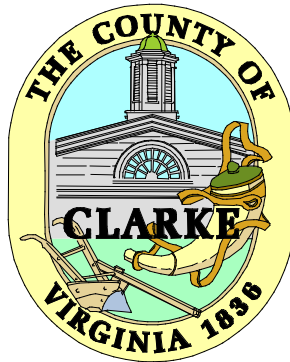


Bylaws and Rules and Procedures of the Industrial Development Authority of the Clarke County, Virginia



Bylaws of the Industrial Development Authority of the Clarke County, Virginia

Distribution: All Directors, County Administration, Director of Economic Development

Record of Revision

Revision No.	Revision Date	Description
New	01/12/1999	New Document
1	07/28/2016	<p>Amend Section 204. Annual Meetings. The annual meeting of the Board of Directors shall be held in January of each year and meetings held once per quarter, or at such time as needed, throughout the year in the Berryville Clarke County Government Center, 101 Chalmers Court, Second Floor, Berryville, Virginia or at such location as the Board of Directors may designate.</p> <p>Add Section 209: Removal of Director Before Their Terms in Office Expires: Should the Executive Committee, by a majority vote, deem that the attendance pattern of a Director at properly scheduled meetings is unacceptable, or should the performance of a Director be deemed unacceptable for any other reason by a majority vote of the Executive Committee, then the Chair of the Authority shall solicit the resignation of such a Director.</p> <p>In the event that no resignation is forthcoming, then the Executive Committee shall recommend the termination of such Director to the Clarke County Board of Supervisors.</p> <p>Amend Section 403. Public Attendance at Meetings: Inspection of Records. All meetings of the Board of Directors at which formal action is taken shall be open to the public. The Board of Directors may hold executive or closed meetings in accordance with The Virginia Freedom of Information Act, Chapter 21, Title 2.1, Chapter 37 Title 2.2 Administration of Government Code of Virginia (1950, as amended), as may be in effect from time to time (the "Virginia Freedom of Information Act").</p> <p>Section 404. Rules Regulations and Procedure: Add to Format of Meeting Approval of agenda</p> <p>Correct name throughout to "Industrial Development Authority of the Clarke County, Virginia"</p> <p>Section 206. Notices. Strike telegraph. Add email.</p> <p>Add section 210</p>
2	01/25/2018	<p>Section 304: Add Finance subcommittee section.</p> <p>Section 405: Add "All check or money transfers exceeding \$499 shall be countersigned by the Treasurer and Chair."</p>
3	04/26/2018	<p>Section 405: Remove "All check or money transfers exceeding \$499 shall be countersigned by the Treasurer and Chair." Replace with "The Authority will continue the practice of requiring two authorized signatories be on file with its banking institution."</p>

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Industrial Development Authority
Of The Clarke County, Virginia
Bylaws

Article I

Name. Purpose And Powers.

Section 101. Name.

The name of this body shall be the "Industrial Development Authority of the Clarke County, Virginia" (the "Authority").

Section 102. Purposes.

The purposes of the Authority shall be as set forth in Section [15.2-490](#) I of the Code of Virginia (1950, as amended) and all other purposes as are now or may hereafter be set forth in the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2 of the Code of Virginia (1950, as amended) (the "Act").

Section 103. Powers.

The Authority shall be vested with all powers as set forth in Section [15.2-4905](#) of the Code of Virginia (1950, as amended) and all other powers as are now or may hereafter be set forth in the Act.

Article II

Directors.

Section 201. Board of Directors.

The Authority shall be governed by a Board of Directors in which all powers of the Authority shall be vested.

Section 202. Number, Appointment and Terms of Directors.

There shall be seven (7) Directors of the Authority who shall be appointed by the Board of Supervisors of Clarke County, Virginia (the "Board of Supervisors").

Directors shall be appointed for a term of four (4) years, except appointments to fill vacancies, which shall be for the remainder of such un-expired term.

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If at the end of any term of office of any Director or successor thereto has not been appointed, then the Director whose term of office has expired shall continue to hold office until a successor is appointed and qualified.

Each Director, upon his initial appointment and any reappointment, shall take and subscribe the oath prescribed by Section [49-1](#) of the Code of Virginia (1950, as amended).

