

FLORIDA SELF-INSURERS GUARANTY ASSOCIATION, INCORPORATED

PLAN OF OPERATION

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FLORIDA SELF-INSURERS GUARANTY ASSOCIATION, INCORPORATED

PLAN OF OPERATION

Article 1.

NAME

1.1 Name. The association shall be known as the Florida Self-Insurers Guaranty Association, Inc., hereafter referred to as the "Association."

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

Article 2.

PURPOSE

2.1 Creation. The Association has been established in accordance with the provisions of Section 440.385, Florida Statutes.

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

- (a) to provide a mechanism to pay the covered workers' compensation claims of individual insolvent self-insurers other than public utilities and governmental entities.
- (b) to efficiently manage the Association's exposure to self-insurer insolvency risk so that the cost of the self-insurance guaranty is minimized.
- (c) to allocate the cost of the self-insurance guaranty to self-insurers.
- (d) to make recommendations to the Department regarding the regulation of individual self-insurers.
- (e) subject to approval by the Department, levy assessments on members to the extent necessary to secure funds for the payment of covered claims and to pay the reasonable costs to administer such claims.

Article 3.

EFFECTIVE DATE

3.1 Effective Date. The plan and any amendments shall be submitted to the Department for approval. The plan and any amendments shall become effective when approved by the Department.

Article 4.

DEFINITIONS

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

"Act" means the Florida Self-Insurers Guaranty Association, Incorporated Act, enacted as Section 440.385, Florida Statutes, together with any amendments thereto.

"Association" means the Florida Self-Insurers Guaranty Association, Inc.

"Board" means the board of directors of the Florida Self-Insurers Guaranty Association, Inc.

"Department" means the Florida Department of Financial Services.

"Director" means a member of the board of directors of the Florida Self-Insurers Guaranty Association, Inc.

"Fund" means the Insolvency Fund managed by the Florida Self-Insurers Guaranty Association, Inc. established in Section 440.385(4), Florida Statutes.

"Plan" means the Plan of Operation of the Florida Self-Insurers Guaranty Association, Inc., and any amendments thereto.

Article 5.

MEMBERSHIP

5.1 Association Members. All individual self-insurers that have been given authorization by the Department to self-insure as provided in Section 440.38(1)(b), Florida Statutes, other than individual self-insurers which are public utilities or

governmental entities, shall be members of the Association as a condition of their authority to individually self-insure in Florida.

5.2 Voluntary Withdrawal of Membership. A member may voluntarily withdraw from the Association when the member voluntarily terminates the self-insurance privilege and pays all assessments due to the date of such termination. However, the withdrawing member shall continue to be bound by the provisions of this section relating to the period of his or her membership and any claims charged pursuant thereto. The withdrawing member who is a member on or after January 1, 1991, shall also be required to provide to the Association upon withdrawal, and at twelve (12) month intervals thereafter, satisfactory proof, including, if requested by the Association, a report of known and potential claims certified by a member of the American Academy of Actuaries, that it continues to meet the standards of Section 440.38(1)(b)1., Florida Statutes, in relation to claims incurred while the withdrawing member exercised the privilege of self-insurance. Such reporting shall continue until the withdrawing member demonstrates to the Association that there is no remaining value to claims incurred while the withdrawing member was self-insured. If a withdrawing member fails or refuses to timely provide an actuarial report to the Association, the Association may obtain an order from a circuit court requiring the member to produce such a report and ordering any other relief that the court determines appropriate. The Association is entitled to recover all reasonable costs and attorney's fees expended in such proceedings. If during this reporting period the withdrawing member fails to meet the standards of Section 440.38(1)(b)1., Florida Statutes, the withdrawing member who is a member on or after January 1, 1991, shall thereupon, and at six (6) month intervals thereafter, provide to the Association the certified opinion of an independent actuary who is a member of the American Academy of Actuaries of the actuarial present value of the determined and estimated future compensation payments of the member for claims incurred while the member was a self-insurer, using a discount rate of four percent (4%). With each such opinion, the withdrawing member shall deposit with the Association security in an amount equal to the value certified by the actuary and of a type that is acceptable for qualifying security deposits under Section 440.38(1)(b), Florida Statutes. The withdrawing member shall continue to provide such opinions and to provide such security until such time as the latest opinion shows no remaining value of claims. The Association has a cause of action against a withdrawing member, and against any successor of a withdrawing member, who fails to timely provide the required opinion or who fails to maintain the

