

**The Mutual Beneficial Association, Inc.**

**BYLAWS**

**July 1, 2012**

## **PREFACE**

*All references in this document to "he" imply both he and she.*

### **ARTICLE I - ORGANIZATION AND ADMINISTRATION** **SECTION I. OFFICES AND SEAL**

#### 1.1.1. Offices

(a) The registered principal office shall be in the State of Delaware, in the City of Wilmington, and the Delaware Insurance Commissioner shall be irrevocably appointed as the agent to receive service of legal process.

(b) The Association may also have offices, including its executive offices, in any of the other States in which it operates.

#### 1.1.2. Seal

The corporate seal shall have inscribed thereon the name of the Association, the year of its organization and the words "Corporate Seal, Delaware".

### **ARTICLE II - MUTUAL BENEFIT** **SECTION 1. MEMBERSHIP**

#### 2.1.1. Eligibility

(a) Eligibility for membership in this Association shall be limited to employees of transportation companies or affiliated companies, and members of their families, and friends and supporters of the transportation industry.

(b) The Board of Directors may, in its discretion, extend the field of eligibility for membership.

#### 2.1.2. Classes

The members of the Association shall be divided into two (2) classes as follows: "Active" and "Social."

### 2.1.3. Active Members

(a) An Active member is a member who owns a life certificate or an annuity certificate. If the member has a life certificate, then the member must be currently paying premiums on the certificate. If the member is not paying premiums then the certificate must be a matured paid-up or a reduced paid-up certificate. If the member has an annuity certificate, then those members owning Individual Retirement Account (IRA) and Non-Qualified Annuity Insurance Certificates will qualify for membership.

(b) A member ceases to be considered Active when their certificate is terminated for non-payment of premiums and the certificate has no face amount of insurance remaining, or if the member owns an annuity certificate that has no balance remaining due to receiving the full cash value of the certificate.

(c) An adult Active member is age 18 and older.

### 2.1.4. Social Members

(a) Social members are such members that do not wish to purchase one of the Association's Insurance Certificates, life or annuity, but who pay a Membership Fee of no less than \$3.00 per year. The Annual Membership Fee is determined by the Board of Directors, who may increase it as they deem necessary.

(b) These members remain in 'Good Standing' as long as their Membership Fee is current.

(c) Social members shall be eligible to hold Local Office and shall have all the rights of Active members, except that a Social member may not hold a position as a General Officer or Director.

## **ARTICLE III. GOVERNANCE**

### **SECTION 1. THE BOARD OF DIRECTORS**

#### 3.1.1. Organization and Membership

The Board of Directors shall be the supreme governing body of this Association. The property and affairs of this Association shall be managed by

a Board of Directors consisting of no less than five (5) and no more than nine (9) members, including the General President, General Vice President and General Secretary-Treasurer, by virtue of their office, and in addition up to six (6) Directors who shall have been elected by members. Only adult Active members are eligible to serve on the Board of Directors. The Board of Directors shall determine the number of Directors.

### 3.1.2. Nomination and Election of Directors

(a) The election of Directors shall occur every four years during the month of October of the year of election. The Board of Directors shall establish a governance committee whose purpose it will be to oversee the process of electing directors. Only adult Active members may serve on the governance committee and the majority of the members of the committee shall not be candidates for the election as a director. The governance committee shall be advised by an attorney at law retained by the Association.

(b) Prior to nomination for the election of Directors, the Board of Directors shall set the size of the incoming board. Candidates may be nominated by any ten (10) adult Active members and placed on the ballot only as provided in this section. The General Secretary-Treasurer shall prepare a nomination form to be published in the Mutual Magazine and included on the Association's website. All nominations for directors shall be on the nomination form and received by the Association. The General Secretary-Treasurer shall specify a date by which all nominations must be received by the Association. The nomination form shall be mailed to the adult Active members no earlier than 30 days before the date by which it must be received. Only adult Active members who are members of the Association as of the final day for submitting nominations shall be eligible to be nominated and to vote. All nominations forms must be received by the General Secretary-Treasurer no later than 90 days before the election.

(c) All adult Active members nominated for Director shall appear on the ballot as candidates for a position of Director. The General Secretary-Treasurer shall prepare a ballot along with a notice of election which shall specify the time and procedures for election. Election shall be by mail ballot or any other method or procedure authorized by the Board of Directors and not prohibited by applicable law. Only adult Active members who were members of the Association as of the final day for submitting nominations shall be eligible to vote. Each adult Active member shall have one vote for each Director

position and Directors shall be elected by a plurality of votes cast. Cumulative voting or voting by proxy is not permitted. Only ballots received by the General Secretary-Treasurer within 30 days after the final day for mailing of ballots shall be counted in such election.