No Director shall be an officer or employee of Clarke County, Virginia.

Every Director shall, at the time of his appointment and thereafter, reside in Clarke County, Virginia or in an adjoining locality.

Section 203. Vacancies.

The Chairman of the Authority shall promptly notify the Board of Supervisors of any vacancy that may occur in the Board of Directors.

The Board of Supervisors shall make any appointments necessary to fill any vacancies upon the Board of Directors of the Authority in accordance with the Act.

In the event the term of any Director of the Authority shall expire without the Director being reappointed or a new Director being appointed by the Board of Supervisors, then the Director whose term has expired shall continue in office until his reappointment and qualification or until his successor shall have been appointed and qualified.

Section 204. Annual Meetings.

The annual meeting of the Board of Directors shall be held in January of each year and meetings held once per quarter, or at such time as needed throughout the year in the Berryville Clarke County Government Center, 101 Chalmers Court, Second Floor, Berryville, Virginia or at such location as the Board of Directors may designate.

Section 205. Special Meetings.

Special meetings of the Board of Directors may be called at any time by the Chairman of the Board of Directors or by any two Directors of the Authority, to be held at the time and place designated in the notice of the meeting.

Section 206. Notices.

Notice specifying the time and place of any annual or special meeting of the Board of Directors shall be given to each Director of the Authority at least 24 hours before such meeting by delivering such notice to him or her or by telephoning, emailing or mailing

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such notice to him or her at least 24 hours before the meeting. Any notice postmarked the day before the meeting shall be deemed to have been mailed at least 24 hours before the meeting.

Notices of special meetings of the Board of Directors shall specify generally the purposes thereof.

The presence of any Director at a meeting shall be deemed an acknowledgment of the timely receipt of notice thereof or a waiver of any such notice, unless specific objection to the notice of such meeting shall be raised by any Director in attendance.

Meetings may be held without notice if all of the Directors are present or if those Directors not present waive notice prior to the meeting, which waiver shall be in writing, signed either before or after the meeting.

Section 207. Quorum.

Four (4) members of the Board of Directors shall constitute a quorum of the Board of Directors for the purpose of conducting Authority business, exercising Authority powers and for all other purposes, except that no facilities owned by the Authority shall be leased or disposed of in any manner without a majority vote of the Directors of the Authority.

No vacancy in the membership of the Board of Directors shall impair the right of a quorum to exercise all the powers and perform all the duties of the Authority.

Section 208. Voting.

Except as otherwise required in these Bylaws or by the Act, any question submitted to a vote of the Board of Directors shall be passed by simple majority of those Directors present and voting.

No Director shall be allowed to vote by proxy at any meeting of the Authority.

Section 209: Removal of Directors Before Their Terms in Office Expires

Should the Executive Committee, by a majority vote, deem that the attendance pattern of a Director at properly scheduled meetings is unacceptable, or should the performance of a Director be deemed unacceptable for any other reason by a majority vote of the Executive Committee, then the Chair of the Authority shall solicit the resignation of such Director.

In the event that no resignation is forthcoming, then the Executive Committee shall recommend the termination of such Director to the Clarke County Board of Supervisors.

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Section 210: Remuneration for Meeting Attendance

Each Director shall receive \$50 for attending a quarterly meeting. The Authority Treasurer shall be responsible for issuing payment.

There shall be no remuneration for special meetings.

Article III

Officers

Section 301. Officers.

The officers of the Authority shall be a Chairman, a Vice-Chairman, and from their membership or not, as they desire, Secretary and Treasurer, or a Secretary-Treasurer, who shall continue to hold office until their respective successors are elected and qualified.

Section 302. Duties of Officers.

The duties of the officers of the Authority shall include, but shall not be limited to, the following:

A. Chairman:

- Preside at all meetings of the Authority;
- Be responsible for notice of meetings to the Directors and officers of the Authority;
- Be responsible for all correspondence;
- Make committee appointments;
- May appoint members of the Authority as liaison to any other governmental agencies, authorities and commissions;
- Act as a signatory on behalf of the Authority when authorized; and,
- Perform such other duties as are incident to his office or may properly be required of him by the Board of Directors.

B. Vice Chairman shall, in the absence of the Chairman,

- Exercise all of the Chairman's powers and duties;
- In the event the office of Chairman shall become vacant, the Vice-Chairman shall immediately become the Chairman.

