Principal Office**

The not for profit business entity that has heretofore been organized and operated as MARCIT shall hereafter be named Midwest Public Risk of Missouri ("MPR Missouri").



The Board of Directors shall establish, at a location within the State of Missouri, MPR Missouri's principal office.

### **ARTICLE 3 INTENT; NOT BUSINESS OF INSURANCE**

#### **Section 3.1 Intent**

It is the intent of the Members that MPR Missouri shall provide comprehensive and cooperative Programs and Services to its Members and that the Members shall pay for the costs and other obligations of MPR Missouri through Contributions and the utilization of deductibles, retentions, purchase of reinsurance, excess insurance, insurance, or other provisions for the payment of Member losses and expenses.

#### **Section 3.2 Not Business Of Insurance**

The provision of Programs and Services by MPR Missouri to its Members is not, and shall not be deemed to constitute, the transaction of an insurance business, and MPR Missouri is not, and shall not be deemed to be, an insurance company or insurer under the laws of any state.

#### **Section 3.3 Not-for-Profit Organization**

MPR Missouri shall be organized and operated as a not-for-profit corporation under Missouri law. No part of MPR Missouri's assets or net income shall inure to the benefit of any individual including any director, officer, employee, or Member, except as may be authorized in these Bylaws and allowed by law; provided, however, that MPR Missouri shall be authorized to pay all expenses incurred in furtherance of the purposes set forth in these Bylaws, including reimbursement to directors, officers, employees, Members or others acting on behalf of MPR Missouri.

### **ARTICLE 4 MPR MISSOURI POWERS**

#### **Section 4.1 MPR Missouri Powers**

MPR Missouri shall have the following powers to carry out the purposes set forth in these Bylaws:

- (a) to establish and implement educational, technical assistance and other activities relating to risk management and loss control;
- (b) to establish reasonable and necessary loss control policies, procedures and programs to be followed by Members;

(c) to establish underwriting and claims adjusting standards and procedures; such services may be performed by MPR Missouri staff or MPR Missouri may contract with others for such services, including legal defense;

(d) to retain staff, agents and independent contractors and to provide for an employee benefits program for MPR Missouri employees;

(e) to acquire, lease, hold or dispose of real or personal property;

(f) to invest funds as authorized by law;

(g) to collect and administer funds as needed and, within prudent reserving and actuarial standards, to set aside sufficient cash reserves for the payment of claims and expenses;

(h) to establish rules for the calculation and payment of Contributions by Members or Member employees, including penalties for late payments;

(i) to assume, cede and sell risk;

(j) to sue and be sued;

(k) to enter into contracts, including, but not limited to contracts with state pools located in other states which assist MPR Missouri in carrying out its powers hereunder;

(l) to establish rules for the reimbursement of members of the Board of Directors, officers, committee members and others for reasonable and necessary expenses while tending to official business on behalf of MPR Missouri;

(m) to determine deductible and retention levels of the self-funded program and the amount of risk to be retained by MPR Missouri or Members and the amount of risk to be transferred to others;

(n) to borrow money or issue bonds or other financial obligations to fund MPR Missouri Programs and Services;

(o) to purchase or provide fidelity bond coverage or other risk coverage for officers, Directors and employees of MPR Missouri;

(p) to be subrogated to the rights of its Members and to seek recovery in the name of its Members from any person or entity responsible for a claim or loss;

(q) to declare and pay dividends and refunds as allowed by law;

(r) to determine Coverage Documents and Policies and Procedures which are necessary, desirable or expedient to provide the Services and Programs authorized by these Bylaws;

(s) to perform such other activities which are necessary, expedient, implied or desirable to carry out the purposes of MPR Missouri; and

(t) to perform any such other acts which are allowed by law to be performed under the Act.

## **ARTICLE 5 MEMBERS**

### **Section 5.1 Member Eligibility and Admission**

Subject to the payment of appropriate Contributions and under such terms and conditions as the Board of Directors may establish, new Members may be admitted with the approval of the majority of the total membership of the Board of Directors. Only those governmental entities which meet the Member definition in these Bylaws, and have submitted a copy of the minutes documenting a majority vote or Resolution from the new Member's governing body granting the authority to execute these Bylaws (or have otherwise assured MPR Missouri of their obligation to comply with these Bylaws) may be accepted for membership. A governmental entity located in any state of the United States other than the State of Missouri that is eligible to become a member of a governmental pool that is located in the governmental entity's own state and that is party to a Risk Sharing Agreement with MPR Missouri shall not be eligible to become a Member of MPR Missouri. The Board of Directors of MPR Missouri may delegate authority to review and accept or reject applications for membership by written agreement to such persons or entity and in such manner as it may determine to be consistent with the best interests of MPR Missouri.