required deposit with the Association. The Association shall be entitled to recover a judgment in the amount of the actuarial present value of the determined and estimated future compensation payments of the withdrawing member for claims incurred during the time that the withdrawing member exercised the privilege of self-insurance, together with reasonable attorney's fees. The Association is also entitled to recover reasonable attorney's fees in any action to compel production of any actuarial report required by this section. For purposes of this section, the successor of a withdrawing member means any person, business entity, or group of persons or business entities, which holds or acquires legal or beneficial title to the majority of the assets or the majority of the shares of the withdrawing member.

5.3 Involuntary Termination. The Department may terminate the self-insurance privilege and Association membership of any individual self-insurer pursuant to Chapter 440, Florida Statutes.

5.4 Assessment Liabilities of Terminated Members. Notwithstanding the termination of membership of an individual self-insurer for whatever reason, that individual self-insurer shall remain liable to the Association for any assessments imposed while the terminated individual self-insurer was a member of the Association.

5.5 Appeal. Any member employer aggrieved by any final action or decision of the Association may appeal to the Department within thirty (30) days after the action or decision.

Article 6.

BOARD OF DIRECTORS

6.1 Governing Body. The business and affairs of the Association shall be governed by the Board, subject to review and oversight by the Department.

6.2 Composition of Board. The Board shall consist of nine (9) persons that are experienced in self-insurance in the State of Florida.

6.3 Terms. Each Director shall serve for a four (4) year term and may be reappointed.

6.4 Recommendation. When a vacancy occurs on the Board, the Executive Director shall notify the Department of such vacancy.

The Department shall mail requests for recommendations of Board members to all members of the Association. Each member shall submit its recommendation(s) to the Department no later than ten (10) days from the date of receipt of notification of vacancy from the Department.

6.5 Appointment. Appointments to the Board shall be made by the Department upon recommendation of members of the Association.

6.6 Reappointment. All Directors shall be eligible for reappointment and may be reappointed by the Department.

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

6.8 Vacancies. Vacancies shall be deemed to occur upon the Board when a term expires or when a Director, during that Director's term,

- (a) resigns
- (b) dies
- (c) is adjudicated mentally incompetent
- (d) is convicted of a felony
- (e) misses three (3) consecutive meetings, regular or special, of the Board, except for excused absences, which absences have been excused by the Chairperson of the Board, and consented to by a majority of the Board, inclusive of the Chairperson.
- (f) is removed by a vote of not less than five (5) Directors, and concurred in by the Department.

6.9 Filling of Vacancies. Any vacancy on the Board shall be filled for the remaining period of the term in the same manner as regular appointments.

6.10 Compensation. Directors shall not be compensated except that each Director shall be reimbursed for expenses incurred in carrying out the duties of the Board on behalf of the Association

in accordance with the travel and reimbursement policies adopted by the Association.

6.11 Quorum. A majority of Directors then in office shall constitute a quorum for the transaction of business. The act 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.

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

6.13 Telephonic Conference. The Board 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 Board meeting. Participation by such means shall constitute presence in person at a meeting.

6.14 Place, Call and Adjournment of Meetings. Meetings of the Board shall be held within the State of Florida. The Chairperson shall call and preside at all meetings. 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 to the Department and, unless such time and place are announced at the meeting, to the other Directors.

6.15 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 thereof, shall be given to all Directors and to the Department.

6.16 Annual Meeting. The Board shall hold an annual meeting, upon proper notice, at such place and time as may be determined by the Chairperson. Proper notice shall consist of written notice of the time, date and place of the holding of the annual meeting, mailed by the Chairperson or his designee to each Director and to the

Department at least twenty (20) days prior to any such meeting. At each annual meeting, the Board shall:

- (a) conduct an election of officers
- (b) review the Plan and submit proposed amendments to the Department for approval.
- (c) Review all existing contracts
- (d) Review operating expenses and covered claims cost and determine the amount of assessment, if any, which is necessary for proper administration of the Association, or a dividend if warranted. Upon determination by the Board that an assessment is necessary, or a dividend warranted, it shall levy the same, subject to approval by the Department.
- (e) Review, consider and act upon any other matters deemed by it to be necessary and proper for the administration of the Association.

