

**PLAN OF OPERATION (the “Plan”) AND BYLAWS OF THE
FLORIDA WORKERS’ COMPENSATION INSURANCE
GUARANTY ASSOCIATION, INCORPORATED**

Article 1

NAME

1.1 Name. The corporation shall be known as the Florida Workers’ Compensation Insurance Guaranty Association, hereafter referred to as the “Corporation.”

1.2 Place of Business. The Corporation shall maintain its headquarters in Tallahassee, Florida.

Article 2

PURPOSE

2.1 Creation. The Corporation has been established in accordance with the provisions of Section 631.902, Florida Statutes.

2.2 Purposes. The purposes of the Corporation are as follows:

- (a) to provide a mechanism for the payment of covered claims under Chapter 440, Florida Statutes, to avoid excessive delay in payment and to avoid financial loss to claimants because of the insolvency of a member Insurer,
- (b) to assist in the detection and prevention of insurer insolvencies,
- (c) to allocate the cost of such protection among the insurers, and
- (d) to provide for the prompt payment by the Corporation of workers’ compensation claims incurred by insolvent Insurers.

Article 3

EFFECTIVE DATE

3.1 Effective Date. The Plan and any amendments shall be filed with the General Counsel of the Department and shall become effective unless disapproved in writing by

the Department within thirty (30) days after receipt.

Article 4

DEFINITIONS

4.1 Definitions. As used in this Plan, the term:

“**Act**” means the Florida Workers’ Compensation Insurance Guaranty Association Act, enacted as Sections 631.901-932, Florida Statutes, together with any amendments thereto.

“**Ad hoc settlement group**” means the group of workers’ compensation claims professionals who assist in the review of settlement authority requests greater than \$100,000 and less than \$250,000.

“**AGFG**” means American Guaranty Fund Group, Incorporated, a Florida corporation created in 2004 to function as the management company for the Florida Insurance Guaranty Association and the Corporation.

“**Assessment**” means the percentage certified by the Board and levied by the Office on Insurers. Assessments levied upon Insurers may be due to the Corporation before or after collection of Policy Surcharges.

“**Assessment Year**” means the 12-month period set forth in the Assessment levy issued by the Office. Assessment years may begin January 1st, April 1st, July 1st or October 1st.

“**Board**” means the Board of Directors of the Corporation.

“**Chief Financial Officer**” means the Chief Financial Officer of the State of Florida.

“**Commissioner**” means the Commissioner of the Office of Insurance Regulation.

“**Corporation**” means the Florida Workers’ Compensation Insurance Guaranty Association, Incorporated.

“**Covered Claim**” means an unpaid claim, including a claim for return of unearned premiums, which arises out of, is within the coverage of, and is not in excess of the applicable limits of, an insurance policy to which the Act applies, which policy was issued by an insurer and which claim is made on behalf of a claimant or insured who was a resident of Florida at the time of the injury. The term “covered claim” includes unpaid claims under any employer liability coverage of a workers’ compensation policy limited to the lesser of \$300,000 or the limits of the policy. The term “covered claim” does not include any amount sought as a return of premium under any retrospective rating plan; any amount due any reinsurer, Insurer, insurance pool, or underwriting association, as subrogation recoveries or otherwise; any claim that would otherwise

be a covered claim that has been rejected or denied by any other state guaranty fund based on that state's statutory exclusions, including, but not limited to, those based on coverage, policy type, or an insured's net worth, except this exclusion from the definition of covered claim does not apply to employers who, prior to April 30, 2004, entered into an agreement with the Corporation, preserving the employer's right to seek coverage of claims rejected by another state's guaranty fund; or any return of premium resulting from a policy that was not in force on the date of the final order of liquidation. Member Insurers have no right of subrogation against the insured of any Insolvent Insurer. Subject to Section 631.929, Florida Statutes, the term does include claims, which would otherwise meet the definition of Covered Claims, of an insolvent Self-Insurance Fund resulting from accidents or losses incurred prior to January 1, 1994, regardless of the date the petition in circuit court was filed alleging insolvency and the date the court entered an order appointing a receiver.

“Department” means the Florida Department of Financial Services.

“Direct Written Premiums” means Florida direct written premium reported in statutory annual and quarterly statements filed with the Office on insurance policies to which the Act applies. The term “Direct Written Premium” does not include premiums on contracts between insurers or reinsurers.

“Full Policy Premium” means direct written premium after all applicable adjustments (drug free workplace credit, safety credits, experience modification factor, standard discounts, expense constants, etc.), but prior to the application of discounts or credits resulting from any deductible clause (small, intermediate or large) in the policy. Full policy premium includes premium adjustments relating to audits and class code changes but excludes premium adjustments relating to any deductibles and/or retrospective rating credits made in subsequent periods on policies beginning during the Assessment Year subject to the Policy Surcharge.

“Insolvency” means that condition in which all of the assets of the Insurer, if made immediately available, would not be sufficient to discharge all of its liabilities or that condition in which the Insurer is unable to pay its debts as they become due in the usual course of business. When the context of any provision of the Act or this Plan so indicates, “insolvency” also includes impairment of surplus or impairment of capital.

“Insolvent Insurer” means an insurer that was authorized to transact insurance in Florida, either at the time the policy was issued or when the insured event occurred, and against which an order of liquidation with a finding of insolvency has been entered by a court of competent jurisdiction if such order has become final by the exhaustion of appellate review.

“Insurer” means an insurance carrier or self-insurance fund authorized to insure under Chapter 440, Florida Statutes. The term “insurer” does not include a qualified local government self-insurance fund, as defined in Section 624.4622, Florida Statutes, an independent educational institution self-insurance fund as defined in Section 624.4623, Florida Statutes, a corporation not-for-profit self-insurance fund as described in Section 624.4625, Florida Statutes, an electric cooperative self-insurance fund as described in Section 624.4626, Florida Statutes, or an

individual self-insurer as defined in Section 440.385, Florida Statutes. Nor does it include any unauthorized insurer or an entity purporting to provide insurance but not authorized to provide security for compensation as required by Section 440.38, Florida Statutes, as amended from time to time.

“Office” means the Florida Office of Insurance Regulation.

“Plan” means this Plan of Operation and Bylaws of the Corporation, and any subsequent amendments hereto.

“Policy Surcharge” means a fixed percentage applied to all workers’ compensation policies and collected by Insurers as set forth in an order from the Office.

“Post-Surcharge (Pass-through) Assessment” means Insurer assessments remitted to the Corporation after collecting Policy Surcharges from policyholders. Insurers will not be required to remit the full assessment before Policy Surcharges are billed, but rather remit amounts quarterly as Policy Surcharges are collected over the course of the Assessment Year. At the conclusion of the Assessment Year, a Reconciliation between payments and collections will be performed.

