

THE PROFESSIONAL INDUSTRY PURCHASING GROUP AGREEMENT

This Agreement (“Agreement”) is made by and between THE PROFESSIONAL INDUSTRY PURCHASING GROUP (“RPG”), a Utah Corporation, and Applicant. “Applicant” or “Member” shall mean the natural person indicated on the Application for Insurance & Membership (“Application”) or, if an entity, the entity listed on the Application, its owners, directors, officers, employees, volunteers, and committee members, as well as any companies that are parents of, subsidiaries of, owned by, related to, or affiliated with the Applicant.

ADDRESSES OF PARTIES

The RPG has its principal offices at:
2600 West Executive Parkway, Suite 500, Lehi, UT 84043
The Applicant has its principal residence, office, or business at the mailing address listed on the Application.

EFFECTIVE DATE

This Agreement shall be effective as of the date that an Application is (1) submitted by the Applicant, (2) Membership Dues are paid by the Applicant, and (3) the Applicant is accepted by the RPG or its authorized representative for Membership in the RPG (“Effective Date”).

RECITALS

The RPG is a Risk Purchasing Group, domiciled in Utah and formed pursuant to the Liability Risk Retention Act of 1986 (as amended) (15 U.S.C. 3910 et. seq.) (“Act”) and Utah Law.

The purpose of the RPG, in part, is to purchase liability insurance on a group basis for its Members in order to cover the similar or related liability exposure(s) to which the Members of the RPG are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations.

The Applicant desires to become a Member of the RPG, in part, for the purpose of obtaining insurance coverage available exclusively to Members of the RPG.

The Applicant is submitting an Application and the RPG is in the process of accepting the Applicant for Membership into the RPG.

AGREEMENT

In consideration of the mutual promises and covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Applicant and the RPG agree as follows:

1. Acceptance of Terms & Conditions of Membership Agreement. By accepting this Agreement, Applicant agrees to become a Member of the RPG and to accept and be bound by the terms and conditions of membership as outlined in this Agreement.

2. Membership Benefits. The RPG may offer various benefits to its Members. At its sole discretion, and at any

time, the RPG, may add, change, or discontinue any benefit program that it offers to its Members. One of the primary benefits provided to Members of the RPG is access to an insurance program designed for and available exclusively to Members of the RPG (“Insurance Program”) that is underwritten by an A- or better rated insurance company (“Insurer”).

3. Selection & Compensation of Administrator. The RPG shall select and engage Citadel Insurance Services, LC (“Administrator”) to administer the business affairs of the RPG. The RPG shall negotiate the Administrator’s compensation. The Applicant agrees to accept and not dispute the RPG’s Administrator and the compensation to be paid by the RPG for the Administrator’s services. The RPG has the sole authority and discretion to (a) select and terminate the Administrator and (b) negotiate the services to be rendered by, and compensation to be paid to, the Administrator.

4. Selection & Compensation of Agent. The RPG may select an agent or agents (“Agent”) to represent its Insurance Program. The RPG shall negotiate the Agent’s compensation. The Applicant agrees to accept and not dispute the RPG’s selection of Agent and the compensation to be paid by the RPG for such services. The RPG has authorized the Agent’s compensation plan. The RPG has the sole authority and discretion to (a) select and terminate the Agent and (b) negotiate the compensation to be paid for Agent’s services.

5. Rights of Members. The Applicant’s only rights as a Member of the RPG shall be to apply for and purchase liability insurance on a group basis. The Applicant shall have no voting rights or other rights whatsoever as a Member or otherwise with respect to the RPG. Without limiting the generality of the foregoing, the Applicant shall have no right as a Member of the RPG or otherwise under the:

- a. Articles of Incorporation, bylaws, or other corporate documents of the RPG; or
- b. general corporation laws of any state, including any state in which the Applicant or the RPG is domiciled or in which the Applicant or the RPG has operations.