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C. Secretary:

- Transcribe detailed minutes of every meeting or proceeding of the Authority;
- Issue notices for all meetings;
- Keep the seal of the Authority and all books and records of the Authority; and
- Perform such other duties as may be directed by the Board of Directors.

D. Treasurer:

- Custody of all funds and securities of the Authority and deposit the same in the name of the Authority in such bank or banks as the Directors may from time to time determine;
- Shall sign all checks, drafts, notes and orders for the payment of moneys and shall payout and dispose of the same under the direction of the Chairman.
- Keep suitable records of all financial transactions of the Authority and
- Arrange to have the same audited following the end of each fiscal year of the Authority, subject to the approval of the Board of Directors. Copies of each audit shall be furnished to the Board of Supervisors.

Section 303. Elections.

Officers of the Authority shall be elected annually at the annual meeting of the Authority held in January of each year, shall commence their duties immediately upon election and shall continue in office thereafter until a successor shall have been elected and qualified.

The Directors may elect at any annual or special meeting such officers as may be necessary to fill any vacancy created by resignation, expiration of term of appointment as a Director, or otherwise. Any officer so elected shall serve until his successor shall have been elected at the next annual election and qualified.

Section 304. Finance Subcommittee

The Finance Subcommittee shall consist of:

- Chair
- Treasurer
- Member at large, as assigned by the Chair

Article IV.

General Provisions

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Section 401. Seal.

The seal of the Authority shall be a flat-faced circular die with the name of the Authority engraved thereon and such other words and figures as may appear thereon as evidenced by a sample of such seal which appears on the margin of these Bylaws opposite this Section.

Section 402. Compensation.

The Directors and officers of the Authority shall receive no salary but may be compensated such amount per regular, special or committee meeting or per each official representation as may be approved by the Board of Supervisors, not to exceed the amount as provided in the Act for each meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

Section 403. Public Attendance at Meetings: Inspection of Records.

All meetings of the Board of Directors at which formal action is taken shall be open to the public.

The Board of Directors may hold executive or closed meetings in accordance with The Virginia Freedom of Information Act, [Chapter 37 Title 2.2 Administration of Government](#) Code of Virginia (1950, as amended), as may be in effect from time to time (the "Virginia Freedom of Information Act").

All official records of the Authority shall be open for inspection and copying in accordance with the provisions of the Virginia Freedom of Information Act.

Directors and officers of the Authority may inspect all Authority records at any reasonable time.

Section 404. Rules Regulations and Procedure.

- A. Roberts Rules of Order, Newly Revised, shall govern all matters of procedure not specifically set forth in these Bylaws or the Act.
- B. The format of meetings of the Board of Directors may be as follows:
 - (1) Call to order
 - (2) Recording of attendance
 - (3) Adoption of Agenda
 - (4) Reading, approval, and correction of the minutes of the last meeting.

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- (5) Reports of officers and committee
- (6) Old Business
- (7) New Business
- (8) Adjournment

C. The Board of Directors may adopt, amend and alter from time to time such rules, regulations or forms, which it deems necessary or expedient from the management of the affairs of the Authority and which shall not be inconsistent with the Act.

The Secretary of the Authority shall maintain current copies of the Bylaws, and any rules, regulations and forms adopted by the Authority.

Section 405. Authorized Signatures.

Checks, notes, drafts and other legal documents shall be signed by such Directors or officers of the Authority as may be specified in the act, these Bylaws, or as the Board of Directors may, from time to time, authorize by resolution.

The Authority will continue the practice of requiring two authorized signatories be on file with its banking institution.

The signature of any officer or Director may be by facsimile when authorized by the Board of Directors.

Article V

Amendments

Section 501. Amendment of Bylaws.

These Bylaws may be amended, repealed or altered, in whole or in part, by a majority vote of the Board of Directors at any duly constituted meeting, provided notice of such amendment shall have been given to the Directors in the notice of such meeting.

Rules and Procedures Of The Industrial Development Authority Of The Clarke County, Virginia

Industrial Development Authority Of The Clarke County, Virginia **Rules and Procedures**

Article I

Purpose and Scope

Section 1.1 Purpose.

