

STATE OF MAINE  
BUREAU OF INSURANCE  
DOCKET NO. INS-16-401

IN RE Maine Energy	)	
Marketers Association Health	)	CONSENT AGREEMENT
Insurance Trust	)	FOR CONDITIONAL
	)	LICENSURE
	)	

The Maine Energy Marketers Association Health Insurance Trust (“MEMAHT” or “the Arrangement”), the Maine Superintendent of Insurance, and the Maine Office of the Attorney General hereby enter into this Consent Agreement pursuant to 10 M.R.S.A. § 8003(5)(B) to resolve, without an adjudicatory proceeding, issues arising out of MEMAHT’s application for licensure by the Superintendent as a multiple-employer welfare arrangement.

STIPULATIONS

1. The Maine Energy Marketers Association is applying for authority to establish and operate a multiple-employer welfare arrangement in the State of Maine pursuant to 24-A M.R.S. Chapter 81 (§§ 6601-6616) (the “Act”).
2. The Superintendent is the official charged with administering and enforcing Maine’s insurance laws, including the Act.
3. A review by the Superintendent of the application materials and information provided to date has revealed that MEMAHT, as currently structured, may not comply fully with certain requirements of the Act.
4. Nevertheless, because MEMAHT has substantially complied with the requirements of the Act and the Superintendent finds that full compliance may be achieved through the imposition of conditions of licensure, the Superintendent is prepared to issue MEMAHT a certificate of authority to establish and operate a multiple-employer welfare arrangement, subject to the conditions stated below.

## COVENANTS

1. The parties agree to the following:
    - A. Each Employer participating in the Arrangement shall execute a Participation Agreement, before coverage may take effect, by which the Employer agrees to be jointly and severally liable for all obligations and liabilities incurred by the Arrangement while the Employer remains a Participating Employer.
    - B. Before the Arrangement begins operations, the Trust Fund Account shall be pre-funded by the Employers in an amount at least equal to one (1) month's contribution from each Employer plus any amounts needed for start-up administrative expenses and excess insurance premiums not otherwise included in the monthly contribution rates established by the Trustees.
    - C. Contributions by Employers shall be deposited directly to the Trust Fund Account established with a qualified financial institution, said account being subject to complete fiscal control of the Trust. An Insurance Administrator may be empowered to disburse funds from a separate claims and operations account, provided that transfers to and balances in said separate account shall not exceed \$100,000.
    - D. Notwithstanding any special assessments, contribution rates shall be reviewed and adjusted by the Trustees at least annually provided that, until further order of the Superintendent, the rates must at least be sufficient to cover all expenses and 120% of expected claims of the Arrangement.
    - E. The Participating Employers shall have obtained an irrevocable standby letter of credit acceptable to the Superintendent in an amount at least equal to eight hundred sixty two thousand dollars (\$862,000). The beneficiary of the letter of credit shall be the Maine State Treasurer who shall have rights in the letter of credit solely for the benefit of the Arrangement's beneficiaries. The Maine State Treasurer shall demand payment on the letter of credit immediately upon receipt of a certification from the Superintendent that certain conditions exist as more fully described in paragraph four of the letter of credit. The letter of credit may not be secured by any asset of the Arrangement. The letter of credit is not, and shall not, form any part of the corpus of the Trust Fund Account, and a positive balance shall be maintained in the Trust Fund Account without regard to the letter of credit. Drawings on the letter of credit shall be transferred to the Trust Fund Account, and the Trustees shall promptly assess the Participating Employers sufficiently to restore available drawings on the letter of credit to an amount at least equal to eight hundred sixty two thousand dollars (\$862,000) unless and until the Superintendent has granted written approval to change the amount. In the event that a demand for payment is made as the result of a finding by the Superintendent that the Arrangement is or may be insolvent or in a hazardous financial condition or operating with a deficit, payments made on demand shall be placed into a separate trust account established by the Superintendent for the purpose of paying claims for which the Arrangement is responsible.
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F. The Trustees, a subcommittee of the Trustees, or the Managing Administrator of the Trust shall monitor all claims and liabilities of the Arrangement in relation to the amount of funds available in the Trust Fund Account; shall establish necessary loss reserves for incurred claims; and shall promptly access additional funds from Employers through special assessments to the extent necessary to maintain, at a minimum, a positive fund balance.