6.17 Emergency Meetings. The Board shall hold an emergency meeting promptly upon the call of the Chairperson for any matter determined to be an emergency by the Chairperson. No less than twenty-four (24) hours notice shall be given to all Directors and to the Department for an emergency meeting.

Article 7.

OFFICERS

7.1 Officers. At the annual meeting of the Board, the members of the Board shall elect from their members a Chairperson, Vice-Chairperson, Secretary and Treasurer, and such other officers as they may from time to time deem desirable. The same person may hold two (2) offices, except the Chairperson of the Board shall hold only that office. Officers may be re-elected to successive terms.

7.2 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.

7.3 Vacancies. Whenever a vacancy occurs in any office by death, resignation, removal, increase in the number of officers of the Association, 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.

7.4 Elections. Officers shall be elected by the vote of not less than five members of the Board.

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

7.6 Corporate Instruments. All checks and drafts on, and withdrawals from, the Association'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 Association, shall be signed on behalf of the Association only by the person or persons duly authorized by resolution of the Board.

Article 8.

COMMITTEES

8.1 Establishment. The Chairperson, with concurrence of the Board, may from time to time establish and abolish such committees as may be deemed necessary, expedient, or contributive to the performance of the duties of the Board.

8.2 Committee Chairpersons. Committee members are not required to be Board members. However, the Chairperson of the Board shall appoint a Chairperson for each committee from among the members of the Board. Committee members may be reimbursed for expenses in the same manner as members of the Board.

8.3 Tenure. All committee members shall serve at the pleasure of the Chairperson, with concurrence of a majority of the members of the Board present and voting.

Article 9.

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

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

- (a) levy assessments on the membership, subject to approval by the Department.
- (b) employ or retain such persons that are necessary to manage the business and affairs of the Association.
- (c) borrow funds as are necessary to effect the purposes of the Association.
- (d) sue or be sued.
- (e) negotiate and become a party to such contracts as are necessary to carry out the purposes of the Association. Any such agreements shall be executed and delivered on behalf of the Association by the Chairperson, the Vice-Chairperson, the Executive Director or any other officer of the Association as authorized by resolution of the Board.
- (f) charge fees to any member of the Association to cover the actual costs of examining the financial and safety conditions of that member.
- (g) charge an applicant for membership in the Association a fee sufficient to cover the actual costs of examining the financial condition of the applicant.
- (h) implement any procedures necessary to ensure compliance with regulatory actions taken by the Department.
- (i) approve the budget of the Association.
- (j) arrange for the audit of the Association in a timely and proper manner.
- (k) review, consider and act on any matters deemed by it to be necessary and proper for the administration of the Plan.

- (l) notify the Department of any information indicating that a member employer may be insolvent or in a financial condition hazardous to the employees thereof or the public.
- (m) utilize such other powers as may be specifically reserved or delegated to the Board under the Act or the Plan.

9.2 Chairperson. The Chairperson is authorized on behalf of the Association to:

- (a) preside at all meetings of the Board.
- (b) appoint all committees.
- (c) hire an Executive Director for the Association, subject to approval by the Board.
- (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 thereof, shall be given to all Directors and to the Department.

9.3 Executive Director. The Executive Director shall be responsible for the day to day operation of the Association and for carrying out the purposes and objectives of the Association 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 Association's staff:

- (a) maintain an office for the Association in Tallahassee, Florida, and take such measures as are necessary to assure the efficient operation of such office.
- (b) open and maintain Association bank accounts and incur necessary expenditures to conduct the business of the Association.

- (c) hire and supervise personnel to carry out the business of the Association.
- (d) arrange for proper and timely notice of all meetings of the Board.
- (e) approve all travel, lodging and other travel related expenses of Association staff. The Executive Director's travel, lodging and other travel related expenses shall be approved by the Chairperson.
- (f) prepare a proposed budget of the Association for consideration by the Board.
- (g) maintain the books and records of the Association.
- (h) review all applicants for membership in the Association to determine whether the applicant is qualified for membership and make recommendations to the Department that the application be accepted or rejected based on criteria set forth in Section 440.38(1)(b), Florida Statutes.
- (i) collect and review financial information from employers, including actuarial reports, and make recommendations to the Department regarding the appropriate security deposit and reinsurance amounts necessary for an employer to demonstrate that it has the financial strength necessary to ensure timely payment of all current and future claims.
- (j) audit and examine current and former members, as necessary, to verify their financial strength.
- (k) make recommendations to the Department, when it is determined that a current or former self-insured employer does not have the financial strength necessary to ensure the timely payment of all current estimated future claims, that the Department take one or more of the following actions:
 - 1. revoke the employer's self-insurance privilege.
 - 2. require the employer to provide an actuarial study and increase its security deposit.