These Rules shall govern the submission of Applications to the Authority, application and administrative fees, consideration of matters to be brought to the attention of the Authority relating to the authorization, issuance and sale of its Bonds, the adoption of Financing Documents, reports to be submitted to the Authority, and such other matters as are contained herein.

Section 1.2 Scope.

These Rules are supplementary to the Authority's Bylaws and the Act. In the event of any conflict between the Authority's Bylaws, the Act and these Rules, the provisions of the Bylaws and the Act shall prevail.

Article II

Definitions

Section 2.1 Definitions.

As used in these rules and procedures, the following terms shall have the meaning as set forth herein, unless the context clearly requires otherwise:

"Act" shall mean the Industrial Development and Revenue Bond Act, [Chapter 49, Title 15.2](#), Code of Virginia of 1950, as amended.

"Applicant" shall mean any individual, person, firm, corporation, partnership or other entity applying for industrial development revenue bond financing, or for whose benefit the Authority has issued its Bonds, or who requests the Authority to take any action.

"Application" shall mean the Authority's application for industrial development revenue bond financing as in effect from time to time.

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"Authority" shall mean the Industrial Development Authority of the Clarke County, Virginia, a political subdivision of the Commonwealth of Virginia.

"Bonds" shall mean any notes, bonds and other obligations authorized to be issued by the Authority pursuant to the Act.

"Code" shall mean the Code of Virginia of 1950, as amended.

"Financing Documents" shall mean any resolutions, instruments, documents, papers, elections, certificates or financing statements required to be adopted or authorized, executed and delivered by the Authority in connection with the authorization, issuance and sale of its Bonds.

"IRC" shall mean the Internal Revenue Code of 1986, as amended.

"Project" shall mean any land, improvements, machinery, equipment or property financed by the issuance and sale of the Authority's Bonds.

"Rules" shall mean these Rules and Procedures of the Authority, as may be in effect from time to time.

Article III

General

Section 3.1 Copies to be Provided Applicants.

A copy of these rules and procedures shall be furnished by the Authority's Secretary to each prospective Applicant.

Section 3.2 Compliance with Rules and Procedures.

Each Applicant shall comply with these rules and procedures in the submission of its Application or any Financing Documents to the Authority and in requesting that the Authority take any action, including the adoption of Financing Documents.

Failure to comply with these rules and procedures shall constitute sufficient reason for the Authority to refuse to consider any Application, Financing Documents or any other matter to be brought before the Authority by or on behalf of any Applicant.

Section 3.3 Amendments.

These rules and procedures may be changed from time to time by the Authority by the

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vote of a majority of its Directors present at any meeting of the Authority, provided notice of such change shall have been given to each Director before such meeting.

These rules and procedures may, notwithstanding the foregoing, be amended without prior notice upon the affirmative vote of all Directors of the Authority.

Section 3.4 Preparation and Distribution of Agenda and Minutes.

- (a) A preliminary agenda for the Authority's meetings shall be prepared and distributed by the Authority's Secretary [no later than three (3) days] before the Authority's scheduled meeting date. The agenda may state that it is a preliminary agenda subject to change at or before the Authority's meeting.

Failure to distribute the preliminary agenda as set forth above shall in no way affect the validity of any actions taken by the Authority at the meeting.

- (b) Preliminary drafts of the minutes of the Authority's meeting shall, as soon as practicable following the meeting, be mailed or delivered to each officer and director of the Authority and the Authority's counsel. Each preliminary copy of the minutes so distributed shall be marked to indicate that it is a preliminary draft subject to additions or corrections at the Authority's next meeting.

Article IV

Applications Procedures, Fees and Requirements

Section 4.1 Applications.

At least twenty-one days before the Authority's meeting at which the Application is to be considered, each Applicant shall submit a fully and accurately completed Application to:

- each Director of the Authority,
- the Authority's Secretary and Counsel and
- the Economic Development Director of the County of Clarke,

Each Application shall include all requested exhibits. In the event all requested exhibits are not available or not to be made part of the public record, a statement of explanation will be attached to the Application.

The Authority recommends that each Applicant seek the advice of the Economic Development Director of the County of Clarke or the Authority's Counsel respecting completion of the Application before submitting it to the Authority.

