

KESA, The Kentucky Workers' Compensation Fund
Indemnity Agreement

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This is the Indemnity Agreement which is binding upon all employers which are members of KESA, The Kentucky Workers' Compensation Fund ("KESA"). KESA is a group of employers which has been certified under Kentucky law by the Kentucky Office of Insurance to self-insure on a group basis under KRS 342.350(4) and KRS Chapter 304, Subtitle 50.

1. The members of KESA hereby agree, jointly and severally, to assume and discharge any lawful awards entered against any member of KESA with respect to their workers' compensation obligations under KRS Chapter 342, and any and all costs and expenses of KESA, all in accordance with Article VII of KESA's Operating Agreement and Bylaws, together with any lawful awards entered against any member of KESA with respect to the employers' liability joint self-insurance coverage provided through KESA, and any and all related costs and expenses of KESA related thereto.

2. Each member of KESA agrees that it may be assessed for the payment of any and all such awards, claims, and expenses with respect to the time during which that entity was a member, at any time during such member's membership in KESA or thereafter, including but not limited to any assessments relating to any plan approved by the Trustees of KESA or by the Kentucky Office of Insurance to be implemented in the event of the insolvency or liquidation of KESA; and in the event a member or former member fails to pay any premium, assessment, or

other amount due KESA, or any of its successors, on the date the same will become due, that member or former member will be liable for and will pay all costs of the collection thereof, including, but not limited to reasonable attorney's fees incurred in the collection of the amounts due.

3. KESA shall use its best efforts to maintain such excess insurance as may be required from time to time by Kentucky law, but no failure or omission on KESA's part to maintain such coverage shall relieve any member of KESA from the joint and several liabilities and obligations assumed under this Agreement.

4. The members of KESA do not intend to create a partnership through this Agreement, but should any court of competent jurisdiction construe KESA to have created a partnership then they express their intention that the partnership be limited in scope to the provisions of this Agreement and the purposes and intents of the KESA group self-insurance program.

5. This Agreement shall be construed in accordance with KRS 342.350(4), KRS Chapter 304, Subtitle 50, and KESA's Operating Agreement and Bylaws, and such other rules and regulations which may be adopted by the Trustees of KESA, as now in effect and as the same may be amended from time to time. This Agreement may be amended at any time by a majority of the Trustees of KESA then serving. Written notice of any such amendment shall thereafter be promptly delivered to all KESA members.

—End of Indemnity Agreement—