3. require an increase in the employer's security deposit in an amount determined to be necessary to ensure payment of compensation claims.

Article 10.

ASSESSMENTS

10.1 Levy. The Association, in order to secure the funds necessary to pay current and future covered claims of insolvent members, and also to pay the reasonable costs of administration of this Plan and to comply with the requirements of law, shall, upon determination of the amounts of money needed to perform as aforesaid, levy assessments upon the membership subject to the approval of the Department. Assessments shall be levied as a uniform percentage of the annual written premium each member would have paid had the member not been self-insured, except that the assessment levied against any member in any year shall not exceed one percent (1%) of the annual written premium during the calendar year preceding the date of the assessment.

10.2 Collection. Each member shall be given not less than thirty (30) days notice as to the date the assessment is due and payable. The assessment notice shall advise the member to remit the assessment payable to the Association. Upon receipt of the assessments, the Association shall deposit said funds in Association accounts and shall use them for the purposes stated in this Plan, pursuant to the provisions of Section 440.385, Florida Statutes. Regular Assessments shall be made annually in advance from the date of membership in the Association and collected quarterly.

10.3 Delinquency. If any assessments are not received by the Association when due, the Association shall forthwith notify the Department of same. The Department may fine the member or suspend or revoke its authority to self-insure in this state, pursuant to Section 440.385(6)(f), Florida Statutes. The Board shall enforce its right to collect any unpaid assessment remaining unpaid more than sixty (60) days after it shall have become due, by appropriate action at law or in equity against the non-paying member.

10.4 Special Assessments. Special assessments, if any, may be levied by the Association from time to time as determined to be necessary by the Board and approved by the Department.

10.5 New Members. The Association shall levy assessments against any newly admitted member of the Association, subject to Department approval, so that the basis of contribution of any newly admitted member shall be the same as previously admitted members. By way of example, if all members of the Association as of the effective date of this Plan are assessed one percent (1%) of annual normal premium for three (3) years, and thereafter at one half of one percent (1/2%), a member admitted in year two (2) would be assessed one percent (1%) of annual written premium for three (3) years, then one half of one percent (1/2%) thereafter, as older members.

10.6 Refund and Dividends. Any sums acquired by a member by refund, dividend, or otherwise from the Association shall be payable within thirty (30) days of receipt to the Department of Revenue for deposit with the Chief Financial Officer to the credit of the General Revenue Fund. All provisions of Chapter 220, Florida Statutes, relating to penalties and interest on delinquent corporate income tax payments apply to payments due under this paragraph.

10.7 Returning Members. A Returning Member shall be allowed to resume the assessment rate schedule at the point where its previous membership was terminated, as set forth in this paragraph. A Returning Member is a legal entity that has voluntarily terminated its self-insurance authorization and is subsequently authorized by the Department to self-insure as the same legal entity. If a current or former corporate self-insurer is merged into another corporation ("Surviving Corporation") and the assets and liabilities of the Surviving Corporation are identical to the assets and liabilities of the current or former self-insurer immediately prior to the merger, the Surviving Corporation may petition the Association to be considered a Returning Member for FSIGA assessment purposes. Prior to the Association designating a Surviving Corporation as a Returning Member for assessment purposes, the Surviving Corporation shall provide evidence that the merger transaction meets the requirements of this paragraph and a senior executive officer of the Surviving Corporation shall provide a sworn statement certifying that the merger transaction meets the requirements of this paragraph.

Article 11.

INSOVCENCY FUND

11.1 Creation. The Insolvency Fund is created by operation of Section 440.385(4), Florida Statutes. The Fund is created for purposes of meeting the obligations of insolvent members incurred while members of the Association, after the exhaustion of any security deposit required under Chapter 440, Florida Statutes. The Fund shall be entitled to reimbursement and/or to be paid on behalf of the insolvent member from any excess insurance, reinsurance, the Special Disability Trust Fund, third party recovery, or assets of the insolvent member. The Fund shall be managed by the Association through its Board.