6. Term & Termination of Membership. The Applicant’s membership in the RPG shall commence on the effective date and shall terminate upon the earliest to occur of the following events:

- a. The Applicant’s written resignation from the RPG;
- b. The Applicant’s failure to pay premiums, Risk Purchasing Group Membership Dues (“Dues”), or taxes to the Administrator on behalf of the RPG when due;
- c. written notice of termination sent from the RPG or the Administrator to the Applicant, which the RPG may give for any reason whatsoever, including, without limitation, any change in the

Applicant's business that, in the RPG's sole determination, could jeopardize the homogeneity of the RPG;

- d. expiration date of insurance coverage under the Insurance Program;
- e. insolvency of the Applicant; or
- f. termination or non-renewal of registration of the RPG under applicable state law.

7. Risk Purchasing Group Membership Dues.

- a. **Purpose of Purchasing Group.** A primary purpose of the RPG shall be to provide each of its Members, regardless of such Member's financial size and sophistication, with the ability to obtain liability insurance coverage and limits of insurance protection at a reasonable cost.
- b. **Computation & Amount of Annual Dues.** The RPG intends to charge annual Dues. The Dues charged to each Member each year may vary from Member to Member and may bear no relation to the premium payable by the member, or the insurance exposures or operations of the Member. The amount of the Dues charged shall be within the sole discretion of the Administrator and the RPG. Further, Dues may be developed in a manner otherwise considered to be arbitrary, and/or discriminatory. Neither the Administrator nor the RPG shall be required to disclose the method of calculating a given Member's Dues. Dues are payable upon acceptance of the Application, and annually thereafter on the renewal date of the policy.
- c. **Nature & Usage of Dues.** *Dues are not insurance-related fees* and are instead used to fund the operations and pay the expenses of the RPG, including part or all of the compensation paid to the Administrator or Agent. Dues charged to Applicant are *not* charged to Applicant in exchange for:
 - i. policy of liability insurance; or
 - ii. Certificate of Insurance & Risk Purchasing Group Membership ("Certificate"); or
 - iii. any insurance-related service.

Dues received by the Administrator on behalf of the RPG shall immediately become part of the RPG's general operating funds, which may be utilized, during the management of the RPG's business affairs, as the RPG or the Administrator deems appropriate.

8. Agreement Not to Bring Claim, Lawsuit, or Administrative Action Regarding Amount of Dues. The Member agrees that the execution of this agreement constitutes a waiver of any claim, lawsuit, grievance, regulatory, governmental, or administrative proceeding (collectively, "Claim") against the RPG Affiliates, as defined herein, based upon the amount of its Dues in relation to other Members or that such Dues were developed in a

discriminatory, arbitrary, or inconsistent manner. "RPG Affiliates" means the Administrator, the Agent, the RPG, and their parent, subsidiary, and affiliate entities, as well as their officers, directors, employees, and other authorized business partners. The Member also warrants that it shall never bring any Claim against the RPG Affiliates based upon the amount it was charged as Dues in relation to other Members or alleging that the amount it was charged in premiums, fees, or taxes was arbitrary or discriminatory. By submitting the Application, each Member accepts these terms and understands that the Dues component of the total annual cost may have been calculated in an arbitrary or discriminatory fashion.

9. Purchasing Group Insurance Coverage.

- a. **Selection of General Terms, Conditions & Exclusions of the Insurance Program.** The RPG shall select the general insurance terms, conditions, and exclusions of the Insurance Program at its sole discretion. Among other things, and without limiting the foregoing, the RPG may accept or reject/decline:
 - i. Terrorism Liability Exclusions;
 - ii. Professional Liability Exclusions;
 - iii. Fungi & Bacteria Exclusions;
 - iv. Employment-Related Practices Exclusions; and/or,
 - v. Pollution Exclusions.

With regards to the general terms, conditions, and exclusions of the Insurance Programs, the Applicant agrees to accept the RPG's decisions and grants authority to the RPG to accept or decline coverage on the Applicant's behalf. The Applicant also grants authority to the RPG to waive or reject any of the Applicant's rights under federal or state insurance laws regarding the offer and waiver or rejection of certain insurance coverages, including, but not limited to, Terrorism Liability.