### **Section 5.2 Member Rights**

The rights of Members, which shall be exercised by the Member Representative of each Member, shall be as follows:

(a) to vote on all matters which shall be presented to Members for a vote at any Member meeting;

(b) to elect, in accordance with the procedures described in these Bylaws, eligible candidates to the Board of Directors;

(c) to apply for and receive and participate in Programs and Services for which the Member is qualified upon such terms and conditions as the Board of Directors shall determine; and

(d) to exercise all other rights and privileges as are described in these Bylaws and as are allowed under the Act.



### **Section 5.3 Member Obligations**

The obligations of Members shall be as follows:

- (a) to continuously maintain participation in no less than one MPR Missouri Program;
- (b) to designate in writing, by the chief administrative officer of the Member, a Member Representative. MPR Missouri shall not be required to contact any other individual except the Member Representative for any action or notification which may be required by these Bylaws or MPR Missouri rules. All notices to or agreements with the Member Representative shall be binding upon the Member. A Member may change the Member Representative by giving written notice to MPR Missouri;
- (c) to promptly make all Contributions and other payments which are due to MPR Missouri at such times and in such amounts as shall be required by MPR Missouri;
- (d) with reasonable notice and during normal work hours, to permit MPR Missouri and its agents, officers and employees access to all facilities and records of the Member, including but not limited to financial records, as they relate to the operations of MPR Missouri;
- (e) to report immediately to MPR Missouri, as required by relevant Program Coverage Documents and Policies and Procedures, all occurrences which could reasonably be expected to result in a claim against the Member, its agents, officers or employees or for losses to Member property, within the scope of the Programs provided by MPR Missouri;
- (f) to cooperate fully with MPR Missouri claims adjustors, agents, employees and attorneys in the investigation and settlement of any claim or lawsuit within the scope of Programs or Services provided by MPR Missouri, and to acknowledge that MPR Missouri has the final authority to select legal defense counsel for any lawsuit brought under the Programs provided by MPR Missouri to the Member;
- (g) to implement, as finances and circumstances permit, MPR Missouri recommended risk management and loss control policies and procedures, and also to permit Member officials and employees to participate in MPR Missouri sponsored conferences and seminars;
- (h) to report to MPR Missouri, as required by MPR Missouri Program Coverage Documents or Policies and Procedures, the addition of new services, programs or facilities, the reduction or expansion of existing operations and facilities, or other facts that could reasonably be expected to affect the Member's loss experiences or create potential risks;
- (i) to provide MPR Missouri as promptly as possible with all requested information needed for determining Member loss exposures and Contributions;
- (j) to take an active role in the business of MPR Missouri, including assignment of personnel to serve on various MPR Missouri committees; and

(k) to comply with all terms and conditions of these Bylaws, Coverage Documents and Policies and Procedures.

Except as expressly set forth to the contrary in these Bylaws or MPR Missouri's Articles of Incorporation, the rights and obligations of Members shall be identical in all respects.

#### **Section 5.4 Limitations on Member Liability**

Except as specifically required by MPR Missouri's Articles of Incorporation, Bylaws, or by law, no Member shall be responsible for any claim in tort or contract made against any other Member solely on account of a Member's participation in MPR Missouri. By executing these Bylaws, the Members have not created between or among themselves any relationship or partnership, suretyship, indemnification or responsibility for debts or claims against any other Member. These Bylaws shall not relieve any Member of any obligation or responsibility imposed upon it by law, except to the extent that actual and timely performance by MPR Missouri satisfies such obligation or responsibility in whole or in part.

#### **Section 5.5 Annual Member Meeting**

There shall be one annual membership meeting of MPR Missouri held each year at a time and place to be designated by the Board of Directors. Notice of such meeting shall be sent by first class mail to Member Representatives at least ten (10) days in advance of the meeting. Failure of any Member Representative to receive such notice shall not nullify any action taken at an annual membership meeting. Notice of such meeting may also be given by electronic means.

The President/CEO shall prepare the agenda for the annual membership meeting and shall include on such agenda any item requested by five (5) or more Member Representatives at least twenty (20) days prior to the meeting. Any subject relating to MPR Missouri may be discussed at the annual membership meeting.

At the annual meeting, the President/CEO and chief financial officer of MPR Missouri shall report to the Members on the activities and financial condition of MPR Missouri.

#### **Section 5.6 Special Membership Meeting**

A special Membership meeting may be called by a majority of the total membership of the Board of Directors or upon the petition of one-third (1/3) of the Members acting through their Member Representatives. A special membership meeting must be held within sixty (60) calendar days after receipt of a valid petition; provided, however, that if the annual membership meeting is scheduled to occur within sixty (60) days after receipt of the request for the special membership meeting, then no separate special membership meeting shall be held. If a valid petition is received within sixty (60) calendar days prior to the annual membership meeting, the topic or topics contained in the petition shall be placed on the agenda for that meeting.

Notice of a special membership meeting shall be mailed, by first class mail, to each Member Representative at least ten (10) days in advance of the meeting date. Failure of any



Member Representative to receive such notice shall not nullify any action taken at a special membership meeting.

Only those matters which are within the purpose or purposes described in the meeting notice may be considered at a special membership meeting. The Board of Directors shall establish the time and place for all special membership meetings.