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Section 4.2 Administrative Fees.

Each application submitted pursuant to Section 4.1 shall be accompanied with an application fee of \$5,000; provided, however, that if the amount of the application is \$1,000,000 or less, such fee shall be \$1,000.

The Authority also charges an annual administrative fee equal to:

- 1/10th of one percent for transactions of \$1,000,000 or less;
- 1/15th of one percent for transactions between \$1,000,001 and \$5,000,000; and
- 1/20th of one percent for transactions of more than \$5,000,000.

Such annual administrative fees shall be payable on the anniversary date of the closing of the transaction, **and shall be computed by multiplying the applicable percentage by the outstanding principal balance of the bonds on such date.**

The Authority reserves the right to modify the fees described in this section on a case-by-case basis, in the sole discretion of the Authority.

Fees, upon acceptance by the Authority, are non-refundable.

Section 4.3 Costs and Expenses.

The Authority requires reimbursement of its costs and expenses incurred in connection with the issuance and sale of its Bonds and by virtue of its Bonds being outstanding. (See Section 5.2)

Section 4.4 Modification Fee; Transaction Fee.

- (a) The Authority may, in its discretion, require payment of a \$1,000 modification fee by any Applicant requesting the Authority to approve any modification or amendment to its Bonds or the applicable Financing Documents.

The modification fee shall be due and payable on or before the date of execution and delivery of the modification or amendment.

- (b) The Authority may, **in its discretion,** charge a transaction fee in the amount of \$1,000 to any Applicant requesting the Authority to take any action, regardless of whether the Authority has Bonds outstanding for the benefit of the Applicant.

The transaction fee will be in addition to any other fees required hereunder.

Section 4.5 Transcripts of Proceedings.

Each Applicant receiving Bond financing through the Authority shall furnish to the

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Authority upon the sale and delivery of the Bonds, two complete transcripts of the Financing Documents relating to such Bonds. Bond transcripts shall be hardback bound in library standard quality binders at the cost and expense of the Applicant.

Section 4.6 Bond Validation Proceedings.

The Authority may require that before issuance, its Bonds be validated by the Circuit Court of the County of Clarke, Virginia, pursuant to the requirements of [Article 6, Chapter 26, Title 15.2 of the Code](#). The costs, expenses and fees incurred in connection with any bond validation proceedings required by the Authority, including attorneys' fees, shall be paid by the Applicant.

Section 4.7 Additional Information Required of Applicants

- (a) The Authority may adopt an inducement resolution conditioned upon the subsequent furnishing of certain information satisfactory to the Authority. All required information shall be promptly furnished to the Authority and failure of any Applicant to furnish such information shall constitute a ground for rescission of any inducement resolution adopted pursuant to such conditions.
- (b) The Authority may, at its option, require the furnishing of appraisals, evaluations or reports respecting the Project or any portion thereof. The Authority may retain advisors and consultants to advise it regarding any Project or other action that it is requested to undertake by any Applicant. All costs, fees and expenses of such appraisals, reports, consultants and advisors incurred by the Authority after prior notification to the Applicant shall be paid by the Applicant.
- (c) Since the Authority usually acts based upon information furnished to it solely by the Applicant, the Authority reserves the right to require at any time the furnishing of additional information concerning the Applicant, its financial statements, and any other information deemed relevant by the Authority. In instances where the Applicant has undergone changes in form or management or where the security to be given for payment of the Bonds has changed, the Applicant shall report such changes promptly to the Authority.

Section 4.8 Notice of Public Hearing

The Applicant shall publish a notice of public hearing with respect to each Application for which a public hearing is required by the Code once a week for two successive weeks, to be published in a newspaper having general circulation in the County of Clarke, Virginia and in such other newspapers as may be required.

The notice shall be in a form approved by the Authority's Counsel and Bond Counsel.

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The second publication shall be not less than six nor more that twenty-one days before the Authority's meeting at which the Application is to be considered.

Persons who are interested in speaking at any public hearing held by the Authority are encouraged to submit their comments in writing.

The Authority shall publish such additional notice or notices and hold such additional public hearings with respect to each Application as may be required by law or recommended by Counsel to the Authority.