- b. **Terms, Conditions & Exclusions Applicable To a Member.** The Applicant is always subject to the general terms, conditions, and exclusions of the Insurance Programs as selected by the RPG. The Applicant does not have the right to negotiate the terms, conditions, and exclusions of its insurance coverage with the Administrator or the Agent. While the RPG is responsible for selecting the general terms, conditions, and exclusions of the Insurance Program, the Applicant is responsible for reviewing the policy terms (including the premium), conditions, and exclusions. The Applicant may then decide to purchase or to maintain coverage as presented.
- c. **Master Program Information.** The RPG and its membership are covered under a Master Policy Program of Insurance "MP." Applicant agrees to accept the terms, conditions, and exclusions of the MP, including but not limited to:
 - **No Shared Limits.** The Applicant shall receive its own limits of insurance, which limits are not shared with any other Member.

- **Certificate of Insurance.** Members will receive a Certificate of Insurance ("Certificate") upon acceptance into the program by the Agent and upon receipt of full payment of all premiums, Dues, taxes, and surcharges due. The Certificate functions as a sub-policy under the MP issued to the RPG and its membership. The Certificate is a coverage document that states which terms, conditions, and exclusions of the MP apply or do not apply to the Member. The Certificate may contain further enhancements and restrictions of coverage unique to a given Member.

- **Conflicts Between Master Policy & Certificates.** In the event that a term, condition, or exclusion in a Certificate conflicts with a term, condition, or exclusion of the MP, the terms, conditions, and exclusions of the MP supersede the terms, conditions, and exclusions of the Certificate, unless the Certificate states on its face that the Certificate takes precedence over conflicting terms, conditions, or exclusions in the MP.

- **Coverage Periods.** The Applicant's Certificate will describe the length of time for which coverage applies for the Applicant.

- **State Laws; Automatic Non-Renewals & Notice of Non-Renewal.** Since this is a Risk Purchasing Group program, the insurer may not be subject to all insurance laws and regulations of the state in which the Certificate is issued or in which the Member resides. Every Certificate is automatically non-renewed on its expiration date.

By signing the Application, the Applicant authorizes the RPG, the Administrator, the Agent, or the RPG's authorized agents or representatives to: (1) retain and preserve original policy documents on the Applicant's behalf; and (2) collect all premium, Dues, and taxes (if applicable) on behalf of the Applicant.

- d. **Deductible.** The Applicant is solely responsible for all deductible payments and/or reimbursements to the Insurer for all coverages under the policy and Certificate provided to the Applicant by the RPG.
- e. **No Backdating.** The earliest date upon which an Agent may place coverage into effect is the date upon which the Agent receives a fully completed and signed Application, Membership Agreement, and full payment of all premiums, Dues, taxes, and surcharges. The Agent is not authorized to backdate coverage or cancellations.
- f. **Right to Decline Business for Any Reason.** The Agent shall have the absolute right to decline any business submitted by Applicant for any reason or no reason whatsoever.
- g. **Financial Quality of Selected Carriers.** The Insurance Program is underwritten by an

insurance company rated A- or better by A.M. Best, a leading rater of financial strength for insurance companies in the United States. Please note that the A.M. Best rating has been provided for informational purposes only and is subject to change at any time. As a result, the Member should continue to monitor the rating after this date, as the RPG Affiliates accept no responsibility for updating The Member on any subsequent rating changes. Please note that the RPG Affiliates are unable to determine if this rating information is sufficient for the Member's evaluation. Therefore, the Member is encouraged to obtain any additional information deemed necessary. Please visit A.M. Best's website at www.ambest.com for rating updates and additional information.

This Insurance Program may be underwritten by a Non-Admitted or Surplus Line insurance company. Therefore, certain state insurance guaranty funds may not apply. The Applicant agrees to review and accept the state surplus line insurance disclosure applicable to the Applicant as presented by the Administrator and/or the Agent prior to its purchase.