“Pre-Surcharge Assessment” means Insurer assessments, if ordered by the Office, to be remitted to the Corporation prior to collecting Policy Surcharges from policyholders. Insurers will be invoiced an estimated assessment based on prior year direct written premium, plus deductible and retrospective rating credits, with funds being due in not less than 30 days. After payment is made, Insurers will implement the Policy Surcharge and recoup the assessment paid over the four quarter Assessment Year as specified in the order from the Office. At the conclusion of the Assessment Year, a Reconciliation between payments and collections will be performed.

“Premium Subject to Surcharge” means the annual premium for a workers’ compensation policy, prior to the application of deductible and retrospective rating credits. The amount of surcharge due is initially calculated on the policy’s estimated annual premium, with final determination of the amount of surcharge due computed on the policy’s final premium.

“Private Carrier” means an Insurer which holds a certificate of authority issued by the Florida Office of Insurance Regulation.

“Receiver” means the Department acting under the statutory authority provided for in Chapter 631, Florida Statutes.

“Reconciliation” means a reconciliation between Assessment payments remitted and Policy Surcharge collections at the conclusion of the Assessment Year, and annually thereafter for a period of three years. Pre-Surcharge Assessments reconcile estimated assessments remitted to the Corporation to assessment amounts due, based on Premium Subject to Surcharge and actual Policy Surcharges collected. Post-Surcharge Assessments reconcile Premium Subject to Surcharge and actual Policy Surcharges collected and remitted. Policy Surcharges collected in

excess of Assessments remitted are due the Corporation and Assessment payments remitted in excess of Policy Surcharge collected are returned to Insurers.

“Self-Insurance Fund” means a group self-insurance fund authorized under Section 624.4621, Florida Statutes, a commercial self-insurance fund writing workers’ compensation insurance authorized under Section 624.462, Florida Statutes, or an assessable mutual insurer authorized under Section 628.6011, Florida Statutes. The term “self-insurance fund” does not include a qualified local government self-insurance fund, as defined in Section 624.4622, Florida Statutes, an independent educational institution self-insurance fund as defined in Section 624.4623, Florida Statutes, a corporation not-for-profit self-insurance fund as described in Section 624.4625, Florida Statutes, an electric cooperative self-insurance fund as described in Section 624.4626, Florida Statutes, or an individual self-insurer as defined in Section 440.385, Florida Statutes. Nor does it include any unauthorized insurer or an entity purporting to provide insurance but not authorized to provide security for compensation as required by Section 440.38, Florida Statutes, as amended from time to time.

Article 5

MEMBERSHIP

5.1 Admission. Each Insurer shall automatically become a member (“Member”) of the Corporation.

5.2 Cessation. An Insurer who ceases to be authorized to offer workers’ compensation coverage in Florida shall automatically cease to be a Member of the Corporation effective at the end of the calendar year during which its last policy of insurance terminates and such Insurer shall no longer be bound by this Plan; except that such Insurer shall remain liable for any past, present or future assessments by the Corporation with respect to any calendar year during which the Insurer reports Direct Written Premiums.

5.3 Assets of the Corporation. No Member of the Corporation shall be entitled to share in any of the distributions of the assets of the Corporation.

5.4 Meetings. Meetings of the Members shall be held at such times and at such places as may be determined by the Board from time to time, and shall be called by the Chairman on not less than twenty (20) days prior written notice. Nothing in this paragraph shall be construed so as to require the holding of any such meeting of Members.

Article 6

BOARD OF DIRECTORS

6.1 Governing Body. The business and affairs of the Corporation shall be governed by the Board.

6.2 Qualification/Number. The Board shall consist of eleven (11) persons (the “Directors”), who shall include:

- (a) The Insurance Consumer Advocate appointed under Section 627.0613, Florida Statutes, or his or her designee.
- (b) One person designated by the Chief Financial Officer.
- (c) Six (6) persons appointed by the Department who are selected by Private Carriers from among the twenty (20) workers’ compensation insurers (or groups) with the largest amount of Direct Written Premiums as determined by the Office. At least two (2) of the Private Carriers shall be foreign carriers authorized to do business in Florida. For purposes of determining whether a Private Carrier is a foreign carrier, the state of domicile of the Private Carrier or its ultimate parent shall control.
- (d) Two (2) persons appointed by the Department who are selected by the Self-Insurance Funds.
- (e) One person who has commercial insurance experience appointed by the Governor.

6.3 Tenure. Directors shall serve four (4) year terms. Each Director shall serve until his or her successor shall have been elected and qualified or until his or her earlier resignation, removal from office or death.

6.4 Removal. Any board member who is employed by, or has a material relationship with, an Insurer in receivership shall be terminated as a board member, effective as of the date of the entry of the order of receivership.

Any resulting vacancies on the board shall be filled for the remaining period of the term in accordance with the provisions of Subsection 631.912(1).

Material relationship is a relationship that the Board determines, after a consideration of the relevant facts and circumstances, compromises the director's independence and could reasonably interfere with the exercise of the director's independent judgment. The determination of whether a relationship is material must take place at or before the Board meeting immediately following the date the company in question is placed into receivership. A Board member with a relationship with an insurer that is placed into receivership shall not participate in any Board or Committee activities until such time as the Board can meet to determine if the relationship is material.

The Chief Financial Officer may remove any Director for cause.

6.5 Reappointment. All Directors shall be eligible for reappointment.

6.6 Resignation. A Director may resign at any time by written notice delivered to the Executive Director at the principal office of the Corporation by hand-delivery, United States Mail, email, facsimile, or overnight courier. Unless otherwise specified in the notice, acceptance of such resignation shall not be necessary to make it effective.

6.7 Vacancy. A vacancy on the Board shall be filled for the remainder of the term in the same manner by which the original appointment was made.

6.8 Quorum. A majority of the Directors then in office shall constitute a quorum for the transaction of business. The acts of a majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board; provided, however, that whenever a vacancy occurs on the Board, a quorum shall consist of a majority of the remaining Directors until such vacancy has been filled.

6.9 Proxy. Voting by proxy at a Board meeting shall not be permitted.

6.10 Compensation. Members of the Board or of any committee of the Board (the "Committee" or "Committees," as the context requires) shall be reimbursed from the assets of the Corporation for their actual and reasonable out-of-pocket expenses incurred by them in attending Board or Committee meetings, as the case may be, and in performing Corporation business, all in accordance with the travel and reimbursement policies adopted by the Corporation. Board and Committee Members may not otherwise be compensated by the Corporation for their services.