### **Section 5.7 Quorum; Voting Rights**

A quorum of at least twenty percent (20%) of the Member Representatives shall be required to conduct business at a special or annual membership meeting. No absentee or proxy voting shall be allowed at any membership meeting. Each Member shall be entitled to one vote that must be cast by the Member Representative. Minutes of the meeting shall record how many members of MPR MO exist at the time of the meeting and how many (in whole numbers) constituted the required twenty percent.

The Chair of the Board of Directors shall preside at all membership meetings and, if the Chair is attending the meeting in the capacity of Member Representative, shall be entitled to vote on all matters coming before the meeting.

### **Section 5.8 Withdrawal**

A Member may withdraw from membership in MPR Missouri as of the end of MPR Missouri's fiscal year provided that such Member has given MPR Missouri at least ninety (90) days' prior written notice of its intention to withdraw and provided further that such Member ceases participation in all MPR Missouri Programs and Services as of the date of withdrawal. Except for withdrawing Members which have retained rights pursuant to a written agreement with the Board of Directors at the time of withdrawal, a withdrawing Member shall forfeit all rights to any refunds, dividends, or claims upon MPR Missouri's assets upon dissolution of MPR Missouri which may be declared or determined subsequent to the date of the Member's withdrawal.

A notice of Member withdrawal shall be accompanied by a Resolution adopted by the governing body of the Member which authorizes the withdrawal of the Member from MPR Missouri. Such notice shall be final and binding. No notice of Member withdrawal shall be effective unless it is accompanied by such governing body Resolution.

A withdrawing Member shall continue to be responsible for all obligations after the date of withdrawal that relate to the term of membership including, but not limited to, obligations for special assessments. The withdrawing Member shall be subject to all MPR Missouri Policies and Procedures pertaining to any obligation, claim or lawsuit covered by MPR Missouri.

Any Member who withdraws from MPR Missouri without complying with the foregoing obligations shall be obligated to pay to MPR Missouri liquidated damages equal to 25% of the Member's annual Contributions paid by such Member in its final full year of participation in MPR Missouri. Member agrees to pay such liquidated damages within twenty (20) calendar days following receipt of the computation of the amount due. MPR Missouri and Member agree that



the failure of Member to withdraw from MPR Missouri in accordance with the foregoing procedures shall cause damage to MPR Missouri in amounts which it is not possible calculate at this time and that these liquidated damages are a good faith estimate of the damages as to which the Member shall be obligated to MPR Missouri.

## **Section 5.9 Termination**

### **(a) Termination**

A Member may be terminated from membership in MPR Missouri for cause upon a majority vote of the total membership of the Board of Directors. The effective date of such termination shall be as determined by the Board of Directors, except that such termination shall take effect no later than ninety (90) days following the Board's decision to terminate. For purposes of this Section, cause shall be deemed to include the following:

- (1) failure to maintain at least one Program with MPR Missouri;
- (2) failure to make any Contribution due to MPR Missouri in accordance with the directives of the MPR Missouri Board of Directors;
- (3) failure to undertake or to continue risk management or loss control measures recommended by MPR Missouri;
- (4) failure to allow MPR Missouri and its agents reasonable access to all facilities and records of the Member which are necessary for the proper administration of MPR Missouri;
- (5) failure to cooperate fully with MPR Missouri officers, employees, attorneys, claims adjusters or other agents;
- (6) failure to file required reports with MPR Missouri or the filing of a false claim or report or any conduct which impairs the ability of MPR Missouri to carry out its purposes;
- (7) adverse loss experience with respect to the property and liability Program or the workers' compensation Program, as determined by the Board of Directors;
- (8) breach of any of Member's obligations under these Bylaws, MPR Missouri Coverage Documents, or MPR Missouri Policies and Procedures;
- (9) failure of a Member, the elected governing body of the Member, or of other personnel of the Member to exercise the Member's powers or fulfill the Member's duties in accordance with the constitution or statutes of the state which has enabled the creation of the Member and which has prescribed the Member's classification as a governmental entity;

(10) a Member becomes ineligible for MPR Missouri Membership pursuant to § 5.1 of these Bylaws; provided that such Member may not be terminated during the Program year if such Member's ineligibility is established after the first day of a Program year; or

(11) any other cause that is deemed good cause by a two-third (2/3), defined as eight directors, vote of the entire Board of Directors.

**(b) Notification; Hearing, Obligations**

A Member shall be terminated immediately and without further notice upon the failure of a Member to maintain at least one Program or receive any Services from MPR Missouri. A Member shall be terminated with not less than thirty (30) days written notice upon the determination by the Board of Directors that such Member has adverse loss experience. In all other cases, a Member may be terminated only after written notice sent by certified or first class mail from the President/CEO of MPR Missouri stating the reasons for termination. Such notice shall provide the Member thirty (30) calendar days to cure the grounds for termination. The Member may request a hearing before the Board of Directors prior to the final termination of the Member's membership in MPR Missouri. The President/CEO of MPR Missouri shall present the case for termination to the Board of Directors, and the Member shall have reasonable opportunity to present its case to the Board of Directors.