Section 4.9 Projects Outside of the County of Clarke, Virginia

Any Applicant to finance a Project located outside the County of Clarke, Virginia shall be accompanied by evidence satisfactory to the Authority that the county, city or town in which the Project is proposed to be located approves the proposed financing of the Project by the Authority.

Following the adoption of an inducement resolution for such Project, the Applicant shall furnish to the Authority a certified copy of a resolution duly adopted by the governing body of such county, city or town stating that such governing body concurs with the inducement resolution adopted by the Authority evidence satisfactory to the Authority that the county, city or town in which the Project is proposed to be located approves the proposed financing of the Project by the Authority.

Following the adoption of an inducement resolution for such Project, the Applicant shall furnish to the Authority a certified copy of a resolution duly adopted by the governing body of such county, city or town stating that such governing body concurs with the inducement resolution adopted by the Authority.

The Authority may also require additional evidence concerning the impact or effect of the Project on the area where it will be located, whether the Project has received appropriate local approvals or permits, and whether the Project is acceptable to the inhabitants where it will be located

Article V

PROVISIONS TO BE INCORPORATED INTO RESOLUTIONS AND FINANCING DOCUMENTS

Section 5.1 Inducement Resolutions.

Each inducement resolution adopted by the Authority shall provide that it shall continue in full force and effect for a period of two years unless specifically extended by the Authority.

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Section 5.2 Payment of Authority Expenses.

The Financing Documents adopted by the Authority for the benefit of any Applicant shall provide that the Applicant agrees to pay all costs, fees and expenses incurred by the Authority (including attorney's fees) in connection with: where it will be located.

- (a) the authorization, issuance and sale of the Authority's Bonds;
- (b) the ownership, occupation, operation or use of the Project being financed, whether owned by the Authority or the Applicant;
- (c) prepayment or redemption of the Authority's Bonds;
- (d) administrative costs and expenses of the Authority, including the fees of attorneys, accountants, engineers, appraisers or consultants, paid or incurred by the Authority by reason of the Bonds being outstanding or pursuant to requirements of the Financing Documents; and
- (e) Such other fees and expenses of the Authority, not directly related to the Project being financed for the Applicant, but attributable to the Authority's financing of industrial or commercial Projects, including without limitation, a share of costs of the Authority's annual audit as required by Code Section 15.2-4904, determined as follows:
 - (1) All costs and fees relating to the annual audit and directly attributable to a particular Applicant or Project, shall be charged to such Applicant; and
 - (2) Any costs and fees of such audit not directly attributable to any Applicant or Project shall be allocated among all Applicants having Bonds outstanding, pro rata, as the amount of Bonds originally issued for such Applicant bears to the total face amount of Bonds issued by the Authority of which any portion of any issue remains outstanding and unpaid.

Section 5.3 Indemnification of the Authority.

Each Applicant shall agree to indemnify and save harmless the Authority, the County, the Board of Supervisors and their officers, directors, employees and agents (hereinafter the "Indemnitees") from and against all liabilities, obligations, claims, damages, penalties, fines, losses, costs and expenses (hereinafter referred to as "Damages"), including without limitation:

- (a) all amounts paid in settlement of any litigation commenced or threatened against the Indemnitees, if such settlement is effected with the written consent of the Applicant;

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- (b) all expenses reasonably incurred in the investigation of, preparation for or defense of any litigation, proceeding or investigation of any nature whatsoever, commenced or threatened against the Applicant, the Project or the Indemnitees;
- (c) any judgments, penalties, fines, damages, assessments, indemnities or contributions; and
- (c) the reasonable fees of attorneys, auditors, and consultants; provided that the damages arise out of:
 - (i) failure by the Applicant, or its officers, employees or agents, to comply with the terms of the Financing Documents and any agreements, covenants, obligations, or prohibitions set forth therein;
 - (ii) any action, suit, claim or demand contesting or affecting the title of the Project;
 - (iii) any breach of any representation or warranty set forth in the Financing Documents or any certificate delivered pursuant thereto, and any claim that any representation or warranty of the Applicant contains or contained any untrue or misleading statement of fact or omits or omitted to state any material facts necessary to make the statements made therein not misleading in light of the circumstances under which they were made;
 - (iv) any action, suit, claim, proceeding or investigation of a judicial, legislative, administrative or regulatory nature arising from or in connection with the construction, acquisition, ownership, operation, occupation or use of the Project; or
 - (v) any suit, action, administrative proceeding, enforcement action, or governmental or private action of any kind whatsoever commenced against the Applicant, the Project or the Indemnitees which might adversely affect the validity or enforceability of the Bonds, the Financing Documents, or the performance by the Applicant or any Indemnitee of any of their respective obligations thereunder.