6.11 Telephonic Conference. The Board or Board Committees may conduct meetings by telephonic conference call so long as said conference call permits the general public to be included as parties to the call and to hear all Directors and other speakers in attendance at the meeting. A Director may participate telephonically in any meeting. Participation by such means shall constitute presence in person at a meeting.

6.12 Place, Call and Adjournment of Meetings. Meetings of the Board shall be held anywhere within the State of Florida. The Chairman shall call and preside at all meetings. The Board shall meet at least semi-annually to discuss the business of the Corporation. A majority of the Directors present at a meeting, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of any adjournment of a meeting to another time or place shall be given to the Directors who were not present at the time of the adjournment and, unless such time and place are announced at the meeting, to the other Directors.

6.13 Special Meetings. Special meetings of the Board shall be held within twenty (20) days (but in no event any earlier than the number of days required to properly publish notice of the meeting) after the written request of any three (3) Directors, unless a different meeting

date is agreed to by the three (3) Directors. The Directors calling the meeting shall designate a reasonable time and place for such meeting. Written notice of the time and place of such special meeting, and the purpose therefor, shall be given.

6.14 Annual Meetings. The Board shall hold an annual meeting, upon proper notice, at such place and on such date and time as may be determined by the Chairman. Proper notice shall consist of written notice of the time, date and place of the holding of the annual meeting, and the specific matters to be considered at such meeting, mailed by the Chairman or his or her designee to each Director at least twenty (20) days prior to any such meeting. At each annual meeting, the Board shall:

- (a) Review the Plan and submit to the Department for review any proposed amendments to the Plan approved by the Board.
- (b) Review all outstanding contracts with professional service providers and to the extent possible make necessary adjustments. Such review shall include all contracts with professional service providers that were in force during any period of time since the Board's last review of outstanding contracts. "Service providers" includes attorneys, actuaries, accountants, claims adjusters, third party administrators, information technology providers, human resources consultants, general consultants, and any other vendors retained by or on behalf of the Corporation, but shall not include ministerial services outlined under Article 9.3 (g).
- (c) Review operating expenses and Covered Claims costs to determine whether an assessment is necessary for the proper administration of the Corporation. Assessment determination may be performed during any regularly scheduled meeting, but must be performed no later than the annual meeting.
- (d) Review, consider and act on any other matters related to administration of the Corporation, consistent with the provisions of the Plan and the Act.

6.15 Records. Except as otherwise provided by law, all records and meetings of the Corporation or its representatives in connection with the carrying out of its duties under the Act shall be subject to Chapters 119 and 286, Florida Statutes, regarding Public Records and Government in the Sunshine, respectively; subject to the exemptions provided for in Section 631.932 of the Act.

6.16 Interests of a Director in Transactions. No person or persons shall contract on behalf of the Corporation with persons whose interests are adverse to the interests of the Corporation. The Corporation may enter into contracts with Directors or with firms, companies or partnerships in which Directors have ownership interests or with which they are otherwise affiliated; provided, however, that in such cases, the Directors shall first, voluntarily or upon request by the Executive Director, duly disclose their conflict of interest to the Board; and further

provided that Directors having a conflict of interest shall not participate in voting or in debate on any manner in which they have a conflict of interest.

Article 7

BOARD OF DIRECTORS' APPOINTMENT PROCESS

7.1 Department Supervision. The process by which persons are selected by Private Carriers and Self-Insurance Funds to serve on the Board shall take place under the supervision of the Department.

7.2 Initial Determination of Eligibility. In the event of a vacancy on the Board or upon the expiration of the term of an existing Director, the Board shall determine the qualifications required by Section 631.912 (1), Florida Statutes and Section 6.2 of this Plan to be fulfilled by the person(s) who is (are) to fill the directorship(s) being vacated or with respect to whose term(s) has (have) expired. Upon such determination, the Board shall: (i) notify the Department, and (ii) proceed with the appointment process described below in Sections 7.3 and 7.4.

7.3 Private Carrier Members. The process by which Directors shall be selected by Private Carriers for appointment to the Board shall be as follows:

- (a) The Office shall: (i) identify the twenty (20) Private Carriers (or groups) with the largest amount of Direct Written Premiums for the calendar year immediately preceding the then current appointment process, at least two (2) of whom shall be foreign carriers authorized to do business in Florida, (the "Nominating Companies"), and (ii) provide the Corporation with the names of the Nominating Companies.
- (b) The Corporation shall notify the Nominating Companies of the qualifications required for the directorship(s) to be filled, and the Corporation shall thereafter advise each of the Nominating Companies, in writing, of their right to submit one (1) nomination for the Board subject to appointment who meets the qualifications established by the Board; provided, however, that no person shall be nominated who is affiliated with any Group (as defined herein below) with respect to which any other person affiliated with such Group is then serving as Director and whose term does not expire prior to the effective date of the appointment for the directorship being filled. In order to be eligible, nominations must be received by the Corporation in writing within thirty (30) days of the date of the Corporation's request. Nominees shall be affiliated with a member company. For this purpose, affiliation means employed by a member company or a designated representative (not limited to employment by the member company).

- (c) The Corporation shall create a selection ballot listing the names of all nominees, and shall mail the ballots to all Private Carriers. Only those ballots received by the Corporation within twenty (20) days of the date of the mailing of the ballot shall be counted.
- (d) Each Private Carrier shall be entitled to one (1) vote for every thousand dollars (rounded down to nearest thousand) of Direct Written Premium written during the calendar year immediately preceding the selection.
- (e) The Corporation shall tally the ballots and notify the Department of the selection results. In the event of a tie in the number of votes for two or more nominees with respect to a single directorship seat, the tie between nominees shall be broken and a nominee selected by blindly drawing one nominee's name from a bag or box containing one equally sized and shaped slip of paper for each so-tied nominee containing that nominee's name; the nominee's name so drawn from the bag or box will be the selected nominee. The Department shall thereafter appoint to the Board the person(s) so selected, provided the Department verifies their eligibility to serve on the Board. At least two (2) appointees shall be foreign carriers authorized to do business in Florida.
- (f) The results of the selection process shall be valid even if less than a majority of the Private Carriers eligible to vote in the selection process actually cast their vote.
- (g) No more than one (1) person affiliated with a Group shall serve as a Director at the same time. Accordingly, if, for any reason two (2) or more persons affiliated with a Group are selected to serve as Director(s) for overlapping terms, then: (i) if such persons were elected at different times, the person with the least amount of service on the Board shall be deemed to have resigned, or (ii) if both persons have the same length of service on the Board, the person who received the fewer number of votes in the most recent election shall be deemed to have resigned. The effective date of such resignations shall be the first date as of which both persons are (i) affiliated with the same Group and (ii) members of the Board.

