

NEW MEXICO CONTRACTORS' COMP TRUST

PARTICIPANT AGREEMENT

NEW MEXICO CONTRACTORS' COMP TRUST, a New Mexico non-profit unincorporated association ("Group"), and _____ ("Participant") agree:

1. Recitals. The Group has been formed to provide Participant with group self-insurance for workers' compensation pursuant to the New Mexico Group Self-Insurance Act ("Act"). Participant has complied with the requirements of the Group and has been accepted.
2. Definitions. As used in this Agreement, the following words have the following definitions:
 - A. "Administrator" means that individual, partnership or corporation designated by the Board to manage the administration of the Group.
 - B. "Agreement" means the written agreement entered into herein between the Group and Participant.
 - C. "Articles of Association" means the Articles of Association creating the New Mexico Contractors' Comp Trust.
 - D. "Board" means the Board of Trustees of the Group as established under the Articles of Association and its Bylaws.
 - E. "Bylaws" means the Bylaws of the Group.
 - F. "Administration" means the State of New Mexico Workers' Compensation Administration and its Director.

G. "Group" means the New Mexico Contractors' Comp Trust.

H. "Participant" means a company that is a member of AGC New Mexico, or other eligible Association with which AGC New Mexico maintains a reciprocal agreement, that complies with the requirements of the Group and has been accepted for Membership.

I. "Service Company" means the entity engaged by the Board to service claims on behalf of the Group.

J. "Trust Fund" means those funds maintained by the Group for payments to injured workers, maintenance of reserves, administrative assessments by the Administration, reinsurance premiums, and administrative expenses of the Group.

K. "Trustees" means those individuals duly elected and qualified to serve on the Board under the Bylaws.

L. "Workers' Compensation Rates" means the established Group rates that are in effect when the Group is certified.

3. Bylaws. Bylaws of the Group, attached hereto and incorporated by reference, will be binding on the Group and Participants.

4. Term of Agreement. The initial term of this Agreement will be from _____, 20__ to midnight _____, 20__.

Thereafter, the Agreement will be automatically renewed from year to year, unless Participant gives at least sixty (60) days written notice to the Group of its election to terminate, or unless the Agreement is terminated by breach of this Agreement, or as provided in the Bylaws.

5. Effective Participation Date. Participant's effective date of participation shall be determined upon approval of Participant's application by the Board.

6. Duties of Participant. A Participant will:

A. Designate a representative to represent Participant at meetings of the Participants.

B. Upon initial admission as a Participant, pay to the Group not less than twenty-five percent (25%) of its share of the current annual normal premium in accordance with the Act.

C. Make timely payment of its premium, as required by the Act or any agreement between Participant and the Group. The premium is due by the tenth of the month following the month for which payroll is being reported. Payment received after the fifteenth of the month following the applicable month will be considered delinquent. A penalty on delinquent payments shall be assessed at the rate of the highest existing rate that funds of the Group are earning in that month, plus a flat charge of _____ Dollars (\$_____).

Participant will also make timely payment of its assessments, including any deficit assessments as required by the Act or any Indemnity Agreement between Participant and the Group. Participant's assessments will be computed on the percentage of premium paid by Participant to the Group. Participant will be terminated as a participant in the Group for nonpayment of the assessment within fifteen (15) days of the assessment due date.

- D. Provide to the Administrator or Service Company such data as may be deemed necessary by the Group for statistical information purposes as related to management of the Group.
- E. Promptly report to the Group all claims, recognizing that prompt and complete reporting is essential if the Group services are to be effectively performed and Participant is to receive the maximum protection and benefit therefrom.
- F. Designate an individual to act as a liaison with the Administrator and Service Company in workers' compensation matters.
- G. Maintain its license in good standing.
- H. Designate and appoint the Group to represent Participant employees in all activities related to the Act, and to permit the Group to use its discretion before the Administration or other agencies or courts of the State of New Mexico on claims regarding workers' compensation.
- I. Establish, maintain and adequately fulfill any accident prevention program as required by the Administration.
- J. Execute and comply with the provisions of any indemnity agreement required under the Act.
- K. Enter into and maintain current Regular or Associate membership in AGC New Mexico or other eligible Association with which AGC New Mexico maintains a reciprocal agreement.
- L. Have on staff an employee designated as Safety Director.