The decision by a majority of the total members of the Board of Directors to terminate a Member after notice and hearing or after the failure of the Member to cure the grounds given for termination shall be final and shall not be subject to appeal in any forum. The termination shall take effect thirty (30) calendar days after the decision to terminate is approved by the Board of Directors.

A terminated Member shall forfeit all rights to any MPR Missouri refunds, dividends, or distribution of assets upon dissolution after the effective date of termination. Any terminated Member shall continue to be bound to those same continuing obligations as to which a withdrawing Member is obligated in accordance with Section 5.8 of these Bylaws.

**Section 5.10 Application of Sections 355.231 to 355.306 of the Act**

The provisions of Sections 355.231 to 355.306 of the Act shall apply to MPR Missouri except to the extent the provisions of such Sections are inconsistent with the Articles of Incorporation of MPR Missouri or these Bylaws, provided, however, that no Section allowing proxy voting shall apply to MPR Missouri.

**ARTICLE 6  
BOARD OF DIRECTORS**

**Section 6.1 Powers; Election; Vacancies**

The Board of Directors shall consist of eleven (11) members. The Board of Directors shall adopt rules for the election of Directors by the Member Representatives and for appointment to fill Director vacancies by the Board of Directors, provided that the following conditions are fulfilled:

(a) at least two members of the Board of Directors shall be from the six largest Missouri Members as measured by total contributions paid in MPR Missouri's most recent fiscal year;

(b) each Member Representative shall be entitled to one vote for each Director position to be filled;

(c) Directors shall serve three year, staggered terms provided that no Director may serve more than two consecutive three-year terms or a total of six consecutive years. Board service by individuals appointed to fill the remainder of an unexpired term shall not be considered for purposes of these limitations;

(d) Directors shall assume office at the end of the annual membership meeting following election;

(e) by majority vote of the total number of serving Directors, the Board of Directors shall appoint qualified individuals to fill vacancies on the Board of Directors for the remainder of any unexpired term;

(f) the number of Directors may be increased or decreased by a supermajority vote of two-thirds (2/3) of the Members at the annual meeting of Members as defined by Section 5.5; and

(g) the Board of Directors shall adopt rules for the nomination of qualified candidates to run for election to the Board of Directors.

**Section 6.2 Director Qualifications**

All Directors shall be full time employees of a Member. Any Director who fails to meet this requirement or whose Member entity withdraws or whose membership in MPR Missouri is terminated as provided in these Bylaws shall immediately forfeit the Director's position. All directors shall meet the requirements of the Act.

**Section 6.3 Director Compensation and Expenses**

Directors shall serve without compensation. Directors' reasonable and necessary expenses related to service on the Board of Directors shall be paid or reimbursed by MPR Missouri.



## **Section 6.4 Board Officers**

The first agenda item, following roll call, at the first meeting of the Board of Directors following the annual meeting shall be the election of MPR Missouri officers (the “Board Officers”). The Board of Directors shall review the nominees recommended by the Nominating Committee created for such purpose and shall elect, by majority vote from its membership, a Chair, Vice-Chair, Secretary and a Treasurer. The Board of Directors may elect persons nominated by the Nominating Committee or may elect persons not so nominated to one or more Board Officer positions provided that such persons meet the qualifications and requirements set forth herein. Only Directors who have previously served at least one term on the Board of Directors shall be eligible for the positions of Chair and Vice-Chair. These Board Officers shall immediately assume their offices and shall serve until the next regular meeting of the Board of Directors following the annual meeting or until their successors are duly elected and qualified. The President/CEO shall serve temporarily as presiding officer during the election of Board Officers.

The Chair shall preside at all Board of Directors meetings and shall be entitled to vote on all matters brought before the meeting. The Chair shall also, with the approval of the Board, appoint all committee members. The Board may also authorize the Chair to represent the interests of MPR Missouri before such organizations as the Board shall designate. The Vice Chair shall act in the Chair’s absence.

The Secretary shall prepare, or cause to be prepared, the official minutes of all meetings of the Board of Directors and of the Members, and shall authenticate all MPR Missouri official records.

The Treasurer shall prepare or cause to be prepared an accurate accounting of all MPR Missouri assets and liabilities and all receipts and disbursements. The Treasurer shall perform the duties generally incident to the office of Treasurer.

In the case of a vacancy in any office, the Board of Directors shall, at the Board of Directors’ next regular meeting, appoint a qualified Director to fill the unexpired term. No individual may serve more than three consecutive one year terms in the same office position.

One person may hold more than one of the offices described above; provided, however, that the same person may not serve as both Chair and Vice-Chair or Chair and Secretary.