7.4 Self-Insurance Fund Members. The process by which Directors shall be selected by Self-Insurance Funds for appointment to the Board shall be as follows:

- (a) The Office shall identify and provide the Corporation with the names of Self-Insurance Funds.
- (b) The Corporation shall thereafter advise each Self-Insurance Fund, in writing, of their right to submit one (1) nomination for the Board subject

to appointment; provided, however, that no person shall be nominated who is affiliated with any Self-Insurance Fund with respect to which any other person affiliated with such Self-Insurance Fund is then serving as Director and whose term does not expire prior to the effective date of the appointment for the directorship being filled. In order to be eligible, nominations must be received by the Corporation in writing within thirty (30) days of the date of the Corporation's request. Nominees shall be affiliated with a member fund. For this purpose, affiliation means employed by a member fund or a designated representative (not limited to employment by the member fund).

- (c) The Corporation shall create a selection ballot listing the names of all nominees, and shall mail the ballots to all Self-Insurance Funds. Only those ballots received by the Corporation within twenty (20) days of the date of the mailing of the ballot shall be counted.
- (d) Each Self-Insurance Fund shall be entitled to cast one (1) vote for each Board position then subject to appointment.
- (e) The Corporation shall tally the ballots and notify the Department of the selection results. In the event of a tie in the number of votes for two or more nominees with respect to a single directorship seat, the tie between nominees shall be broken and a nominee selected by blindly drawing one nominee's name from a bag or box containing one equally sized and shaped slip of paper for each so-tied nominee containing that nominee's name; the nominee's name so drawn from the bag or box will be the selected nominee. The Department shall thereafter appoint to the Board the person(s) so selected, provided the Department verifies their eligibility to serve on the Board.
- (f) The results of the selection process shall be valid even if less than a majority of the Self-Insurance Funds eligible to vote in the selection process actually cast their vote.
- (g) No more than one (1) person affiliated with a Self-Insurance Fund shall serve as a Director at the same time. Accordingly, if, for any reason two (2) or more persons affiliated with a Self-Insurance Fund are selected to serve as Director(s) for overlapping terms, then: (i) if such persons were elected at different times, the person with the least amount of service on the Board shall be deemed to have resigned, or (ii) if both persons have the same length of service on the Board, the person who received the fewer number of votes in the most recent election shall be deemed to have resigned. The effective date of such resignations shall be the first date as of which both persons were (i) affiliated with the Self-Insurance Fund, and (ii) members of the Board.

7.5 Certain Definitions. For purposes of this Article 7, the term “Affiliate” shall mean any employee, director, officer, shareholder, agent or management company of any member of a Group. The term “Group” shall mean two (2) or more persons who control or are controlled by or under common control with any person. “Control” shall mean the ability, directly or indirectly, to manage the affairs of any other person. Control shall be deemed to exist if any one (1) person (or two (2) or more persons who are part of the same Group or are otherwise acting in concert) either: (i) directly or indirectly, has authority to name 25% or more of the members of the managing board of any other person; (ii) owns, directly or indirectly, 40% or more of the equity of any other person; or, (iii) is a party to a management agreement with any other person.

ARTICLE 8

OFFICERS

8.1 Officers. The Board shall, at its annual meeting, elect one (1) of its members to serve as Chairman and another one (1) of its members to serve as Vice-Chairman. The Board may also elect one or more Vice-Presidents, a Secretary and a Treasurer, and such other officers as it may deem necessary, none of whom need be a member of the Board. Except with respect to the offices of Chairman and Vice-Chairman, any two (2) or more other offices may be held by the same person. The Vice-Chairman shall serve as Chairman when the Chairman is unable to serve.

8.2 Tenure. All officers shall serve until the next annual meeting of the Board or until their respective successors are elected and qualified, or until an earlier resignation, removal from office or death.

8.3 Vacancies. Whenever any vacancies shall occur in any office by death, resignation, removal, increase in the number of offices of the Corporation, or otherwise, the same shall be filled by the Board, and the officer so elected shall hold office until his or her successor is elected and qualified.

8.4 Elections. Officers shall be elected by majority vote of the Board. At least thirty (30) days prior to the Board’s annual meeting, the Executive Director shall notify all Directors of the upcoming elections and request nominations for each office. All nominations received, together with such biographical information as may be available, shall be distributed to the Directors together with the notice of the annual meeting and such other meeting materials as may be required for the annual meeting.

Before calling for the election of any office, the Chairman shall open the floor for additional nominations. After the nomination process is completed, the Directors shall vote on the proposed candidates. The election shall be by voice vote, and, in accordance with Chapter 286, Florida Statutes, no Director may be permitted to abstain from voting.

In the event more than one (1) person has been nominated for a particular office, and if within the first four (4) rounds of voting no person obtains a majority vote, the person who obtains the largest plurality vote in the fifth round of voting shall be deemed elected. If in the fifth round of voting there is a tie vote, the outgoing Chairman shall cast the deciding vote.

8.5 Resignation. An officer may resign at any time by written notice delivered to the Executive Director at the principal office of the Corporation by hand-delivery, United States Mail, email, facsimile, or overnight courier. Unless otherwise specified in the notice, acceptance of such resignation shall not be necessary to make it effective.

8.6 Corporate Instruments. All checks and drafts on, and withdrawals from, the Corporation's accounts with banks or other financial institutions, and all bills of exchange, notes and other instruments for the payment of money drawn, made, endorsed or accepted by the Corporation, may be signed on behalf of the Corporation only by the person or persons duly authorized by resolution of the Board.

Article 9

DUTIES AND POWERS OF THE BOARD, THE CHAIRMAN AND THE EXECUTIVE DIRECTOR

9.1 Board. The Board shall have the duty and the power on behalf of the Corporation to:

- (a) Certify to the Office the need to levy assessments on each Insurer.
- (b) Engage the Executive Director who will have the authority to hire and supervise personnel as outlined in 9.3(c).
- (c) Appoint a General Counsel for the Corporation.
- (d) Provide for the filing of financial statements.
- (e) Borrow funds as are necessary to effect the purposes of the Act in accordance with the Plan.
- (f) Approve all contracts for banking investment management, financial products, loans, credit agreements, or other financing agreements.
- (g) Negotiate and become a party to such contracts as are necessary to carry out the purposes of the Act and this Plan. Any such agreements shall be executed and delivered on behalf of the Corporation by the Chairman, the Vice-Chairman or the Executive Director or any other officer of the

Corporation as authorized by resolution of the Board.