Section 5.4 Bond Counsel Opinion Required.

Before issuing and delivering any of its Bonds, the Authority shall receive an unqualified approving opinion of recognized bond counsel licensed to practice law in Virginia and approved by the Authority stating, among other things, that the Bonds have been duly authorized, executed, issued and delivered, that the interest thereon is exempt from Federal income taxation under IRC §103 (or other applicable provision of law) and

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taxation by the Commonwealth of Virginia, and that the Bonds are exempt from registration requirements under applicable state and Federal securities laws.

Section 5.5 Covenants to Preserve Tax Exempt Status of Bonds.

All Financing Documents presented for approval by the Authority shall contain appropriate covenants of the Applicant designed to insure compliance with the requirements of IRC §103 to preserve the tax exempt status of interest on the Bonds, including without limitation, "arbitrage" requirements, capital expenditure limitations and reporting requirements.

Section 5.6 Payments in Lieu of Taxes.

In event title to the Project is held by any person or entity not subject to real or personal property taxes, the Applicant and any user of the Project, unless specifically exempted by the Authority, shall enter into an agreement to pay all taxes, levies, assessments, charges or other impositions which may be levied by any taxing authority on the Project as if such Applicant or user held title to the Project or any portion thereof.

Section 5.7 Restriction on Advertising.

The Applicant and any purchaser or underwriter of the Authority's Bonds shall not publish any advertisement, tombstone or other information with respect to the Authority's Bonds unless:

- (a) such advertisement has been approved by the Chairman or Vice Chairman of the Authority and Counsel to the Authority and
- (b) (such advertisement contains the statement set forth below with respect to the limited nature of the obligations.

Any bond purchase agreement entered into in connection with the Authority's Bonds shall contain a covenant in substantially the following form which shall be binding on the Applicant, any purchaser and any underwriter of such bonds: The undersigned agree that no advertisement, tombstone or other information with respect to the Bonds shall be published in any newspaper or other publication unless such advertisement:

- (a) is approved by the Chairman or Vice Chairman of the Authority and Counsel to the Authority and
- (b) clearly states that the Bonds are limited obligations of the Authority payable solely from revenues and that neither the Commonwealth of Virginia nor any political subdivision thereof, including the Authority and the County of Clarke, Virginia, shall be obligated to pay the principal of or the interest or premium, if any, on the Bonds

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and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the Authority and the County of Clarke, is pledged to payment of the Bonds.

Article VI

Reports

Section 6.1 Interim Reports by Applicants.

Each Applicant shall file with the Authority a written report describing the status of its proposed financing no later than ten (10) days after receipt of written request therefore. Such written report shall include the proposed purchaser of the Bonds, the proposed terms of the Bonds, the status of Financing Documents, and the current status of the Project. Each Applicant shall promptly notify the Authority of any significant or material changes to any information previously furnished by the Applicant to the Authority, including specific descriptions of new or changed plans for the placement of the bonds and the security to be offered.

Section 6.2 Annual Reports of Applicants.

Each Applicant, after the issuance and sale of the Authority's Bonds for the benefit of such Applicant, shall annually report to the Authority no later than June 30 the status of the Project, which shall include the outstanding and unpaid balance of Bonds issued for the Project, whether any event of default has occurred under the Financing Documents, and other information relating to the financing of the Project and benefits to the County of Clarke, Virginia.

Section 6.3 Reports by Authority Chairman Directors etc.

At each meeting of the Authority, the Chairman, each Director, the Secretary, the Treasurer and the Authority's Counsel shall report any action taken on behalf of the Authority since the last meeting, including receipt of reports required under Sections 4.7, 6.1 and 6.2.

Article VII

Enforcement

Section 7.1 Enforcement of Provisions.

The Authority may refuse to consider or adopt any inducement resolutions, Financing

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Documents or any other matters presented for its consideration if the Applicant has failed to comply with the requirements of these Rules.