(d) The tabulation of the ballots and declaration of the results shall be under the supervision of the governance committee. The terms of the newly elected directors shall begin on the first day of the December following the results of the election. Within two business days of the declaration of the results, the General Secretary-Treasurer shall place the results on the Association's website. The General Secretary-Treasurer shall also publish the results in the next issue of the Mutual Magazine.

### 3.1.3. Term

All Directors shall serve terms of no more than four years. There is no limit on the number of terms a Director may serve.

### 3.1.4. Regular Meetings of the Board of Directors

Regular meetings of the Board shall be held at such time and place as determined by the Board, provided however, that all regular and special meetings shall be held in a state in which a Local Assembly is maintained.

### 3.1.5. Special Meetings of the Board of Directors

Special meetings of the Board may be called by the General President on three (3) days' notice to each Director, either personally, electronically, or by mail or by telephone, and shall be called by the General President or General Secretary-Treasurer in like manner and on like notice on the written request of two (2) Directors.

### 3.1.6. Quorum for Board of Directors' Meeting

At all meetings of the Board a majority of the Directors shall constitute a quorum for the transaction of business, and the act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board of Directors, except as may be otherwise specifically provided by statute, the Certificate of Incorporation or these Bylaws.

### 3.1.7. Vacancies

(a) If the office of any Director, or of the General President, General Vice President, General Secretary-Treasurer, or other officer, or agent, except officers of Local Assemblies, becomes vacant, by reason of death, resignation, disqualification, removal from office, or otherwise, the Directors then in office, by a majority vote, may elect a successor, who shall hold office until the next election of Directors, at which time such person shall be eligible for election to such office.

(b) When such vacancies occur and successors are elected, the General Secretary-Treasurer shall notify each Local Assembly of the action of the Board of Directors within fifteen (15) days after such vacancies have been filled, or include such information in the next issue of the Mutual Magazine.

### 3.1.8. Unanimous Consent

Any action required or permitted to be taken at a meeting may be taken without a meeting if consent to such action is given, in writing, signed by all the directors entitled to vote on such action.

## **SECTION 2. OFFICERS**

### 3.2.1. Election

The officers of this Association shall be a General President, General Vice President, and a General Secretary-Treasurer, who shall be elected by the Board of Directors. The Board may elect such additional officers and agents as it shall deem necessary, who shall have such authority and shall perform such duties as from time to time shall be prescribed by the Board of Directors.

### 3.2.2. Terms of Office

The term of office of the General President, the General Vice President, and the General Secretary-Treasurer shall be determined by the Board of Directors.

### 3.2.3. Qualifications

Candidates for all General Officers shall be adult Active members.

### 3.2.4. Duties of the General President

(a) The General President shall be the Chief Executive Officer and Chairman of the Board of Directors, and will preside at all meetings of the Board of Directors. He shall perform such duties as may be assigned him by the Board of Directors.

### 3.2.5. Duties of the General Vice President

The General Vice President shall assist the General President in the proper performance of the duties of said executive officer and perform such other duties as may be delegated to him from time to time by the General President or Board of Directors.

### 3.2.6. Duties of the General Secretary-Treasurer

(a) The General Secretary-Treasurer shall attend all meetings of the Board of Directors, acting as secretary thereof, preside in the absence of the General President, record all votes and minutes of the proceedings in a book to be kept for that purpose; and shall perform like duties for all standing committees when required. He shall give, or cause to be given, notice of all meetings of the Board of Directors.

(b) He shall perform such duties as may be assigned him by the General President or Board of Directors.

## **SECTION 3. MISCELLANEOUS**

### 3.3.1. Notices

Whenever under the provisions of these Bylaws notice is required to be given to any director, officer, or member, it shall not be construed to mean personal notice, but such notice may be given in writing by depositing the same in the US mail, postpaid, addressed to such member, or officer, at his last address shown on the books of the Association and such notice shall be deemed to be given at the time when the same shall be thus mailed or published.

### 3.3.2. Interpretation of Bylaws

All provisions of the Association's Bylaws shall be interpreted and construed according to their most plain and obvious meaning, and should any doubt arise as to the proper construction of any section or portion thereof, it shall be referred to the General President, whose decision shall be final, unless reversed or amended by the Board of Directors.

## **ARTICLE IV. INDEMNIFICATION AND INSURANCE**

### 4.1.1. Indemnification of Directors and Officers

(a) The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was a director or officer of the Association, or is or was serving at the request of the Association as a director, officer, trustee or agent of another corporation, partnership, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Association to procure a judgment in its favor by reason of the fact that he is or was a director or officer of the Association, or is or was serving at the request of the Association as a director, officer, trustee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses, including attorneys' fees actually and reasonably incurred by him in connection with the defense or settlement of

such action or suit if he acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interests of the Association. No such indemnification against expenses shall be made, however, in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Association unless and only to the extent that the Court of Chancery in which such action or suit was brought shall determine upon application that despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the Court of Chancery or such other court shall deem proper.