- (h) Approve all contracts executed by or on behalf of the Corporation with all vendors including, attorneys, actuaries, accountants, claims adjusters, third party administrators, information technology providers, human resources consultants, general consultants, and any other vendors retained by or on behalf of the Corporation. However, this approval shall not be required for contracts for products or services used in the ordinary course of business as outlined in procurement policies adopted by the Board.
- (i) Adopt procurement policies and procedures.
- (j) Approve the budget of the Corporation.
- (k) Arrange for the auditing of the Corporation in a timely and proper manner.
- (l) Review, consider and act on any matters deemed by it to be necessary and proper for the administration of this Plan.
- (m) Implement such other powers as may be specifically reserved or delegated to the Board under the Act or this Plan.
- (n) Exercise all powers allowed or granted to not-for-profit corporations under Chapter 617, Florida Statutes.
- (o) Establish written Code of Business Conduct and Ethics and Conflict of Interest policies applicable to the Board and staff of the Corporation.

9.2 Chairman. The Chairman is authorized on behalf of the Corporation to do the following:

- (a) Preside at all meetings of the Board.
- (b) Appoint all Committees, such Committees to be chaired only by Directors.
- (c) Appoint non-Directors to Committees established by the Board, which non-Director appointees shall serve at the pleasure of the Chairman.
- (d) Call all meetings of the Board. However, special meetings of the Board shall be held within twenty (20) days (but in no event any earlier than the number of days required to properly publish notice of the meeting) after the written request of any three (3) Directors, unless a different meeting date is agreed to by the three (3) Directors. The Directors calling the meeting shall designate a reasonable time and place for such meeting. Written notice of the time and place of such special meeting, and the

purpose therefor, shall be given.

9.3 Executive Director. The Executive Director shall be responsible for the day to day operation of the Corporation and for carrying out the purposes and objectives of the Corporation consistent with the directives of the Board, the Act and this Plan, and in furtherance thereof, the Executive Director shall directly or by delegation to the Corporation's staff:

- (a) Establish an office for the Corporation in Tallahassee, Florida, and take such measures as are necessary to establish and assure the efficient operation of such office.
- (b) Open and maintain Corporation bank accounts and incur necessary expenditures to conduct the business of the Corporation.
- (c) Hire and supervise personnel to carry out the business of the Corporation, within the parameters of the budget approved by the Board, and subject to such guidelines and procedures as may be established by the Executive Committee and approved by the Board. As a condition of employment, all employees hired or promoted after the effective date of the Plan are subject to a background investigation.
- (d) In accordance with the Act and this Plan, determine and recommend to the Board for their certification such assessments as may be necessary to carry out the duties delegated to the Corporation by law.
- (e) Recommend to the Board independent contractors and vendors, as necessary to carry out the business of the Corporation, as set forth in Part V of Chapter 631, and this Plan, subject to any directives, guidelines, or procedures as may be adopted by the Board. Such contractors and vendors may include, but shall not be limited to accountants, actuaries, reinsurance consultants, attorneys, claims adjusters, third party administrators, information technology consultants, appraisers, subrogation firms, private investigative firms, and employee search firms.
- (f) Administer and promulgate policies and procedures for the provision of services to, or on behalf of, the Corporation by servicing companies, third-party administrators, and other vendors of the Corporation, and report the status of operations to the Board on a regular basis.
- (g) Incur and approve necessary expenditures to conduct the business of the Corporation, including but not limited to, expenses for salaries, insurance, rent, office equipment, postage, facsimile transmittals, maintenance contracts for office equipment, stationery, information technology, janitorial, and any other similar ministerial service expenses necessary to operate the office and facilities of the Corporation.

- (h) Approve and prepare the payroll and take the necessary steps to timely meet payroll through a proper signatory.
- (i) Arrange for proper and timely notice of all meetings of the Board, the Executive Committee and all other Committees.
- (j) Timely prepare the agenda, with the approval of the Chairman, for each meeting and provide a copy of the same to each Board or Committee member, as the case may be, as soon as practicable prior to each such meeting.
- (k) Approve all travel, lodging and other travel related expenses and devise appropriate guidelines and forms for presenting the same for reimbursement (except that the Executive Director's travel, lodging and other business expenses shall be approved by the AGFG Chairman).
- (l) In coordination with the Chairman, communicate with the General Counsel requests for legal services. Board members having requests for legal services shall do so through the Executive Director.
- (m) Prepare budgets for the operation of the Corporation to be approved by the Board, and arrange for an annual audit of the Corporation.
- (n) Maintain the books and records of the Corporation.
- (o) Meet with the Department or Office to discuss and coordinate the operations of the Corporation.

Article 10

COMMITTEES

10.1 Establishment. The Board may, by duly adopted resolution, establish one (1) or more Committees, each of which shall have and may exercise such authority as is provided in such resolution or in this Plan. Each Committee shall have two (2) or more members.

10.2 Appointments/Qualification. The Chairman shall appoint the chairmen (all of whom shall be Directors) and all members of Committees (who may be non-Directors, except with respect to the Executive Committee).

10.3 Actions. All rules pertaining to meetings, notices of meetings, voting and other requirements of the Board shall apply to Committees and their members.

10.4 Quorum. For all Committee meetings, a quorum shall consist of fifty percent (50%) of the Committee members except as outlined in 10.5 (a) for the Executive Committee.

10.5 Standing Committees. The Corporation shall have the following standing Committees:

(a) Executive Committee. The Executive Committee shall consist of three (3) members, all of whom shall be Directors. The Executive Committee shall act as the Corporation's representatives for the American Guaranty Fund Group Board. At each meeting of the Board, the Executive Committee shall report on actions taken by AGFG since the last meeting and shall submit for the Board's approval all contracts entered into by AGFG, except for contracts of the type set forth in Section 9.3(g).

The Executive Committee may act on behalf of the Corporation in any matter when the Board is not in session and shall report any action taken to the Board at its next regularly scheduled meeting. Two-thirds of the members of the Executive Committee shall constitute a quorum of the Executive Committee for the transaction of routine business of the Committee. When the Executive Committee is acting on behalf of the Corporation when the Board is not in session, a quorum shall consist of all three members of the Executive Committee. Meetings of the Executive Committee shall be called by the Chairman, who shall serve as the chairman of the Executive Committee.