11.2 Audit. The Department shall have the authority to audit the financial soundness of the Fund annually.

11.3 Funding. After consideration of all of the obligations of the Association, including, but not limited to, operating expenses, costs of reinsurance and potential exposure, the Board shall determine the amount of assessment from members that will be necessary to make the Fund actuarially sound for the purposes for which it was created.

11.4 Obligations. Upon creation of the Insolvency Fund, the Association is obligated for payment of compensation under Chapter 440, Florida Statutes, to insolvent members' employees resulting from incidents and injuries existing prior to the member becoming an insolvent member and from incidents and injuries occurring within thirty (30) days after the member has become an insolvent member, provided the incidents giving rise to claims for compensation under Chapter 440, Florida Statutes, occur during the year in which such insolvent member is a member of the Association and was assessable pursuant to the Plan, and provided the employee makes timely claim for such payments according to procedures set forth by a court of competent jurisdiction over the delinquency or bankruptcy proceedings of the insolvent member. Such obligation includes only that amount due the injured worker or workers of the insolvent member under Chapter 440, Florida Statutes. In no event is the Association obligated to a claimant in an amount in excess of the obligation of the insolvent member. The Association shall be deemed the insolvent employer for purposes of this Plan of Operation to the extent of its obligation on the covered claims and, to such extent, shall have all rights, duties, and obligations of the insolvent member employer as if the member employer had not become insolvent.

11.5 Penalties and Interest. In no event shall the Association be liable for any penalties or interest.

11.6 Insufficient Funds. If, in any one (1) year, funds available from assessments, together with funds previously raised (including reinsurance, if available) are not sufficient to make all payments or reimbursements then owing, after setting aside the estimated amounts for Association operating expenses, the remaining available funds shall be pro-rated among all payments and reimbursements owing, and the unpaid portion shall be paid as soon thereafter as sufficient funds become available.

Article 12.

INSOLVENCY OF A MEMBER

12.1 Assignment of Rights. Any person who recovers from the Association under Section 440.385, Florida Statutes, shall be deemed to have assigned his or her rights to the Association to the extent of such recovery. Every claimant seeking the protection of Section 440.385, Florida Statutes, shall cooperate with the Association to the same extent as such person would have been required to cooperate with the insolvent member. The Association shall have no cause of action against the employee of the insolvent member for any sums the Association has paid out, except such causes of action as the insolvent member would have had if such sums had been paid by the insolvent member. In the case of an insolvent member operating on a plan with assessment liability, payments of claims by the Association shall not operate to reduce the liability of the insolvent member to the receiver, liquidator, or statutory successor for unpaid assessments.

12.2 Priority of Claims. The receiver, liquidator, or statutory successor of an insolvent member shall be bound by settlements of covered claims by the Association or a similar organization in another state. The court having jurisdiction shall grant such claims priority against the assets of the insolvent member equal to that to which the claimant would have been entitled in the absence of Section 440.385, Florida Statutes. The expense of the Association or similar organization in handling claims shall be accorded the same priority as the expenses of the liquidator.

12.3 Filings with Receiver. The Association shall file periodically with the receiver or liquidator of the insolvent member statements of the covered claims paid by the Association

and estimates of anticipated claims on the Association, which shall preserve the rights of the Association against the assets of the insolvent member.

Article 13.

CLAIMS

13.1 Settlement. The Board, by resolution, may delegate authority to the Executive Director to approve settlements of claims.

13.2 Servicing Agents. The Association may employ or contract with claims servicing agents to process covered claims. Reasonable settlement authority can be granted to the claims servicing agent for settlement below limits set by the Executive Director.

13.3 Rejection. If the Association rejects a claim on the ground that it is not a covered claim, it shall promptly so notify that claimant in writing, setting forth the reasons therefor.

13.4 Stay of Proceedings. All proceedings in which the insolvent member is a party, or is obligated to defend a party, in any court or before any quasi-judicial body or administrative board in this state shall be stayed for up to six (6) months, or for such additional period from the date the employer becomes an insolvent member, as is deemed necessary by a court of competent jurisdiction to permit proper defense by the Association of all pending causes of action as to any covered claims arising from a judgment under any decision, verdict, or finding based on the default of the insolvent employer. The Association, either on its own behalf, or on behalf of the insolvent member, may apply to have such judgment, order, decision, verdict, or finding set aside by the same court or administrator that made such judgment, order, decision, verdict, or finding, and shall be permitted to defend against such claim on the merits. If requested by the Association, the stay of proceedings may be shortened or waived.

