

HEARTLAND RISK POOL – RISK POOL AGREEMENT

The Risk Pool Agreement is made and entered into for the duration of the five-year term set forth in Section 4.2 below, commencing on July 1, 2020 and between the charter members and additional members of the Heartland Insurance Risk Pool which include the following:

Hardin County (charter member)	Mahaska County (charter member)
Mitchell County (charter member)	Chickasaw County (charter member)
Tama County (charter member)	Van Buren County (charter member)
Benton County (charter member)	Fayette County (charter member)
Cedar County (later member)	Decatur County (later member)

This Agreement is made by its members as Trustees of the Risk Pool hereinafter referred to as "Trustees," who desire to establish a Risk Pool for the benefit of qualified counties in the State of Iowa, who wish to Pool their resources to qualify as group self-insurers permitted by the Iowa Code.

Section I

Definitions

- 1.1 Department.** The term "Department" as used herein shall mean the Insurance Division of the Department of Commerce, State of Iowa or its successor charged with regulatory review of group self-insurance worker's compensation program funds or self-insurer liability, property and other insurance programs. Such regulation is not, at present, applicable to a "local government risk pool". Iowa Code Section 670.7(3).
- 1.2 Fund.** The term "Fund" as used herein shall mean and include all money and other property held hereunder, which shall consist of all monies received by the Risk Pool as member contributions or otherwise, and all policies purchased or held by, or assigned to the Risk Pool, together with all dividends, refunds or other sums of money payable or refundable to the Risk Pool, investment made by Trustees and income thereon, and all other monies or other property received and held by the Risk Pool for uses, purposes and trusts set forth in this Agreement. The "fund" shall also mean the Administrative Fund Account and the Claims Fund Account referred to in ARTICLE VI, Section 2 of the By-Laws.
- 1.3 Member/Participant** The term(s) "Member or Participant" as used herein shall mean and include such local governments who shall (a) qualify for participation under the Iowa Risk Pooling statute and regulation; (b) be a county in the State of Iowa; (c) qualify for participation under the requirements for eligibility adopted from time to time by the Trustees pursuant to this Agreement, the Operating Procedures or the By-Laws; (d) submit a request for participation in the Risk Pool in a form approved the Trustees; (e) make an initial contribution to the Fund determined on the basis of the coverage provided; (f) agree to be bound by terms of this Agreement, the Risk Pool By-Laws, the Operating Procedures, the Investment Policy and all the rules and regulations promulgated by the Trustees; and (g) at the required times make the additional installment contributions to the Fund. If the member satisfies these requirements, it may be accepted for participation under the provisions of the Risk Pool and Fund coverages and policies obtained pursuant thereto, all subject to and in accordance with

Section 5 hereof. Anything in the Agreement to the contrary notwithstanding, no applicant may participate as a Member herein, where such participant would be in violation of applicable law.

- 1.4 *Member Contribution.* The term "Member Contribution" as used herein shall mean and include payments made by a member to the Risk Pool, and also the amount paid from any member to the Risk Pool by reason of any assessment levied by the Trustees, pursuant to authority given them in this Agreement, the By-Laws, and the Operating Procedure.
- 1.5 *Policies.* The term(s) "Policy" or "Policies" as used herein shall mean and include any policies of insurance purchased by or assigned to the Risk Pool pursuant to this Agreement, and shall be deemed to include any and all amendments or endorsements attached to each such policy or policies.
- 1.6 *Regulations.* The term "Regulations" as used herein shall mean all regulations, as they are currently in force or hereafter amended, affecting the Risk Pool, which are promulgated by the State of Iowa or the Department. See, Section 1.1.
- 1.7 *Trustees.* The term "Trustees" as used herein shall mean the Trustee or Alternate designated in the manner provided by ARTICLE III of the By-Laws.