## **Section 6.5 Board Powers**

Except as otherwise required by law, MPR Missouri’s Articles of Incorporation, or these Bylaws, all corporate powers of MPR Missouri shall be exercised by or under the authority of, and the affairs of MPR Missouri shall be managed under the direction of, the Board of Directors. The Board of Directors shall have the authority and power to take all steps and actions necessary, desirable or expedient to fulfill the obligations and objectives contained in these Bylaws. The enumeration of any specific duty or power is not to be construed as a limitation upon the right to exercise any other powers or duties.

Subject to any applicable laws, and upon such terms as the Board of Directors shall establish in accordance with Section 9.2 of these Bylaws, the Board of Directors may, but shall not be required to, declare refunds or dividends to Members and the Board of Directors may, by written agreement, delegate such authority to the executive committee of Midwest Public Risk to declare refunds or dividends to Members. Except for withdrawing Members which have retained rights pursuant to a written agreement with the Board of Directors at the time of withdrawal, any Member which withdraws prior to the declaration of any refund or dividend from the Program as to which the refund or dividend is based shall surrender all rights to such refund or dividend. Any dividend or refund allocable to a Member shall first be used to offset and reduce the amounts, if any, which may be due and unpaid to MPR Missouri from such Member.

The Board of Directors shall approve and execute a management and administration agreement with Midwest Public Risk (“MPR”) for implementation of the Risk Sharing Agreement.

The Board of Directors may enter into interlocal agreements for other types of coverage risks, and may enter into interlocal agreements with other appropriate entities, subject to applicable law, at the discretion of the Board of Directors.

The Board of Directors shall select a qualified public accounting firm to audit, on an annual basis, MPR Missouri’s financial records in conformance with generally accepted accounting principles, relevant laws and these Bylaws. A copy of the audit shall be distributed as required by law.

The Board of Directors shall adopt an annual budget in a form and manner determined by the Board of Directors.

The Board of Directors shall adopt rules governing the conduct of Directors and Director meetings, including, but not limited to, an attendance policy. Directors may only be removed by the majority vote of a quorum of a meeting of the Members.

## **Section 6.6 Committees**

The Board of Directors shall appoint a committee for the nomination of Board Officers (the “Nominating Committee”) at each June meeting of the Board of Directors. The Nominating Committee shall develop recommendations regarding the election of Board Officers for consideration by the full Board of Directors at the first meeting of the Board of Directors following the annual meeting, and shall develop similar recommendations for appointments to fill any vacancies in Board Officer positions. Members of the Nominating Committee shall serve one (1) year terms.

The Board of Directors may create advisory and technical committees as deemed necessary or expedient. The Board of Directors shall determine committee duties, number of members, and membership qualifications and terms. The Chair shall, with the approval of the Board of Directors, appoint all committee members and committee chairs, with the exception of the Nominating Committee. At least one Member of the Board of Directors shall serve on each



committee. No committee shall possess or exercise the authority or power of the Board of Directors.

#### **Section 6.7 MPR Missouri Policies and Procedures**

The Board of Directors shall adopt Policies and Procedures, not in conflict with these Bylaws, that are necessary or expedient or desirable for the operation and functioning of MPR Missouri. All Members, Directors, officers, employees and other service providers shall be subject to and adhere to such Policies and Procedures.

#### **Section 6.8 Meetings**

The Annual Meeting of the Board of Directors shall be held immediately following the annual Member meeting for the purpose of electing MPR Missouri officers and transacting such other business as may properly be brought before the meeting. In addition to such Annual Meeting, the Board of Directors shall hold regular meetings on the first Wednesday of February, April, June and December of each year at 10:00 a. m. or at such other time and place as may be designated by the Board of Directors. Special Board of Directors' meetings may be called by the Chair or by 1/3 of the Directors. Any topic may be discussed at a regular meeting; only topics on the agenda may be discussed at a special meeting. Directors and Member Representatives shall receive at least five (5) days' written notice of all Board of Directors meetings, which notice may be electronic.

A quorum consisting of a majority of the serving Directors shall be present in order to conduct business at any Board of Directors meeting. Directors may participate in any meeting of the Board of Directors by means of conference telephone or similar communications equipment whereby all persons participating in the meeting can simultaneously hear each other, and participation in a meeting in this manner shall constitute presence in person at the meeting. The President/CEO shall prepare the agenda for all Board of Directors meetings.

All Board of Directors meetings, except those permitted by law to be closed, shall be open to the public, and all votes shall be public except as otherwise permitted or required by law or these Bylaws. Unless notice is provided to the contrary, all meetings of the Board of Directors shall be held at MPR Missouri's principal office.

Except as required by law or these Bylaws, a majority vote of the Directors present at a meeting at which a quorum is present shall be required to approve all motions or other actions of the Board.



**ARTICLE 7  
PRESIDENT/CEO**

**Section 7.1 President/CEO; Appointment; Authority**

There is hereby continued the position of President/Chief Executive Officer (“President/CEO”) who shall be appointed and may be removed by a majority of the total membership of the Board of Directors. The President/CEO shall be an officer of MPR Missouri.