G. The Arrangement expects to accumulate surplus in an amount at least equal to three months of total contributions of all Employers. Once the level of surplus equals three months of contributions, the Arrangement agrees to maintain this amount as a minimum level of surplus. After this minimum level of surplus has been reached, the amount of the letter of credit referenced in Item (F) above may be modified relative to the amount of surplus carried by the Arrangement subject to the approval of the Superintendent.

H. The Trustees shall file monthly reports with the Superintendent, acceptable to the Superintendent, detailing the amount of all claims incurred and other liabilities of the Arrangement in relation to the balance of the Trust Fund Account including loss reserves and excess insurance receivables (if any). Such reports shall include the Administrator's register and claims account report and excess loss reports and the Trust Fund Account report of the qualified financial institution. Monthly reports must be filed with the Superintendent by the fifteenth day of the month immediately following the month for which they apply. In addition to the aforementioned reports, the Trustees shall file annual audited financial reports in accordance with generally accepted accounting principles prepared by the Arrangement's accountant. The annual reports must be filed with the Superintendent within thirty (30) days after the end of the Arrangement's fiscal year.

I. If the Superintendent determines that the reserves, excess insurance or assets of the Arrangement may be inadequate, or that the Arrangement does not have capital in an amount establishing the financial strength and liquidity of the Arrangement necessary to enable it to pay claims promptly or to meet its obligations to covered employees, the Superintendent shall notify the Trustees or the managing administrator of the Trust of the inadequacy. If the inadequacy is not corrected by a special assessment on Employers within five (5) business days after notice is received by the Arrangement, the Superintendent may immediately and without further notice direct the Treasurer of the State of Maine to call the letter of credit referenced in Item (E) above, and any and all proceeds of the letter of credit shall be transferred to the Trust Fund Account or a separate trust account at the discretion of the Superintendent.

J. The Trust, through its licensed insurance administrator, shall maintain a network sufficient to support the Plan in compliance with applicable Maine laws and regulations and the Superintendent's approval. In the event that a hospital notifies the Arrangement, or the Arrangement's insurance administrator, of its intention to terminate its contract to provide services either directly or indirectly to the Arrangement's participants, the Arrangement shall promptly, and in any event at least ten (10) days before the proposed termination date, notify the Superintendent of the proposed termination.

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K. The Arrangement shall maintain specific and aggregate excess insurance with an approved insurer with a specific attachment point not to exceed one hundred thousand dollars (\$100,000) per year per covered person and an aggregate attachment point not to exceed one hundred and twenty percent (120%) of expected annual claims, covering one hundred percent (100%) of all covered expenses in excess of the aggregate attachment point.

L. Final executed copies of the Declaration of Trust and shall be filed in a form acceptable to the Superintendent on or before December 31, 2016. Any investment of funds in the Trust Fund Account shall be in accordance with an investment policy acceptable to the Superintendent, for which a proposed policy shall be provided for the Superintendent's review not later than December 31, 2016.

M. A formal hearing in this matter is waived and no appeal will be taken.

2. The Superintendent agrees to issue a certificate of authority to MEMAHT, and MEMAHT agrees that the Superintendent has the discretion to revoke or suspend its certificate of authority, or place it on probation, if MEMAHT fails to comply with its obligations under this Consent Agreement.

MISCELLANEOUS

1. MEMAHT understands and acknowledges that this Agreement is a public record within the meaning of 1 M.R.S.A. §402 and will be available for public inspection and copying as provided for by 1 M.R.S.A. §408.
  
2. It is understood by the parties to this Agreement that nothing herein shall affect any rights or interests that any person not a party to this Agreement may possess.

December 22, 2016

*Robin L. Manson*  
Insurance Administrator,  
Maine Energy Marketers Association Health Insurance Trust

Subscribed to before me this 22<sup>nd</sup> day of December, 2016.

*[Signature]*  
Notary Public / *Attorney* *Holly Insh, Bar No. 009868*

My Commission Expires: *N/A*

December 22, 2016

*[Signature]*  
Eric A. Cioppa  
Superintendent of Insurance

December 22, 2016

*[Signature]*  
Colin W. Hay  
Assistant Attorney General