Section II Purpose Of Risk Pool And Application Of Fund

- 2.1 The purpose of the Heartland Insurance Risk Pool is to provide a voluntary self-insured program to counties in the State of Iowa. The program is designed to provide members a greatly improved Loss Control Program whose purpose is to reduce claims and accidents; aid through sound and equitable claim management practices to reduce costs; and provide the required and/or desired reinsurance at a discount, based on volume and lower risk exposure.
- 2.2 The Trustees and any County which appoints them shall not be responsible in any way for the contributions and/or assessments made upon any other county in the Risk Pool. And, except as provided in ARTICLE V, no County shall be liable for the obligations of any other County or member of the Risk Pool.
- 2.3 All parties hereto, and all members and their employees and any person claiming by or through any members' employee or otherwise, understand and agree that self-insurance benefits under this Risk Pool are limited to those which can be provided under Iowa statutes, by the Fund, or under insurance policies financed from the proceeds of the Fund.
- 2.4 The Trustees shall establish, fix and determine eligibility requirements for members and requirements for the continuance of their participation, and such other terms as the Trustees may deem appropriate, and as are not inconsistent with the provisions of this Agreement. Such requirements shall be those in the By-Laws, Operating Procedures, and this Agreement.
- 2.5 The Trustees shall use and apply the Fund, in accordance with and consistent with the Investment Policies, for the following:
 - (a) To make payments in accordance with the various coverages that may be provided by the Risk Pool, and to make any other payments required by applicable law;

- (b) To establish and accumulate, as part of the Fund, a reserve or reserves in amounts which the Trustees may deem advisable, or may be required by law, to carry out the purposes of the Risk Pool;
- (c) To pay or provide for the payment of premiums on any insurance policy or policies from the proceeds of the Fund, when such premiums shall become due;
- (d) To pay or provide for the payment of all reasonable and necessary expenses of the collecting member contributions and administering the affairs of the Risk Pool and Fund, including but without limitation, all expenses which may be incurred in connection with the establishment and extension of the Risk Pool and Fund, the employment of such administrative, legal, expert and clerical assistance, the purchase of bonds, the leasing of such premises and the purchase or lease of such materials, printed matter, supplies and equipment as the Trustees, in their discretion find necessary or appropriate in the performance of their duties;
- (e) To make refunds by cash payments, dividends, or otherwise, from the Fund, as the Trustees may determine, to members who are such on an eligibility date or dates as may be established by the Trustees, and may make refunds of varying amounts to each such category of members, and may make refunds to one (1) or more category of members without making refunds to other categories of members.

2.6 Each Trustee, Officer, Employee of the Risk Pool who is assigned any duty by the Board or Risk Pool and each Trustee, Officer, or Employee who is authorized by the Trustees to sign checks or who may engage in handling monies or securities held by the Risk Pool shall be covered by a Crime Policy, at the expense of the Risk Pool, by a duly authorized fidelity company, in such amount or amounts as may from time to time be required by the Trustees or by any applicable law.

Section III.

Member Contributions To The Risk Pool

3.1 Each member shall pay to the Risk Pool on such days as shall be decided upon by the Trustees, and appropriate initial member contribution determined by the Risk Pool in accordance with the coverage to be provided, by the requirement of the Operating Procedures, and the initial amount of reserves to be held in the Risk Pool. In addition to the initial member contribution, each member shall pay to the Risk Pool, on such days as shall be decided upon by the Trustees, such periodic member contributions of installment of the Trustees shall be deemed necessary. Any member joining the Risk Pool at any time other than the beginning of a fiscal year shall pay into the Pool on a prorated contribution basis as determined by the Trustees.

Section IV.

Participation, Minimum Term Membership And Cancellation

4.1 *Eligibility.* An applicant or existing member who satisfies the requirements of 1.3 of this Agreement and submits request for membership in the Risk Pool may be admitted, provided it satisfies the eligibility requirements or rules for membership established by the Trustees, pursuant to Section 2.4 and the By-Laws, and Operating Procedures. Membership in the Risk Pool shall be deemed to have subscribed to and adopted the 28E Agreement, this Agreement, the By-Laws, the Operating Procedures, the Investment Policy, all as they exist on the date

such member commenced participation and as they may hereafter be amended, and to have adopted the Trustee actions as such from time to time hereunder.

4.2 Minimum Term and Continuance of Membership in the Risk Pool. Any applicant who becomes a member in accordance with the provisions of this Section IV shall do so, with the intent to continue participation for five (5) years. Subsequent to this initial term, continuing membership shall be for subsequent five (5) year terms. A member may withdraw from continuing membership (or decline to renew membership) only in the last fiscal year of any five (5) year term, with a minimum of ninety (90) days written notice to the Chairman of the Board of Trustees before the end of the fiscal year.