(b) Audit Committee. The Audit Committee shall have oversight for all matters pertaining to the Corporation's annual financial audit. The Audit Committee's oversight shall include, but not be limited to, the following responsibilities and authority: (i) recommending to the Board the selection of an independent auditor; (ii) conducting an annual meeting with the Corporation's independent auditors to discuss the audit reports and any recommendations for staff; (iii) recommending to the Board the need for special reports, opinions, analysis, or accounting consultations determined by the Audit Committee to be necessary based upon the findings and recommendations of the independent auditors; (iv) reviewing the Corporation's financial reporting processes and internal controls; and, (v) initiating investigations of improprieties or suspected improprieties, including the standing authority to retain special counsel or experts.

(c) Investment Committee. The Investment Committee shall have oversight with respect to all matters pertaining to the investment of the Corporation's funds. The Investment Committee's oversight shall include, but not be limited to, the following responsibilities and authority: (i) recommending to the Board one (1) or more investment managers for the investment of the Corporation's funds; (ii) reviewing the Corporation's investment policies and recommending to the Board any changes with respect thereto; and, (iii) monitoring the investment managers in order to insure their compliance with the

Corporation's investment policies.

(d) Claims Committee. The Claims Committee shall oversee the Corporation's claims management and resolution. The Claims Committee's oversight shall include, but not be limited to, the following responsibilities and authority: (i) approving settlements in excess of the settlement authority of the Corporation's claims manager (for claims in excess of \$100,000, the claims manager must consult with and secure the approval of the ad-hoc settlement group, for claims in excess of \$250,000, the claims manager must secure the approval of the Claims Committee); and (ii) reviewing and approving extraordinary claims issues.

Article 11

ASSESSMENTS

11.1 Procedure. The Corporation, in order to secure the necessary funds for the payment of Covered Claims and to pay for the reasonable costs of administering the same, shall certify to the Office the necessity to levy assessments on each Insurer. Assessments levied against insurers and self-insurance funds pursuant to this paragraph are computed and levied on the basis of the Full Policy Premium value on the Direct Written Premium in the state for workers' compensation insurance, without taking into account any applicable discount or credit for deductibles (small, intermediate or large) or retrospectively rated policies. Insurers and self-insurance funds must report premiums in compliance with Section 631.914, Florida Statutes and this Plan of Operation.

11.2 Administration. Assessments shall be remitted to and administered by the Board in the manner specified in this Plan.

11.3 Assessment Methods. Assessments may be levied prior to collection of Policy Surcharges (Pre-Surcharge Assessment) or after collection of Policy Surcharges (Post-Surcharge Assessment). The Assessment Method is dependent upon the cash position and needs of the Corporation. The Board retains full discretion on the Assessment Method to be used.

11.4 Notice. The Board shall provide written notice of assessments to each Insurer at least thirty (30) days prior to the date the assessment is due and payable. The Board shall provide written notice of Policy Surcharges to each Insurer at least (90) days prior to the date the surcharge effective date.

11.5 Assessment Payments. Assessment payments are due the Corporation as specified in the order from the Office. Pre-Surcharge Assessments are due in not less than 30 days from the Notice. Post-Surcharge Assessments are due within 30 days after the end of each calendar quarter during the Assessment Year.

11.6 Reporting. Quarterly reports are due the Corporation within 30 days after the end of each calendar quarter. Quarterly reports include direct premiums collected and deductible credits taken during the quarter, broken down by policy years beginning before, during and after the Assessment Year. Quarterly reports will be used as a remittance advice for Post-Surcharge (pass-through) Assessment and to track assessment recoupment for Pre-Surcharge Assessments. Annual reports are due within 120 days after the end of each Assessment Year and will include a Reconciliation of the previous quarterly reports submitted.

11.7 Assessment Cap. Assessments levied against Insurers and Self Insurance Funds shall not exceed in any calendar year more than two percent (2%) of that Insurer's Direct Written Premiums in Florida for workers' compensation insurance without consideration of any applicable discount or credit for deductible or retrospectively rated policies.

11.8 Additional Assessments. If assessments otherwise authorized by the Act and this Plan are insufficient to make all payments on reimbursements then owing to claimants in a calendar year, then the Board shall certify to the Office the need to levy an additional assessment(s) of up to one and one-half percent (1.5%) of the Insurer's Direct Written Premiums in Florida without consideration of any applicable discount or credit for deductible or retrospectively rated policies. Such additional assessments shall be administered by the Board in the same manner as is otherwise provided in this Article 11.

11.9 Failure to Pay. The Board shall refer to the Office for administrative action any Insurer which has failed to pay an assessment when due.

11.10 Right to Sue. If any member Insurer refuses or is unable to pay its assessment, the Corporation has standing and authority, by means including bringing a civil action against the Insurer, to collect the assessment levied against that Insurer.

11.11 Exemption. The Board may exempt any Insurer from assessment if, in the opinion of the Office, an assessment would result in such Insurer's financial statement reflecting an amount of capital or surplus less than the minimum amount required by any jurisdiction in which the Insurer is authorized to transact insurance.

11.12 Deferment. The Board may temporarily defer, in whole or in part, assessments against an Insurer if, in the opinion of the Office, payment of the assessment would endanger the ability of the Insurer to fulfill its contractual obligations. In the case of a Self-Insurance Fund, the trustees of the Self-Insurance Fund determined to be endangered must immediately levy an assessment upon the members of that Self-Insurance Fund in an amount sufficient to pay the assessments to the Corporation.

11.13 Installments. The Board may allow an Insurer to pay an assessment on a quarterly basis.

Article 12

DUTIES AND RESPONSIBILITIES OF THE CORPORATION UPON INSOLVENCY OF AN INSURER

12.1 Board Obligations. The Board is obligated to the extent of the full amount of the Covered Claims of the Insolvent Insurer existing:

- (a) Before the adjudication of Insolvency and arising within thirty (30) days after the determination of Insolvency;
- (b) Before the policy expiration date if less than thirty (30) days after the determination of Insolvency; or
- (c) Before the Insured replaces the policy or causes its cancellation, if the Insured does so within thirty (30) days after the determination of Insolvency;

provided, however, that (i) the Corporation's obligation for a covered claim for the return on unearned premium shall not exceed \$50,000 per policy, and (ii) the Corporation is not obligated to a policyholder or claimant in an amount in excess of the obligation of the Insolvent Insurer under the policy from which the claim arises. The Corporation shall periodically file with the Receiver statements of the Covered Claims paid by the Corporation and estimates of anticipated claims on the Corporation, which shall preserve the rights of the Corporation against the assets of the Insolvent Insurer. Notwithstanding the foregoing, the Corporation shall not be liable for any claims or amounts in excess of or in contradistinction to that authorized or provided by relevant law.