M. Require and provide pre-hiring and post-accident drug testing.

N. Have in place a safety program that, at a minimum, meets or exceeds the Board accepted safety guidelines.

O. Cooperate with job site safety inspections.

P. Maintain an experience modifier no greater than 1.25.

Q. Use only sub-contractors carrying workers' compensation insurance.

R. Maintain a modified-duty return-to-work program.

S. Confirm other workers' compensation coverage for leased employees.

T. To notify the NM Contractors' Comp Trust if employer will exercise the right or waive the right to make first selection of medical provider and to apply the practice consistently.

U. Maintain minimum deductible per claim.

V. Comply with any financial underwriting requirements of the Group.

7. Duties of Group. The Group shall act upon, administer, and pay from the Trust Fund all claims for workers' compensation benefits for which Participant may become liable, to the extent funded by Participant under this Agreement, pursuant to the Bylaws and as required of group self-insurance funds under the Act and the rules and regulations of the Administration. In connection therewith, the Group will invest and administer the premium and assessments paid by the Participants and the income therefrom and shall maintain excess workers' compensation

coverage to protect against catastrophic or unexpected loss, as required by the Act.

8. Confidentiality. All data or information furnished to the Administrator or the Service Company by Participant pursuant to this Agreement will remain the property of Participant and will not be disclosed to third parties except as provided by the Act.

9. Disputes. Any dispute, claim, or grievance arising out of or relating to the interpretation or application of this Agreement will be submitted first to the Board for its recommendation. Appeals of decisions of the Board on all disputes will be presented to all of the Participants, whose decision will be final.

10. Assignment. Neither party may assign its interest under this Agreement without the prior written consent of the other party.

11. Waiver and Severability. No waiver shall be deemed a continued waiver or a waiver in respect to any subsequent breach or default, whether of a similar or different nature, unless expressly so stated in writing.

Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be valid under applicable New Mexico law, but if any provision of this Agreement shall be invalid or prohibited thereunder, such provisions shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement. No change, modification, addition or termination of this Agreement, or any part

NEW MEXICO CONTRACTORS'
COMP TRUST

By _____
Mike Puelle
Administrator

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

The foregoing was acknowledged before me on _____, 20____, by Mike Puelle, Administrator of New Mexico Contractors' Comp Trust.

Notary Public

My Commission expires:

New Mexico Contractors' Comp Trust
Participant Application

BUSINESS NAME: _____

ADDRESS: _____

We hereby apply for participation in the workers' compensation program as sponsored by AGC New Mexico, coverage to be effective on _____ at 12:01 AM if approved by the Board of Trustees and Underwriters providing excess insurance coverage.

We further agree as follows:

1. To enter into or maintain current Regular or Associate membership in AGC New Mexico or other eligible Association with which AGC New Mexico maintains a reciprocal agreement.
2. To have on staff an employee designated "Safety Director". This may be a dual role.
3. To require and provide pre-hire and post-accident drug testing.
4. To have in place at a minimum a Safety Program that meets or exceeds the Board accepted safety guidelines.
5. To cooperate with job site safety inspections. A Safety Loss Prevention Survey may be required before applicant is approved.
6. To participate in the Safety Advisory Committee meetings held bi-monthly.
7. To maintain an experience modifier no greater than 1.25.
8. To commit to using insured subcontractors.
9. Leased employees are not covered under this program.
10. Financial underwriting is required for each participant. The business is operating at a profit and/or net worth of the entity is positive at 3X estimated annual premium.
11. To a minimum \$1,000. Deductible per claim.
12. To a minimum premium of \$7,500.
13. To maintain a modified-duty return-to-work program.
14. To notify the NM Contractors' Comp Trust if employer will exercise the right or waive the right to make first selection of medical provider and to apply the practice consistently.

Printed name of applicant

Signature of applicant

Title

Date

Insurance Agency

Signature of Agent

The above applicant is approved by the Comp Trust on _____.

Signature of Group Administrator: _____

NEW MEXICO CONTRACTORS' COMP TRUST

Contractors Supplemental Information Questionnaire

Name: _____ In Business since _____

Location (Street, City, St, Zip) _____

Policy Information: Current Insurance Carrier: _____

Expiration date: _____

Individuals to be included/excluded: (owners, partners, corporate officers)
Name/Title/% of ownership.