4.3 Termination or Cancellation of Membership in the Risk Pool. A member's membership in the Risk Pool may be terminated or cancelled for the following by the Trustees:

- (a) In the event the participant shall fail to pay premium, assessment, initial or subsequent contribution due the Risk Pool, on the date it becomes due;
- (b) In the event the participant shall not file any report or census required to be filed by Risk Pool participants on the date same shall be due;
- (c) The failure to continue to meet membership criteria, as specified in the Operating Procedures;
- (d) The failure to provide underwriting criteria;
- (e) The failure to participate in the Safety/Loss Prevention Program or Claims Management Program, in order to carry out the purposes for which the Risk Pool was established;
- (f) In the event any report or census required to be filed by Risk Pool participants shall contain any materially false statement, or omit any material information required;
- (g) Or for any other reasons defined in the Operating Procedures or Risk Pool Agreement. Any such expulsions shall not negate nor be construed to negate any pro rata liability of the expelled member incurred or accrued before the date of expulsion;

A member may be expelled from the Risk Pool, only after at least sixty (60) days written notice has been given. No liability shall accrue to the Risk Pool, or its members, for any occurrence of the expelled member occurring after the sixty (60) day notice, unless the member has appealed to the full membership and the appeal is pending and then after final decision of the membership.

The member may appeal the decision of the Trustees to the full membership within a sixty (60) day notification. The decision of the membership shall be final. The provision of this sixty (60) day period is afforded so that the member may secure replacement insurance coverages from other sources. After a member's membership terminates, the member shall have no further rights or interest in the Risk Pool or Fund for future coverage periods. Any termination of membership and coverage for a member, at any time, shall not relieve that member of its pro rata share of the joint liability of other remaining members incurred or accrued at the time before that member's membership is terminated and ceases, as defined under section 9.1 hereunder.

4.4 Vesting and Return of Positive Claims Fund Balances

- (a) **Vested Members.** A vested member of the Risk Pool that does not renew membership, or withdraws from membership under provisions of Section 4.2, above, or whose membership is terminated or canceled, will receive a return of only that member's vested positive Claims Fund balance (as defined in Section V of the

Operating Procedures) as determined herein below. A vested member is one which has been a Risk Pool member for five (5) continuous and complete years. A vested member whose membership is withdrawn as noted in Section 4.2, terminated, or canceled in any year of an existing five (5) year Risk Pool Agreement will have total of twenty percent (20%) of that balance for each fiscal year of membership in the Risk Pool under the repayment Schedule provided in Section 4.4(d).

- (b) **New Members – Vesting.** Any county which becomes a new member of the Risk Pool, and which obtains membership as a new member in association with the existing ten (10) members forming the Risk Pool shall become a vested member beginning at the end of the last day of the fifth full year in which membership was maintained and shall vest according to the following schedule:

Year 6: 20 percent (20%) of any positive Claims Fund balance for that member which existed at the last day of the sixth year.

Year 7: 40 percent (40%) of any positive Claims Fund balance for that member which existed at the last day of the seventh year.

Year 8: 60 percent (60%) of any positive Claims Fund balance for that member which existed at the last day of the eighth year.

Year 9: 80 percent (80%) of any positive Claims Fund balance for that member which existed at the last day of the ninth year.

Year 10: 100 percent (100%) of any positive Claims Fund balance for that member which existed at the last day of the tenth year.

- (c) Subject to Section 4.2 and 4.3, above, ninety percent (90%) of that vested or partially vested member's positive Claims Fund balance will be returned to that member over a five-year period with the remaining 10 percent (10%) retained by the Risk Pool to cover expenses and administrative costs.

- (d) At the completion of that fiscal year after the fiscal year in which such vested or partially vested member's membership ceases, under either Sections 4.2 or 4.3, that member's positive Claims Fund balance, if any, will be determined. Ninety percent (90%) of the balance so determined will be segregated but remain among the Risk Pool's invested monies. That member will receive annual payments for the next five (5) years, from the members' segregated balance so determined, as adjusted from year to year, at the following times and in the following amounts:

Year One	Five Percent (5%)
Year Two	Ten Percent (10%)
Year Three	Twenty Percent (20%)
Year Four	Thirty Percent (30%)
Year Five	Balance Remaining

- (e) Payments to such former members will be made on August 15 of each year for each of the five (5) years identified in the preceding subparagraph and shall include interest on the remaining balance, if any, calculated on the basis of that weighted average rate of interest earned on all Risk Pool investments for the fiscal year ending June 30 immediately preceding.