The President/CEO shall be responsible to the Board of Directors for the proper administration and conduct of all Programs and Services offered by MPR Missouri. All agents, employees and independent contractors shall report to the Board of Directors through the President/CEO and shall be supervised by the President/CEO.

Subject to any limitations adopted by the Board of Directors, the President/CEO is authorized to settle all claims or cases involving the Programs provided by MPR Missouri.

The President/CEO shall prepare and submit to the Board of Directors, for consideration prior to the start of each fiscal year, a recommended budget for the forthcoming year. The President/CEO shall attest to all official records, sign contracts, select, appoint and supervise all employees, implement the adopted annual budget, and do all other things customary to this position.

The President/CEO shall be a member of all standing and special committees and shall be entitled to attend all Board of Directors and committee meetings with a right to speak but not to vote on issues. The President/CEO may be excused from Board or committee meetings pertaining to the President/CEO’s employment or job performance.

**ARTICLE 8  
COVERAGE DOCUMENTS; UNDERWRITING CONTRIBUTIONS**

**Section 8.1 Coverage Documents**

MPR Missouri Programs shall be described in separate Coverage Documents. MPR Missouri may add, delete, or modify the Coverage Documents for such Programs as the Board of Directors may determine. All MPR Missouri Programs shall be considered excess only and not primary or contributory when the Member has a valid and collectable insurance policy or other similar protection against a loss covered by MPR Missouri.

**Section 8.2 Modification of Coverage Documents and Conflicts**

Coverage Documents may be modified by the President/CEO to meet specific Member or MPR Missouri needs and shall be provided to the Member. Such Coverage Documents shall be subject to all of the terms and conditions of these Bylaws and MPR Missouri Policies and Procedures. In case of any conflict between the Coverage Documents and these Bylaws, these Bylaws shall be controlling.

### **Section 8.3 Coverage Questions; Appeals and Other Disputes**

The President/CEO shall decide all questions of coverage in specific cases. A Member may appeal the President/CEO's decision to the Board of Directors. Notification of such appeal must be taken no later than sixty (60) calendar days after the date of the President/CEO's decision. The Member shall have the opportunity to appear and present evidence to the Board of Directors. The Board of Directors' decision, by a majority of the total membership of the Board of Directors, shall be final and not subject to appeal in any forum.

The Board of Directors shall decide all other disputes between MPR Missouri and any Member involving these Bylaws, Coverage Documents or Policies and Procedures. The Board of Directors' decision, by a majority of the total membership of the Board of Directors, shall be final and not subject to appeal in any forum.

### **Section 8.4 Acceptance and Withdrawal of Coverages**

No Member shall receive any Program or Services unless the Member's request for such Program or Services is accompanied by either a copy of the minutes documenting a majority vote or a Resolution adopted by its governing body expressing the governing body's intention to secure the Program or Service from MPR Missouri.

Members belonging to the Workers' Compensation program must participate in the safety services offered by MPR as required by the Missouri Division of Workers' Compensation.

Any Member may withdraw from, and cease participation in, any MPR Missouri Program or Service at the end of any contract year by giving at least ninety (90) days' notice, in writing, of its intention to withdraw. In the case of any such withdrawal from a Program, except for withdrawing Members which have retained rights pursuant to a written agreement with the Board of Directors at the time of withdrawal, the withdrawing Member shall forfeit all rights to any refunds, dividends or payments in dissolution which may be declared subsequent to the date of withdrawal with respect to the Member's past participation in the Program. A Member's request for withdrawal shall specifically state which Program or Service the Member desires to withdraw from and must be accompanied by a Resolution adopted by its governing body which expresses the governing body's intention to withdraw. Such notice shall be final and binding. Failure to submit such a governing body Resolution shall have the effect of voiding the notice of withdrawal as though such notice were not given.

A withdrawing Member from any Program shall continue to be responsible for all obligations after the date of withdrawal that relate to the prior coverage under the Program, including, but not limited to, the obligation to satisfy any special assessments. The withdrawing Member shall also be subject to all MPR Missouri rules pertaining to any obligation, claim or lawsuit covered by MPR Missouri.

Any Member which withdraws from any Program or Service and fails to provide the required ninety (90) days' notice of intention to withdraw shall pay liquidated damages equal to 25% of the Program's annual premium contribution paid by the Member in the prior year, except for withdrawing Members which have retained their rights pursuant to a written agreement with the Board of Directors at the time of withdrawal. The Member agrees to pay such liquidated damages within twenty (20) calendar days after receipt of a bill. MPR Missouri and the Member agree that it is not possible to calculate the damage to MPR Missouri which may be caused by the breach of this condition and that the foregoing percentage constitutes liquidated damages which are a good faith estimate by MPR Missouri and the Member. The Board of Directors, at its discretion, may shorten the ninety (90) days' notice period as it deems appropriate, provided that it shall have previously given written notice of such change to all of the Members.

### **Section 8.5 Contributions**

MPR Missouri Programs and Services shall be funded by Contributions from its Members and Member employees for those Programs and Services in which Members desire to participate. The Board of Directors shall determine when Contributions are due and may impose charges for late payments. Each Member's account shall be reviewed on an annual basis.