GENERAL INFORMATION

1. Does applicant own, lease or regularly use aircraft? _____
2. Any exposure to flammables, explosives, caustic fumes or asbestos other than usual to construction trades? _____
3. Any work above 3 stories or underground? _____
4. Any work on dams and/or tunnels? _____
5. Any employees under 18 years of age? _____
6. Any leased, rented or donated labor? _____
7. Any work out of state? _____ Where? _____
8. Any athletic team sponsored? _____
9. Is information requested regarding preexisting medical conditions after a conditional job offer is made? _____

AGENT CHECKLIST:

_____ Did agent explain mandatory drug testing?

_____ Did agent review need for subcontractor certificates and audits?

Contact for inspections and phone: _____

Applicant's Signature: _____

NEW MEXICO CONTRACTORS' COMP TRUST

Joint & Several Liability Acknowledgement

The purpose of this Indemnity Agreement is to affirm the joint and several obligations of participants of the New Mexico Contractors' Comp Trust ("Group"), and to make any and all payments which may be necessary to meet the Group's obligations under the New Mexico Group Self-Insurance Act, 52-6-1 through 52-6-25 NMSA 1978. To this end, the undersigned agrees as follows:

Because the amount required to fulfill workers' compensation obligations cannot be known precisely in advance, assessments, reserve requirements and other financial parameters of the Group's operation must necessarily be initially established and subsequently maintained by means of estimates. Any interim transactions and their effects on the Group notwithstanding, it is mutually agreed by the Group and each of its participants that all participants in the Group for any period of time will be jointly and severally liable for payment of any assessments, premiums, and other amounts necessary to meet any benefit, expense or other lawful obligation of the Group arising from that period of time. This joint and several liability will apply without limitation as to the amount, and without any restriction as to when any portion of the obligation is identified. Specifically, any participants who terminate their participation in the Group, voluntarily or involuntarily, will remain jointly and severally liable for payment of any Group obligations attributable to their period of participation, regardless of when part or all of those obligations became known.

DATED: _____

GROUP PARTICIPANT:

BY: _____

TITLE _____

NEW MEXICO CONTRACTORS' COMP TRUST:

BY: _____

ADMINISTRATOR

NEW MEXICO CONTRACTORS' COMP TRUST
"Achieving Safety Excellence
for New Mexico's Commercial Construction Industry"
Dividend Plan and Agreement

The dividends of the New Mexico Contractors' Comp Trust workers' compensation program will be retained by the New Mexico Contractors' Comp Trust to provide the capital guaranteed required by the law to start and continue a self-insured workers' compensation group.

The New Mexico Contractors' Comp Trust Trustees will adopt rules governing distribution of dividend accumulations, which rules may restrict or eliminate the right of a terminated participant or a participant not in good standing to receive a distribution of dividends for any one or more years. No dividend distributions may be made which will impair the capital stability and/or security of the self-insured New Mexico Contractors' Comp Trust workers' compensation program.

After the self-funded New Mexico Contractors' Comp Trust workers' compensation program has become financially stable and able to provide its own financial guarantees and at the discretion of the Trustees, the funds provided by dividend accumulations from the participants may be returned. Partial payments may be made.

Participants who have exited the group in good standing will receive their allocated dividends at the same time they are distributed to active participants.

Future dividends are subject to decisions of the Director of the NM Workers' Compensation Administration. All dividend refunds shall be approved or disapproved by the Director of the NM Workers' Compensation Administration. No such submission shall be made until twelve months after the end of the fund year.

Applicant's signature

Date

NEW MEXICO CONTRACTORS' COMP TRUST

"MODIFIED WORK" ACKNOWLEDGMENT

PARTICIPANT: _____

BUSINESS NAME: _____

ADDRESS: _____

CITY: _____, NM ZIP: _____

By my signature below, I acknowledge that Participation in the Comp Trust requires that my business has a written policy promoting "Stay-At-Work" and early "Return-To-Work" following a work injury and, further, that my business provides Modified Work opportunities for my workers who have incurred a compensable injury while working for my business. The Modified Work provided will conform to the individual's medically-necessary restrictions as determined by an authorized health care provider.

I further acknowledge that the provision of Modified Work has been shown to benefit both the employer and the worker in the following ways:

- Injured worker gets better faster and maintains future earning capacity
- Employer demonstrates that workers are valued, improving general morale
- Claim costs are reduced as less money is paid in indemnity benefits
- Injured worker is motivated to work; maintains desire to return to full duty status
- Injured worker maintains workplace relationships and skills; feels "connected"
- Worker is less likely to feel "thrown away"; less likely to retain attorney
- Fraudulent claims are reduced as reporting "injuries" does not mean automatic paid time off
- Employer continues to benefit from skills and experience of injured worker
- Employer's experience modifier is reduced because of lower claim costs

Participant Signature _____ Date _____

EXECUTIVE EMPLOYEE AFFIRMATIVE ELECTION FORM

10/4/11