4.5 The Risk Pool reserves the right to reassess any former member up to the total amount of the returned Claims Fund payments made to that member as so calculated in Section 4.4 above, if claims develop subsequent to discontinuation, withdrawal, or termination of membership, which have not been calculated in the reserve for incurred but not reported claims. And with respect to any covered reported claim or which reserves have been established and liability eventuates after non-renewal, withdrawal or cancellation of membership of that member, the member shall remain liable to the Risk Pool for reimbursement and restitution of any amounts paid by the Pool in satisfying any such liability for amounts paid in excess and beyond any returned Claims Fund payments made under Section 4.4.

Section V.

Power of Trustees

- 5.1 The Trustees shall have the powers specified herein, and in the By-Laws and Operating Procedures.
- 5.2 The Trustees shall have full power to enforce the provisions of ARTICLE IV, and ARTICLE V of the Operating Procedures against any current, withdrawn, or terminated member to assume and discharge any lawful award through the levy and collection of any assessment, special or otherwise, to buy such award, or to establish a cash reserve out of which lawful and proper claims or awards are to be paid.
- 5.3 The Trustees shall cause to be established and maintained By-Laws, Operating Procedures, and Investment Policies and any other documents as required from time to time under Iowa law.
- 5.4 The Trustees shall have the right to enforce the performance of all obligations created under this Agreement, the By-Laws and Operating Procedures, and to institute proceeding so any nature whatsoever to enforce the same.
- 5.5 Title of all of the monies paid into the Risk Pool and all other property of the Risk Pool shall be under the constructive possession of the Trustees, and members shall have only that right, title or interest in or to the property specified in paragraph 6 of the 28 E Agreement. It is the intent of the parties hereto that the Risk Pool shall continue, until terminated as provided in the 28E Agreement, for the sole and exclusive benefit for members entitled to benefits of this Risk Pool, and no benefits or monies or property of this Risk Pool shall at any time be subject in any manner to anticipation, alienation, claims against Risk Pool Trustees in their individual or official capacities, sale, transfer, assignment, pledge, encumbrance, or charge, in any attempts to do so shall be void.
- 5.6 The Trustees shall have the investment powers specified in the Investment policy.

Section VI

Audits and Reports

- 6.1 The Trustees shall account and report to the membership at least annually and the Risk Pool shall be audited at least annually pursuant to the By-Laws.

Section VII.

Amendment

- 7.1 This Agreement may be amended to any extent at any time, and from time to time, with the two-thirds (2/3) concurrence of all the membership at that time; provided, however, that no amendment may be submitted or acted upon which shall divert the Fund, or any part thereof, to a purpose other than that set forth in Section 2.1 or inconsistent with the investment Policy required in Section 5.3 hereinabove. Upon passage of any such amendment, the amendment to this Risk Pool Agreement shall be immediately distributed to the entire membership discretely showing the amendment(s) adopted.

Section VIII

Termination of Risk Pool

- 8.1 The Risk Pool may be partially or wholly terminated in accordance with Section 6 of the 28E Agreement.

Section IX

Obligation of Members

- 9.1 The Risk Pool and its members jointly agree to assume and discharge by payment up to the limit of the Fund and any Pool retention under any then existing insurance or reinsurance relationship, any liabilities created with respect to any claims, causes, demands or litigations brought against the Fund or any of its members covered by any Risk Pool Insuring Agreements with its members whether or not such liabilities arise by judgment, appeals, compromise, and settlement, interpleader or by any other lawfully enforceable means and agree to be jointly and severally liable for any such claim cause, demand, or litigations where either no insurance or reinsurance exists.
- 9.2 An individual member shall additionally be and remain jointly and severely liable for the aggregate of all members' losses in any fiscal year beyond any then balance in the Fund. The liability of any member for an additional assessment to cover then pending claims and/or replenish the Fund shall be determined according to the proportion that each member's standard premium contribution bears to the total contributions to the Risk Pool. For these purposes, each member's past five years of premiums will be averaged so that the resulting assessment proportion more fairly reflects the resulting assessment required.
- 9.3 Each member agrees to be bound by all of the terms of the Risk Pool Agreement as amended from time to time and to abide by the By-Laws, Operating Procedures and Investment Policies promulgated by Trustees for the administration of the Risk Pool, which shall include, but not be limited to, the following:
1. Each Member agrees to initiate and maintain a safety Program to reduce frequency of losses and help eliminate the likelihood of severe losses, and agrees to follow the general recommendations of the Risk Pool, its Administrator and Service Agents to promote these objectives.