Article 13

PROCEDURE FOR HANDLING CLAIMS

13.1 Acceptance of Claims. For Covered Claims arising out of accidents which occurred on or after January 1, 1994, the Corporation shall accept for processing all Covered Claims as provided for in §631.913, Florida Statutes, and this Plan.

13.2 Settlements. The Corporation may furnish adjusters with reasonable settlement authority to process Covered Claims. Settlement of claims in excess of that authority shall be subject to prior approval of a claims committee appointed by the Chairman and approved by the Board.

13.3 Timeliness. The Corporation shall, to the extent possible, expedite the handling of Covered Claims.

13.4 Notice of Rejection. The Corporation shall promptly notify the claimant in

writing of its rejection of any claim on the ground that it is not a Covered Claim.

13.5 Proof of Payment. When the Corporation pays a Covered Claim, it shall maintain in each claim file proof of payment sufficient to show the nature and amount of the payment made, and a copy of any release, settlement agreement or judgment on which payment has been made. In addition, the Corporation shall maintain in each claim file a concise statement of the reason(s) the claim was settled for the amount paid. All claim files maintained by the Corporation shall be available to the Receiver at all times and shall be retained by the Corporation until the discharge of the insolvency proceeding.

13.6 Reports to the Receiver. The Corporation shall file with the Receiver of the Insolvent Insurer at intervals and in a form approved by the Receiver statements of the Covered Claims paid by the Corporation.

13.7 Release/Settlement Agreements. Any release or settlement agreement executed by the Corporation shall provide for the release or settlement of any claim against the Receiver, the Insolvent Insurer and the member of an insolvent Self-Insurance Fund for as much as the amount paid therefor. Additionally, any release or settlement agreement shall clearly state whether or not any claim filed with the Receiver in excess of the liability of the Corporation is waived.

13.8 Contingent/Unliquidated Claims. The Corporation shall process any contingent or unliquidated Covered Claim filed by an employee of a policyholder of the Insolvent Insurer.

Article 14

RECORDS AND REPORTS

14.1 Minutes. Minutes of the proceedings of each Board meeting shall be made. The minutes shall be retained by the Executive Director with copies being furnished to each Board member, to the Department, and, upon written request, to any Insurer. All records and reports of the Corporation are subject to Chapters 119 and 286, Florida Statutes, regarding Public Records and Government in the Sunshine, respectively; provided, however, that reports and recommendations made by the Board to the Department or Office under Section 631.917, Florida Statutes, upon any manner germane to the solvency, liquidation, rehabilitation, or conservation of any Insurer are confidential and exempt from the provisions of Section 119.07(1), Florida Statutes, and Section 24(a), Article I, of the Florida Constitution, until the termination of a delinquency proceeding.

14.2 Annual Report. Not later than March 1 of each year, the Board shall make an annual report to the Department. Such report shall include a review of the Corporation's activities, and a financial report for the preceding calendar year in a form approved by the Department.

14.3 Financial Records. The Corporation shall maintain such financial records as are necessary to properly reflect the assessments, receipts and disbursements of all monies handled by the Corporation. Such records shall also reflect the financial condition of the Corporation at the time of the making of the report. The Corporation shall make available to the Department or Office its financial records.

Article 15

IMMUNITY

15.1 Limited Liability. There shall be no liability on the part of, and a cause of action may not arise or accrue against, the Corporation, its agents or employees, or its Directors, the Chief Financial Officer, the Commissioner, or the Department or Office or their agents or employees, for any action taken by them in the performance of their powers and duties under the Act and this Plan, unless such action is found to be a violation of antitrust laws, was in bad faith, or was undertaken with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety or property.

Article 16

INDEMNIFICATION

16.1 Definitions. For purposes of this Article, the following definitions shall apply:

- (a) The term "Corporation" shall include, in addition to the Corporation, any constituent corporation (including any constituent of a constituent) absorbed in a consolidation or merger, so that any person who is or was a director, officer, employee, or agent of a constituent corporation, or is or was serving at the request of a constituent corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, is in the same position with respect to the resulting or surviving corporation as he or she would have been with respect to such constituent corporation if its separate existence had continued.
- (b) The term "other enterprises" shall include employee benefit plans.
- (c) The term "expenses" shall include counsel fees and court costs, including those for appeal.
- (d) The term "liability" shall include obligations to pay a judgment,

settlement, penalty, fine (including an excise tax assessed with respect to any employee benefit plan), and expenses actually and reasonably incurred with respect to a proceeding.

- (e) The term "proceeding" shall include any threatened, pending, or completed action, suit, or other type of proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.
- (f) The term "agent" shall include a volunteer.
- (g) The term "serving at the request of the Corporation" shall include any service as a Director, officer, employee, or agent of the Corporation that imposes duties on such persons, including duties relating to an employee benefit plan and its participants or beneficiaries.
- (h) The term "recklessness" shall mean the action, or omission to act, in conscious disregard of a risk (i) known, or so obvious that it should have been known; or (ii) known, or so obvious that it should have been known to be so great as to make it highly probable that harm would come from such action or omission.
- (i) The term "not opposed to the best interest of the Corporation" includes the actions of a person who acts in good faith and in a manner he or she reasonably believes to be in the best interests of the participants and beneficiaries of an employee benefit plan.

16.2 Party to a Proceeding. The Corporation shall indemnify any person who was or is a party to any proceeding (other than an action by, or in the right of, the Corporation) by reason of the fact that he or she is or was a Director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against liability incurred in connection with such proceeding, including any appeal thereof, if he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the persons did not act in good faith and in a manner which he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation or, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

16.3 Amounts Paid in Settlement. The Corporation shall indemnify any person who was or is a party to any proceeding by, or in the right of, the Corporation to procure a judgment in its favor by reason of the fact that he or she is or was a Director, officer, employee, or agent of the Corporation or is or was serving at the request of the Corporation as a director,

officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise, against expenses and amounts paid in settlement not exceeding, in the judgment of the Board, the estimated expense of litigating the proceeding to conclusion, actually and reasonably incurred in connection with the defense or settlement of such proceeding including any appeal thereof. Such indemnification shall be authorized if such person acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation, but no indemnification shall be made under this Section 16.3 with respect to any claim, issue, or matter as to which such person shall have been adjudged to be liable unless, and only to the extent that, the court in which such proceeding was brought, or any other court of competent jurisdiction, shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper.