### **Section 8.6 Underwriting**

Contributions for Programs and Services paid by Members and their employees shall be determined in accordance with underwriting guidelines approved by the Board of Directors. Underwriting guidelines may be based upon any factor or combination of factors which relate to potential losses and which will produce sufficient income to pay losses and related administrative expenses. Underwriting guidelines shall be reviewed periodically to insure that they meet the stated objectives.

### **Section 8.7 General and Separate Funds**

Contributions from Members shall be paid into a general fund. Monies shall be paid out of the general fund to such separate Program funds as the Board of Directors shall determine. Each separate Program shall have its own separate fund.

### **Section 8.8 Commingling of Program Funds Prohibited**

Contributions paid and any assets attributable thereto by Members for any MPR Missouri Program shall not be used or devoted to any purpose other than to pay losses and expenses related to the specific Program, including any Program Fund established pursuant to any risk sharing agreement, for which the Contributions were paid.

### **Section 8.9 Member Privilege**

The Board of Directors shall establish rules which shall govern and determine the settlement of claims or lawsuits covered by MPR Missouri Programs, provided that the Member may reject recommended settlements. If a Member exercises this privilege to reject a



recommended settlement, the Member shall thereafter be responsible for all damages, expenses and costs, of every kind and description, without limitation, that exceed the rejected settlement and accrued loss adjustment expenses through the date of rejection by the Member.

## **ARTICLE 9 MPR MISSOURI ASSETS**

### **Section 9.1 MPR Missouri Assets**

All Contributions, monies, and other assets, including interest or other investment earnings thereon paid by Members to MPR Missouri, and any other assets obtained in any other manner by MPR Missouri, shall be the property of MPR Missouri. No Member shall have any right or claim to such MPR Missouri assets including, but not limited to, any excess or surplus funds held by MPR Missouri, except such that are authorized specifically by MPR Missouri's Articles of Incorporation, these Bylaws, or by resolution of the Board of Directors. All assets of MPR Missouri, including but not limited to, any excess or surplus funds held by MPR Missouri, may be used for MPR Missouri purposes in such manner as the Board of Directors deems appropriate.

### **Section 9.2 Excess or Surplus Distributions**

Provided that all statutory and regulatory requirements are complied with, including but not limited to prior approval from the Missouri Division of Workers' Compensation in the event of a refund from the Workers' Compensation Program to its Members, the Board of Directors may determine to make distributions of excess or surplus funds from any Program to such Program's Members. The Board may delegate the authority to determine and make distributions of excess or surplus funds from any Program to such Program's Members by written agreement to Midwest Public Risk, a Missouri nonprofit corporation. Such distributions shall be limited to (a) Members which were active participants in good standing in such Program throughout the period for which a distribution was declared and which remain active participants in such Program at the time a distribution is paid, and (b) any former Members which have retained the right to excess or surplus distributions pursuant to a written agreement with the Board of Directors.

As described in "Section 6.5 Board Powers" the Board of Directors, by written agreement, may delegate the authority to declare refunds or dividends to members to the MPR Executive Committee.

### **Section 9.3 Special Assessments**

If, at any time, in the opinion of the Board of Directors, MPR Missouri's assets are insufficient to meet anticipated obligations for any Program or Service offered by MPR Missouri, the Board of Directors shall develop a financial plan to restore MPR Missouri's financial integrity. The Board may direct Members to pay a special assessment to eliminate such insufficiency provided that the Member was a participant at any time during the MPR Missouri fiscal year in the Program or Service which incurred the insufficiency. Each Member shall be assessed its pro rata share of the insufficiency based upon its relative percentage of the total Contributions or fees paid by all Members for the Program or Service as to which the insufficiency has arisen.



As required by law, workers' compensation Program insufficiencies shall be the joint and several obligation of each Member which participated in the workers' compensation Program during the period of the insufficiency.

A Member shall be and remain liable for any special assessment whether or not the Member was a MPR Missouri Member at the time of the levying of the special assessment.

## **ARTICLE 10 STANDARD OF CARE; BOND; INDEMNIFICATION**

### **Section 10.1 Standard of Care**

Directors, officers and employees of MPR Missouri shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties on behalf of MPR Missouri. Such Directors, officers, and employees shall not be liable for any mistake of judgment or other action made, taken or committed by them in good faith nor for any action taken or omitted by any agent, employee or independent contractor who was selected with reasonable care. No Director shall be liable for any actions taken or not taken by any other Director.

### **Section 10.2 Bond**

MPR Missouri may provide for a bond or other security to guarantee the faithful performance of the obligations of its Directors, officers and employees.