13.5 Limitation. A covered claim, as defined in Section 440.385(3)(a), Florida Statutes, with respect to which settlement is not effected and pursuant to which suit is not instituted against the insured of an insolvent member or the Association within one (1) year after the deadline for filing claims with the receiver of the insolvent member, or any extension of the deadline, shall thenceforth be barred as a claim against the Association.

Article 14.

CASH AND INVESTMENTS

14.1 General Account. The Board may open one (1) or more insured accounts in state or federally chartered banks located in the State of Florida, in order to conduct Association business. Reasonable delegation of deposit and withdrawal authority in such accounts may be made, consistent with prudent fiscal policy, but, except as is expressly provided herein, the withdrawal of Association funds shall require not less than two (2) signatures, with said signatures being from Board members or the Executive Director.

14.2 Imprest Account. The Board may open, or cause to be opened, an account to be used to pay all reasonable and necessary operating expenses of the Association (Imprest Account), and may by appropriate Resolution authorize the Executive Director of the Association to be the sole signatory thereon, in accordance with the following:

- (a) The Imprest Account shall be used by the Executive Director to pay all reasonable and necessary operating expenses of the Association generally pursuant to the budget adopted by the Board.
- (b) The Board shall, from time to time, by appropriate resolution, set a maximum amount which may be in the Imprest Account at any one (1) time.
- (c) On a monthly or more frequent basis, the Executive Director shall submit to the Board, or a duly authorized member or committee of the Board, requests for reimbursement to the Imprest Account from other Association funds for funds expended by the Executive Director in behalf of the Association from the Imprest Account. The request from the Executive Director shall be accompanied by or contain sufficient information describing all expenditures made. Upon approval of such request by the Board or a duly authorized member or committee of the Board, reimbursement from other funds of the Association to the Imprest Account shall be made in a manner from time to time adopted by the Board.

14.3 Investments. The Board may invest the assets of the Association in a prudent manner in accordance with an investment policy adopted by the board.

- (a) By appropriate resolution the Board may delegate to the Executive Director, a Board member, a committee of the Board, or an investment manager the authority to invest the assets of the Association, or portions thereof, in accordance with paragraph 14.3 above.
- (b) By appropriate resolution the Board may authorize the Executive Director, a Board member, a committee of the Board, or an investment manager to make such investments verbally in person or by telephone with any affected financial institution being used by the Association, and may authorize such financial institutions to accept and rely upon such verbal or telephonic investment instructions.
- (c) In neither of the foregoing circumstances shall the Executive Director be authorized to make transfers of Association assets or funds into the Imprest Account hereinabove referred to at paragraph 14.2.

Article 15.

DEPARTMENT CONTRACT

15.1 Department Contract. Pursuant to Section 440.385(6)(b), Florida Statutes, the Association shall contract to provide services to the Department, which may include, but are not limited to:

- (a) processing applications for self-insurance,
- (b) collecting and reviewing financial statements and loss reserve information from individual self-insurers,
- (c) collecting and maintaining files for original security deposit documents and reinsurance policies from individual self-insurers and, if necessary, perfecting security interests in security deposits,
- (d) processing compliance documentation for individual self-insurers and providing copies of such documentation to the Department,

- (e) collecting all data necessary to calculate annual premium for all individual self-insurers, including individual self-insurers that are public utilities or governmental entities, and providing such calculated annual premium to the Department for assessment purposes,
- (e) inspecting and auditing annually, if necessary, the payroll and other records of each individual self-insurer, including individual self-insurers that are public utilities or governmental entities, in order to determine the wages paid by each individual self-insurer, the premium such individual self-insurer would have to pay if insured, and all payments of compensation made by such individual self-insurer during each prior period with the results of such audit provided to the Department. For purposes of this section, the payroll records of each individual self-insurer shall be open to inspection and audit by the Association and the Department, or their authorized representatives, during regular business hours,
- (g) processing applications and making recommendations with respect to the qualification of a business to be approved to provide or continue to provide services to individual self-insurers in the areas of underwriting, claims adjusting, loss control, and safety engineering, and
- (h) providing legal representation to implement the administration and audit of individual self-insurers and making recommendations regarding prosecution of any administrative or legal proceedings necessitated by the regulation of the individual self-insurers by the Department.