Section 7.2 Repeal of Actions Previously Taken.

The Authority may rescind or repeal any inducement resolution previously adopted by it or any other action taken by the Authority because of failure of the Applicant to comply with the provisions of these Rules or because of substantial changes in the management, ownership, Project plan or financial circumstances of the Applicant; provided, however, no inducement resolution or action taken by the Authority shall be repealed or rescinded unless prior written notice of such proposed action shall have been mailed to the Applicant at least three weeks before the date upon which such action is proposed to be taken. Notwithstanding the foregoing, no such action shall be taken by the Authority which will impair or adversely affect the interests of the holders of the Authority's Bonds.

Article VIII

Statements of Policy

Section 8.1 Construction, Operation and Effect of Rules.

These Rules are intended as guidelines to promote and insure the orderly and consistent consideration of Applications, Financing Documents and other matters brought before the Authority. For good cause, application of these Rules may be modified and waived upon a case by case basis upon the consent of the Authority. Any action taken by the Authority not in conformity with these Rules shall, nevertheless, be fully effective as if taken in compliance with these Rules. It is, however, the policy of the Authority that each Applicant comply fully and completely with these Rules, and failure to comply with these Rules may constitute grounds for refusal by the Authority to take any action requested.

Section 8.2 Approval of Inducement Resolution not to Constitute an Endorsement of Applicant.

The purpose of the Authority, as set forth in the Act, is to promote industry and develop trade by inducing manufacturing, industrial, governmental, commercial and non-profit enterprises to locate in or remain in the Commonwealth of Virginia. Pursuant to the Act, the Authority's powers shall be exercised for the benefit of the inhabitants of Virginia through the promotion of their safety, health, welfare, convenience or prosperity. Accordingly, the Authority's decision to adopt an inducement resolution or take other action will be based largely upon these factors. Further, the Act prohibits the Authority from operating any enterprise or Project. Since the Authority is a conduit for providing tax exempt financing to promote the commerce and industry of the Commonwealth of Virginia and the County of Clarke, Virginia, and given the express prohibition against

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operating enterprises or Projects, the Authority believes it is improper for it to inquire into matters relating to the business judgment of the management of any Applicant not relevant to the foregoing factors. The Authority may, however, examine the business decisions and other aspects of management of the Applicant should it deem such matters relevant to the authorization, issuance and sale of its Bonds.

In view of the foregoing limitations, the adoption of an inducement resolution or any other action taken by the Authority is not to be used by any Applicant in any manner whatsoever as an endorsement or approval of the Applicant, its policies or its management.

Section 8.3 Security for Payment of Bonds.

The Authority will require a showing that any issue of its Bonds is fully and adequately secured.

Section 8.4 Compliance with Rules.

These Rules were adopted by the Authority to assist in the orderly and expeditious conduct of its business. As stated in 3.2 of these Rules, the Authority has reserved the right to require that any Applicant strictly conform to the requirements of the Rules. Among other things, the Rules require that each Applicant inform the Authority of any new developments or material changes in information which has been submitted to the Authority, either orally or in writing. Matters concerning the structure of the financing, the prospective purchasers of the Bonds and the security for payment of the Bonds are items of particular interest to the Authority; however, the Authority expects to be kept informed of all material changes to information submitted to it.

By submitting an Application to the Authority, the Applicant agrees to abide by these Rules. Thus, the burden is placed upon the Applicant to review and to comply with these Rules. The principal sanction which may be applied by the Authority against any Applicant for failure to comply with the Rules would be a refusal to take any action requested by the applicant. Such a refusal might result in embarrassment to or considerable financial expenses on the part of the Applicant. To avoid such embarrassment or expense, the Authority urges each Applicant to keep the Authority fully informed of any new developments or material changes to information previously submitted to the Authority, including in particular, changes in the contemplated financing structure or the proposed security for the Bonds. As noted above, the burden is upon the Applicant to convey this information to the Authority in a timely manner. What constitutes "timely" depends upon the circumstances of each case; however, each Applicant is urged to provide all such information before considerable time and expense is incurred upon matters which may prove unacceptable to the Authority. Any such communications should be made directly to the Authority's officers, directors and counsel.