### **Section 10.3 Indemnification**

MPR Missouri shall hold harmless and defend and indemnify all present and past Directors, officers and employees for actions taken by any such person in good faith within the scope of his or her authority or duties for MPR Missouri. This duty shall apply to any direct or derivative action involving the Director, officer or employee. To the extent permitted by law, the Board of Directors may enter into written indemnification agreements with individual Directors, officers and employees. MPR Missouri may also purchase liability insurance providing similar coverage for Directors, officers and employees.

## **ARTICLE 11 DISSOLUTION AND DISTRIBUTION**

### **Section 11.1 Dissolution**

MPR Missouri may be dissolved as of the last day of any MPR Missouri fiscal year upon a vote of two-thirds (2/3) of all Member Representatives.

Upon the dissolution of MPR Missouri, the then current Board of Directors shall take all actions which shall be necessary for the orderly winding down of MPR Missouri's Programs and Services and for the completion of MPR Missouri's dissolution and liquidation subject to the Act.

## **Section 11.2 Distribution of Assets**

All net assets shall be distributed pro rata to the Members, in good standing, of the respective programs as of the last day of MPR Missouri's last full fiscal year prior to the decision to dissolve and to any former Members which may have retained the right to distribution of assets pursuant to a written agreement of withdrawal prior to the date of the decision to dissolve. Such net assets shall be distributed, separately by Program, by calculating the relative percentage of the total Program premium contributions for each Program paid by each Member during MPR Missouri's last full fiscal year prior to dissolution and multiplying the net assets by that percentage.

Distribution of the remaining Workers' Compensation Program assets shall be determined, as provided by law, by the Missouri Division of Workers' Compensation.

## **ARTICLE 12 MISCELLANEOUS**

### **Section 12.1 Intergovernmental Contract**

These Bylaws shall constitute an intergovernmental contract among the Members and MPR Missouri. Nothing in these Bylaws shall be inconsistent with, or cause any Member to violate, any constitutional or statutory provision which prohibits political subdivisions from becoming indebted in an amount exceeding in any one year the income and revenue provided for such year plus any unencumbered balances from previous years.

### **Section 12.2 Governing Law**

These Bylaws shall be subject to, and governed by, the laws of the State of Missouri, including specifically the Act.

### **Section 12.3 Binding Effect**

These Bylaws shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors or assigns, provided, however, that a Member may not assign its rights or delegate its duties without MPR Missouri's prior written consent.

### **Section 12.4 Disputes**

In the event of any dispute hereunder which results in litigation, the prevailing party in such litigation shall be entitled to its reasonable attorneys' fees and expenses of such litigation. Any action against MPR Missouri by a Member shall be brought only in the county in which MPR Missouri's principal office is located.

**Section 12.5 Severability**

These Bylaws are expressly declared to be severable, and in the event that any article, provision, clause or other part of these Bylaws is declared invalid or unenforceable by a court of competent jurisdiction, such action or unenforceability shall not affect the validity or enforceability of any other article, provision or clause.

**Section 12.6 Amendment**

These Bylaws may be amended by approval of the vote of two-thirds (2/3) of the Member Representatives present at any annual membership meeting or special membership meeting called for that purpose. Only amendments recommended by the Board of Directors shall be considered for adoption.

A copy and an explanation of all recommended amendments stating the reasons and impact of each proposed amendment shall be sent to all Member Representatives, by certified mail, no later than ten (10) days prior to the meeting date.

Any amendment to these Bylaws shall take effect immediately or at the time specified in the amendment. Such amendments shall be binding upon all Members without further action by MPR Missouri or the Members.

**Section 12.7 Repeal of Prior Bylaws**

Effective July 1, 2009, and contingent upon the commencement of operations of Midwest Public Risk of Kansas, a Kansas not for profit corporation (“MPR Kansas”), and the implementation of a Risk Sharing Agreement between MPR Missouri and MPR Kansas, these Bylaws shall repeal and replace all previous amendments or editions of these Bylaws including, but not limited to, the “MARCIT Bylaws” effective November 3, 2006.

If MPR Kansas fails to commence operations on or before the close of business on June 30, 2009, these amended Bylaws shall be null and void and the November 3, 2006 “MARCIT Bylaws” shall remain in full force and effect.

*[END OF BYLAWS; BALANCE OF PAGE LEFT BLANK;  
AGREEMENT AND EXECUTION PAGE FOLLOWS]*



**AGREEMENT AND EXECUTION**

The Member acknowledges that it has read and agrees to be bound by all terms and conditions of these Bylaws as a contract among MPR Missouri and its Members. By the execution of these Bylaws by the Member, the individual so executing acknowledges that these Bylaws have been duly accepted and authorized by all necessary and appropriate action of the governing body of the Member. The Member's participation as a Member of MPR Missouri shall not be effective unless and until either a copy of the minutes documenting a majority vote or Resolution of the governing body of the Member granting authority to execute these Bylaws is delivered to MPR Missouri and is attached hereto.

Accepted:

\_\_\_\_\_  
Member

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**MPR Missouri**

AP Blake

Signed:

MPR MO Chair

Title

7-1-16

Date

*[AGREEMENT AND EXECUTION PAGE TO BYLAWS]*