Article 16.

RECORDS AND REPORTS

16.1 Minutes. Minutes of the proceedings of each Board meeting shall be made. The minutes shall be retained by the Executive Director with copies furnished to each Board member and to the Department. All records of the Association are subject to

Chapters 119 and 286, Florida Statutes, regarding public records and government in the sunshine, respectively.

16.2 Annual Report. Not later than March 30 of each year, the Board shall submit to the Department an audited financial statement for the preceding calendar year in a form approved by the Department.

16.3 Financial Records. The Association shall maintain such financial records as are necessary to properly reflect the assessments, receipts and disbursements of all monies handled by the Association.

Article 17.

PLAN AMENDMENTS

17.1 Proposal. Plan amendments may be proposed by the Department or the Board.

17.2 Approval. The Department shall approve or disapprove any amendments to the Plan, consistent with Section 440.385, Florida Statutes, which are determined appropriate to carry out the duties and responsibilities of the Association.

Article 18.

INDEMNIFICATION

18.1 Right to Indemnification. The Association shall have the power to and shall, upon approval by the Board of Directors, indemnify each person who is or was a party to any proceeding (including the heirs, executors, or administrators of such person, unless otherwise provided when authorized or ratified) by reason of the fact that he or she is or was a director, officer, employee, or agent of the Association (or who is or was serving at the request of the Association as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise) to the fullest extent permitted or authorized by current or future legislation or by current or future judicial or administrative decision (but, in the case of any future legislation or decision, only to the extent that it permits the Association to provide broader indemnification rights than permitted prior to the legislation or decision), against all fines, liabilities, costs and expenses, including attorneys' fees,

incurred in connection with such proceeding, including any appeal thereof, if he or she has not been successful on the merits or otherwise in defense of any such proceeding, and acted in good faith and in a manner he or she reasonable believed to be in, or not opposed to, the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. To the extent that a director, officer, employee, or agent of the Association has been successful on the merits or otherwise in defense of any proceeding referred to in this Article, or in defense of any claim, issue, or matter therein, he or she shall be indemnified by the Association, upon approval by the Board of Directors, against costs and expenses, including attorneys fees, actually and reasonably incurred by him or her in connection therewith. The foregoing right of indemnification shall not be exclusive of other rights to which those seeking indemnification may be entitled. The Association may maintain insurance, at its expense, to protect itself and any person who is or was a director, officer, employee, or agent of the corporation against fines, liabilities, costs, and expenses, whether or not the Association would have the legal power to indemnify them directly against such liability.

18.2 Advances. Costs, charges, and expenses (including attorneys' fees) incurred by a person referred to in Section 18.1 in defending a civil or criminal lawsuit, action, or proceeding may be paid by the Association upon approval of the Board of Directors in advance of the final disposition thereof on receipt of an undertaking by such person to repay all amounts advanced if it ultimately is determined that the person is not entitled to be indemnified by the Association as authorized by this Article, and on satisfaction of other conditions required by current or future legislation (but, with respect to future legislation, only to the extent that it provides conditions less burdensome than those previously provided).

18.3 Savings Clause. If this Article or any portion of it is invalidated on any ground by a court of competent jurisdiction, the Association nevertheless shall indemnify each person described in Section 18.1 of this Article to the fullest extent permitted by all portions of this Article that have not been invalidated and to the fullest extent permitted by law.

Article 19.

CONFORMITY TO STATUTE

19.1 Conformity. The statute creating and authorizing the Florida Self-Insurers Guaranty Association, Incorporated Act (Section 440.385, Florida Statutes), as written, and as may from time to time be amended, is incorporated into and is to be considered a part of this Plan. To the extent this Plan conflicts with the Act, the Act shall govern.

Approved by the Florida Self-Insurers Guaranty Association, Inc. Board of Directors on May 9, 2003 and approved by the Florida Department of Financial Services on June 12, 2003.

Amendment adding Section 10.7 approved by the Florida Self-Insurers Guaranty Association, Inc. Board of Directors on March 30, 2012 and approved by the Florida Department of Financial Services on April 24, 2012.