(c) To the extent that a director or officer of the Association or other entitled to indemnification hereunder has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraphs (a) and (b) of this subsection 1.4.1., or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(d) Indemnification under paragraphs (a) and (b) of this subsection 1.4.1. shall be made by the Association when ordered by a court or upon a determination that indemnification of the director, officer or other person is proper in the circumstances because he has met the applicable standard of conduct set forth in those paragraphs. Such determination shall be made (i) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit, or proceeding, or (ii) if such quorum is not obtainable or, even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion.

(e) Expenses incurred in defending a civil or criminal action, suit or proceeding of the kind described in paragraphs (a) and (b) of this subsection 1.4.1. shall be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking, by or on behalf of the person who may be entitled to indemnification under those paragraphs, to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by the Association.

(f) The indemnification and advancement of expenses provided in this subsection 1.4.1. shall continue as to a person who has ceased to be a director or officer of the Association or to serve in a designated capacity and shall

inure to the benefit of the heirs, executors and administrators of such a person.

(g) The indemnification and advancement of expenses provided in this subsection 1.4.1. shall not be deemed exclusive of any other rights to which a person seeking indemnification or advancement of expenses may be entitled under any agreement, vote of the disinterested directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office.

(h) The Association shall also indemnify any person against expenses, including attorneys' fees, actually and reasonably incurred by him in enforcing any right to indemnification under this subsection 1.4.1., under the Delaware General Corporation Law, as amended from time to time, or under any similar law adopted in lieu thereof.

(i) Any person who shall serve as a director or officer of the Association or who shall serve, at the request of the Association, as a director, officer, trustee or agent of another corporation, partnership, joint venture, trust or other enterprise, shall be deemed to do so with knowledge of and in reliance upon the rights of indemnification provided in this subsection 1.4.1., in the Delaware General Corporation Law, as amended from time to time, and in any similar law adopted in lieu thereof. The obligations of the Association to indemnify, and/or advance expenses to, a director or officer hereunder shall be considered a contract between the Association and such person, and no modification or repeal of any provision of this subsection 1.4.1. shall affect, to the detriment of such person, such obligations of the Association in connection with a claim based on any act or omission occurring before the date of such modification or repeal.

#### 4.1.2. Insurance

The Association shall have power to purchase and maintain insurance on behalf of any person who is or was a director or officer of the Association, or is or was serving at the request of the Association as a director, officer, trustee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability.

## **ARTICLE V. FILING A CLAIM AND MUTUAL ASSISTANCE FUND**

### **5.1.1. Rights of Action**

The maximum time limit for the filing of claims and proofs of death or of total or permanent disability shall be three (3) years following date of occurrence for which claim is made. If the Board of Directors declines payment of the claim the member or beneficiary shall appeal the claim in writing to the Board of Directors for reconsideration. Such written appeal must be in the hands of the General President within twelve (12) months from the date of decision by the Board of Directors. Any further action of a legal nature shall be absolutely barred until all provisions of this section have been fully complied with and unless commenced in some court of competent jurisdiction within eighteen (18) months from the date of decision by the Board of Directors.

### **5.1.2. Mutual Assistance Fund**

(a) If no claim is received by the Association within three (3) years from the date it is established from the records of the Association that moneys became due and payable and if no beneficiary or legal heir can be located within such period, or if any claim to which Section 5.1.1 applies is declined after appeal to the Board of Directors, then the benefits provided in the certificate or certificates shall be paid to the Association's Mutual Assistance Fund. Any checks paid by the Association and remaining outstanding (uncashed) after two (2) years shall be paid to the Association's Mutual Assistance Fund. Under no circumstances shall any such benefits be escheatable, it being expressly understood that all benefits not payable to the beneficiary, estate or legal heirs are the property of the Association.

(b) All moneys held in the Mutual Assistance Fund shall be invested as the Board of Directors shall direct and shall be applied for such purposes as the Board of Directors shall deem appropriate for the assistance of the members or the Local Assemblies; provided, however, that a reserve equal to twenty percent (20%) of the unpaid benefits represented in the Fund shall be maintained at all times. In the event that a beneficiary, personal representative or legal heir establishes his or her rights to benefits represented in the Fund, then such benefits shall be paid to the claimant together with simple interest at the annual rate of four percent (4%) computed from the date such benefits were paid into the Fund.