16.4 Determination of Indemnification. Any indemnification under Sections 16.2 or 16.3 of this Article, unless pursuant to a determination by a court, shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the Director, officer, employee, or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in Sections 16.2 and 16.3 of this Article. Such determination by the Corporation shall be made:

- (a) By the Board by a majority vote of a quorum consisting of Directors who were not parties to such proceeding; or,
- (b) If such a quorum is not obtainable or, even if obtainable, by majority vote of a committee duly designated by the Board of Directors (in which Directors who are parties may participate) consisting solely of two (2) or more Directors not at the time parties to the proceeding; or,
- (c) By independent legal counsel:
 - (i) Selected by the Board prescribed in paragraph (a) or the committee prescribed in paragraph (b); or
 - (ii) If a quorum of the Directors cannot be obtained for paragraph (a) and the committee cannot be designated under paragraph (b), selected by majority vote of the full Board (in which Directors who are parties may participate).

Evaluation of the reasonableness of expenses and authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible. However, if the determination of permissibility is made by independent legal counsel, those persons specified by paragraph (c) shall evaluate the reasonableness of expenses and may authorize indemnification.

16.5 Advance Payment of Expenses. Expenses incurred by an officer or Director in defending a civil or criminal proceeding shall be paid by the Corporation in advance of the

final disposition of such proceeding upon receipt of an undertaking by or on behalf of such Director or officer to repay such amount if he or she is ultimately found not to be entitled to indemnification by the Corporation as authorized in this Article. Expenses incurred by other employees and agents may be paid in advance upon such terms or conditions the Board deems appropriate.

16.6 Limitations on Indemnification and Advancement of Expenses.

Indemnification and advancement of expenses hereunder shall continue as to a person who has ceased to be a Director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person, unless otherwise provided when authorized or ratified. The foregoing rights of indemnification and advancement of expenses shall not be exclusive and the Corporation may make any other or further indemnification or advancement of expenses by agreement, vote of the disinterested Directors or otherwise. However, indemnification or advancement of expenses shall not be made to or on behalf of any Director, officer, employee or agent if a judgment or other final adjudication establishes that his actions, or omissions to act, were material to the cause of action so adjudicated and constitute:

- (a) A violation of the criminal law, unless the Director, officer, employee, or agent had reasonable cause to believe his conduct was lawful or had no reasonable cause to believe his conduct was unlawful;
- (b) A transaction from which the Director, officer, employee, or agent derived an improper personal benefit, directly or indirectly;
- (c) In the case of a Director, voting for or assenting to a distribution of the Corporation's assets contrary to the Articles of Incorporation or applicable law, the purchase of the Corporation's shares contrary to applicable law, such that the liability provisions of Section 617.0834, Florida Statutes, are applicable; or,
- (d) Willful misconduct or a conscious disregard for the best interests of the Corporation in a proceeding by or in the right of the Corporation to procure a judgment in its favor.

16.7 Insurance. The Board may authorize the purchase and maintenance of insurance on behalf of any person who is or was a Director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a Director, officer, employee or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the Corporation would have the power to indemnify him or her against such liability under the provisions of this Article. The Board shall purchase and maintain fidelity bond or equivalent insurance for all of its employees.

16.8 Amendments to this Article. This Article may be amended or repealed by the Board. However, no such amendment or repeal shall affect or diminish the rights of a person

indemnified under this Article with respect to matters arising or causes of action accruing prior to any such action by the Board.

16.9 Article Supplementary. This Article is intended to operate as a supplementary and additional safeguard to, and not in place of, the immunity granted by Section 631.918, Florida Statutes, and Article 15 of this Plan.

Article 17

APPEALS

17.1 Action by Board or Corporation. Any person or entity aggrieved with respect to any action or decision of the Board or the Corporation may make written request of the Board for specific relief. All written requests for relief or redress shall be deemed Appeals and shall be delivered to the Executive Director. The Executive Director shall schedule any such Appeal for hearing before the Board not less than ten (10) nor more than forty (40) days from the Executive Director's receipt of the Appeal. The action or decision of the Board shall be final as to any Appeal involving the dismissal, demotion, reassignment, transfer, or change in compensation of any employee, or any other matter related to the internal administration of the Corporation. The action or decision of the Board as to Appeals involving other matters may be appealed to the Office within thirty (30) days of the Board's action or decision.

17.2 Action by Committee or Staff. Any person or entity aggrieved with respect to any action or decision of any Committee or administrative or executive staff member of the Corporation, which action or decision is not otherwise to be reviewed by the Board, may make written request of the Corporation for specific relief. Such requests shall be deemed Appeals if delivered to the Executive Director or the Executive Director's designee (except that if the action or decision which is the subject of the Appeal involves the Executive Director, then, in such event, the Chairman shall act in his or her stead). The Executive Director or his designee shall schedule such Appeals for hearing before a panel appointed by the Executive Director (the "Appeal Panel") not less than ten (10) days nor more than forty (40) days from the receipt by the Executive Director or his designee of the Appeal. The Appeal Panel shall be comprised of at least three (3) individuals serving as members of a Committee or as a member of the administrative or executive staff of the Corporation. Any person or entity whose Appeal is denied, in whole or in part, by the Appeal Panel shall appeal the actions of the Appeal Panel to the Board. The action or decision of the Board shall be final as to any Appeal involving the dismissal, demotion, reassignment, transfer, or change in compensation of any employee, or any other matter related to the internal administration of the Corporation. The action or decision of the Board as to Appeals involving other matters may be appealed to the Department or Office within thirty (30) days of the Board's action or decision.

Article 18

RESIDENT AGENT FOR SERVICE OF PROCESS

18.1 Designation. The Executive Director, General Counsel, or other designee shall be designated as the Resident Agent for service of process upon the Corporation. Unless otherwise agreed to by the Corporation, in any suit arising under the Act or this Plan, the Circuit Court in and for Leon County, Florida shall be deemed the court of competent jurisdiction for such actions.

Article 19

PLAN AMENDMENTS

19.1 Authority/Voting Requirements. The Board may propose and adopt amendments to the Plan by a majority vote of the Board during any duly noticed meeting of the Board. Notice of any proposed amendment (including the text thereof) must be provided to each Director at least ten (10) days prior to the meeting during which the amendment is to be considered. Amendments adopted by the Board shall become effective unless disapproved in writing by the Department within thirty (30) days after receipt.

Article 20

CONFORMITY TO STATUTE

20.1 Construction/Incorporation. This Plan shall be construed to conform and when necessary amended to conform to the provisions of the Act.

Article 21

EXEMPT ACTIVITIES

21.1 Prohibited Activities. Notwithstanding anything contained in this Plan, no Director, Member, employee or representative of the Corporation shall take any action or carry on any activity by or on behalf of the Corporation not permitted to be taken or carried on by an organization exempt under Section 501 (c)(6) of the Internal Revenue Code of 1986, as amended, or any statute of similar import and the regulations issued thereunder.