10. Earned Premium and Dues. The Applicant agrees and understands that all Dues are 100% fully earned at the inception of coverage. No refunds will be given. The Applicant agrees and understands that all premiums are 100% minimum earned, and no flat cancellations are allowed. However, without limiting the foregoing, the Member may provide a statement in writing requesting a refund of Dues and indicating the reasons why a refund should be granted and deliver said statement to both the Administrator and the Agent, who in turn have the authority to approve or deny a refund of Dues request in their sole discretion. Similarly, the Administrator is authorized to charge a reasonable fee for administering any refund or refund request as determined in its sole discretion.

11. Terms of Acceptance. By Accepting this Agreement, whether online, by phone, fax, email, or otherwise, the Applicant accepts, without limitation or qualification, this Agreement and agrees, without limitation or qualification, to the terms and conditions of this Agreement. Membership in the RPG is voluntary and should be entered into only after careful and thorough review of the Agreement.

12. Hold Harmless/Indemnification. The Applicant agrees to defend, indemnify, and hold the RPG Affiliates harmless from and against any and all claims, damages, costs, and expenses, including attorney's fees, arising from or relating to the Applicant's improper use or receipt of any services provided by the RPG Affiliates or any violation by the Applicant of this Agreement, including, without limitation, any errors, inaccuracies, misrepresentations or defects in any materials or information submitted by it.

13. Entire Agreement & Merger of Previous Agreements. This Agreement, together with the Application and the

Certificate, constitutes the entire agreement between the parties and supersedes all previous agreements entered between the parties hereto with respect to its subject matter. All such previous agreements, whether oral or written, are hereby merged into, and superseded by, this instrument.

14. Not Assignable. The Applicant agrees that its rights under this Agreement are not assignable without the express written consent of the RPG.

15. Waivers. Failure by the RPG Affiliates to enforce compliance with any term or condition of this Agreement shall not constitute a waiver of such term or condition. No waiver of any breach or default of this Agreement shall be valid unless in writing and signed by any RPG Affiliate, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.

16. Severability. If any provision of this Agreement shall be deemed illegal or unenforceable, such illegality or unenforceability shall not affect the validity and enforceability of any other provision hereof, which, together, shall then be construed as if such illegal and unenforceable provision or provisions had not been inserted herein, unless such illegality or unenforceability shall destroy the underlying business purpose of this Agreement.

17. Notice. Any notice required or that may be given under this Agreement shall be in writing and either delivered personally, sent by overnight courier, or mailed by certified mail (return receipt requested) to the addressee. Such notice shall be deemed given when so delivered personally, or, if sent by overnight courier, one (1) business day after the date so sent, or, if mailed by certified mail, three (3) business days after the date of mailing. Notices shall be sent to the address of the RPG or

Applicant at the mailing address specified at the beginning of this Agreement or as shown below or to such other address as any party to this Agreement shall request in writing from the other party to this Agreement.

18. Arbitration. Any claim, dispute, or controversy (whether in contract or tort; pursuant to statute, regulation or otherwise; and whether pre-existing, present or future) arising out of or relating to: (a) this Agreement; (b) oral or written statements, advertisements or promotions relating to this Agreement; or (c) the relationships that result from this Agreement (including relationships with third parties who are not signatories to this Agreement) (collectively, the "Claims"), will be referred to and determined by arbitration (to the exclusion of the courts). The Applicant agrees to waive any right it may have to commence or participate in any class action against the RPG Affiliates related to any Claims and, where applicable, the Applicant also agrees to opt-out of any class proceeding against the RPG Affiliates. If the Applicant has a Claim, it must give written notice to the Administrator, the Agent, and the RPG of its intention to arbitrate. If the RPG has a Claim, the RPG will give the Applicant notice of its intention to arbitrate. Arbitration of Claims will be conducted in such forum and pursuant to such rules as the RPG and Member agree upon and, failing agreement, will be conducted by one arbitrator pursuant to the laws and rules relating to commercial arbitration in the State of Utah that are in effect on the date of the notice to arbitrate.

19. Jurisdiction and Governing Law. This Agreement is governed by and shall be construed in accordance with the laws of the State of Utah, without regard to any applicable choice of law provisions, and the Applicant and the RPG hereby submit to the exclusive jurisdiction of the courts of Utah.