(c) This Section 5.1.2 shall not apply to unclaimed moneys required to be paid to the State of New York under the New York Abandoned Property Law, or any other state where a similar law exists.

## **ARTICLE VI. RESERVE IMPAIRMENT**

If the reserve required by the standard of valuation as to any class of certificates is impaired, the Board of Directors shall forthwith levy such extra or increased contributions as may, in their judgment, be necessary to repair or restore the same. If the payment is not made either:

- (1) It shall stand as an indebtedness against the certificate and draw interest not to exceed the rate specified for certificate loans under the certificates; or
- (2) In lieu of or in combination with paragraph (1) of this subsection, the owner may accept a proportionate reduction in benefits under the certificate.

## **ARTICLE VII. DISPUTE RESOLUTION**

7.1.1. The purpose of this Article is to prescribe the sole means to present and resolve grievances, complaints or disputes brought by members, certificate owners, or beneficiaries against the Association or its members of the Board of Directors, officers, agents, and employees. Procedures set forth in this Article are meant to provide prompt, fair and efficient opportunities for dispute resolution, consistent with the fraternal nature of the Association, without the delay and expense of formal legal proceedings.

7.1.2. Except as expressly limited in this section 2, this section applies to all past, current and future benefit certificates, members, insureds, annuitants, certificate owners, and beneficiaries. It applies to all claims, actions, disputes and grievances of any kind or nature whatsoever. It includes, but is not limited to, claims based on breach of benefit certificate, breach of contract, as well as claims based on fraud, misrepresentation, violation of statute, discrimination, denial of civil rights, conspiracy, defamation, and infliction of distress, against the Association or its members of the Board of Directors, officers, agents, or employees.

7.1.3. This Article does not apply to claims or a dispute made after the applicable statute of limitations has expired.

7.1.4. This Article does not apply to action brought by the Association, including, but not limited to, actions for declaratory judgment, determining proper payees, recovering amounts due, and contesting insurance coverage or membership eligibility.

7.1.5. No lawsuit or any other actions may be brought for any claims or disputes covered by this Article. The following are the steps and procedures for presenting and resolving disputes:

- a. Appeal. Appeal of a dispute to a designated reviewer within the Association appropriate to the dispute.
- b. Mediation. If an appeal does not result in a mutually satisfactory resolution, either party has the right to have the matter mediated in accordance with the mediation rules of a neutral dispute resolution organization to which the parties agree or, in the absence of an agreement, the American Arbitration Association.
- c. Arbitration. If there is still no mutually satisfactory resolution, the matter will be resolved by binding arbitration in accordance with the arbitration rules of a neutral dispute resolution organization to which the parties agree or, in the absence of an agreement, the American Arbitration Association. The arbitrator(s) may award any actual damages incurred for which there is liability, but may not award attorneys' fees, exemplary, extra-contractual or punitive damages. The decision of the arbitrator(s) is binding and final. Additional procedural rules may be defined in policies established by the Association and made available upon request. If a claim or dispute is subject to law that prohibits parties from agreeing to submit future disputes to binding arbitration, arbitration results shall be non-binding unless both the individual and Association voluntarily agree to binding arbitration after the claim or dispute has arisen.

7.1.6. Fees and expenses of the mediator and/or arbitrator(s) shall be paid out of a dispute resolution fund established by the Association. This does not include attorneys' fees, experts' fees, or discovery costs, which each party shall bear as its own responsibility.

7.1.7. No claim or dispute may be brought against the Association or its members of the Board of Directors, officers, agents, or employees, in a representative capacity, or on behalf of any class of persons or members. Claims of multiple persons may be joined and presented under this Article provided all affected members, certificate owners and beneficiaries consent in writing, or if the Association determines joinder is appropriate.

## **VIII. AMENDMENTS TO BYLAWS AND CERTIFICATE OF INCORPORATION**

These by-laws may be amended at any regular or special meeting of the Board of Directors by the affirmative vote of not less than two-thirds of all members of the Board of Directors provided that not less than fifteen days notice shall be given by the General Secretary-Treasurer to all members of the Board of Directors of any amendment to be voted upon by the Board; provided, however, that an amendment may be adopted without such notice by the unanimous vote of all members of the Board of Directors. Any amendment of the by-laws by the Board of Directors shall be subject to review, ratification, and approval by the Active Adult members in the form of a referendum ballot. After the expiration of forty days from the date of mailing the referendum ballot, the General Secretary-Treasurer shall tabulate the votes received and shall certify the results to the General President. The majority of ballots in favor of the amendment received by the General Secretary-Treasurer shall determine if such bylaw amendment shall take effect and the results of the ballots shall be officially announced by the General Secretary-Treasurer to all Local Assemblies and through the official publication of the Association.