2. When a member learns of an occurrence affected by this Agreement, the member shall immediately complete and file the original and one copy of a claim report with the Service Agent and claim service designated by the Trustees.
3. If claim is made or suit or other proceeding is brought against the member, the member shall immediately forward to the Risk Pool and its Service Agent every demand, notice summons or other process received.
4. The member shall cooperate with the Risk Pool, and, upon the Risk Pool's request, shall attend hearings and trials and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and other cooperate in the conduct of suits, hearings or proceedings. The member shall not, except at its own cost, which shall not be reimbursed by the Risk Pool, voluntarily make any payment, assume any obligation or incur any expense other than for such immediate medical or other services at the time of injury as are required by Iowa statute.
5. Each member shall make prompt payment of all premium contributions, assessments, and charges required under this Agreement, By-Laws and the Operating Procedures.
6. Each member does hereby appoint the Service Agent as Agent to act in the member's behalf to file reports and to make or arrange for payment of claims, medical expenses and all other things required or necessary insofar as they affect the member's liability under the rules, regulations and orders of any government authority.
7. Each member agrees that, in the event of the payment of any loss by the Risk Pool under this Agreement, the Risk Pool shall be subrogated to the extent of such payment to all the rights of the member against any person or other entity legally responsible for damages for said loss, and in such event, the member hereby agrees to render all reasonable assistance, other than pecuniary assistance, to effect recovery.
8. The Trustees, the Service Agent, and any of their agents, servants, employees or attorneys, shall be permitted at all reasonable times to inspect the member's work places, plants, works, machinery, and appliances covered by this Agreement, and shall be permitted at all reasonable times and within three (3) years following Termination of membership to examine member's book, vouchers, contracts, documents, and records of any and every kind which show or tend to show or verify premium contributions which are payable or were paid to the Risk Pool.

Section X

Miscellaneous

- 10.1 The members shall furnish to the Trustees such books and records and any and all other information that the Trustees or the reinsurers of the policies may require in connection with the issuance of a policy or policies.
- 10.2 No person, firm or corporation dealing with the Trustees shall be obligate to see the application of any Fund or property of the Risk Pool, or to see that the terms of the Risk Pool have been compiled with or be obligated to inquire into the necessity of expediency of any act of the Trustees, and every instrument executed by the Trustees shall be conclusive in favor of any person, firm or corporation relying thereon that:
 - (a) At the time of the delivery of said instrument the Risk Pool was in full force and effect;

- (b) Said instrument was effected in accordance with the terms and conditions of this Agreement; and
- (c) The Trustees, as the case may be, were duly authorized and empowered to execute such instrument.

- 10.3 All questions pertaining to the validity, construction and administration of this Risk Pool Agreement shall be determined in accordance with the laws of the State of Iowa.
- 10.4 Words used in the masculine gender shall also be constructed as though they were used in the feminine form, and words used in the singular form shall also be constructed as though used in the plural form, and vice versa, all as the context requires.
- 10.5 If any part of this Agreement, or the by-Laws, Operating Procedures, or Investment Policies authorized by this Agreement, are determined to be unconstitutional or void as a matter of law for any other reason, it is the intent that the remaining parts not so affected by any such decision shall continue to remain valid and operational for the purposes of this Agreement.
- 10.6 This Agreement may be signed in one or more counterparts, all of which taken together shall constitute one instrument. The signatures of parties appearing on one or more counterparts shall bind them as fully as though all such parties had signed the same counterpart.

IN WITNESS WHEREOF, the members of the Risk Pool have caused this Agreement, which may be executed in one or more counterparts, to be executed by the duly authorized Chairperson of the Board of Trustees and the member has caused the Agreement to be executed by its duly authorized representatives.

Date

Chairperson of the Trustees

Date

Chairperson, County Board of Supervisors
_____ County