

RESOLUTION NO. 89-275

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, COMMITTING TO PARTICIPATION IN THE FLORIDA ASSOCIATION OF COUNTIES TRUST; AUTHORIZING AND DIRECTING EXECUTION AND DELIVERY OF A JOINDER TO THE AGREEMENT AND DECLARATION OF TRUST CREATING AND ESTABLISHING THE FLORIDA ASSOCIATION OF COUNTIES TRUST; AUTHORIZING AND DIRECTING THE PURCHASE OF LIABILITY COVERAGE; AUTHORIZING AND DIRECTING THE PAYMENT OF AN EXTRAORDINARY LOSS RESERVE CONTRIBUTION FUNDED BY THE PROCEEDS OF A LOAN FROM THE FLORIDA LIABILITY INSURANCE COMMISSION; AUTHORIZING AND DIRECTING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

**SECTION 1. DEFINITIONS.** Unless the context of use indicates another meaning or intent, the following words and terms as used in this Resolution shall have the following meanings.

**"Act"** means, collectively, Part I of Chapter 125, Florida Statutes, Part I of Chapter 163, Florida Statutes, and all other applicable provisions of law.

**"Board"** means the Board of County Commissioners of the County.

**"Chairman"** shall mean the Chairman or Vice Chairman of the Board, and such other person as may be duly authorized to act on his or her behalf.

**"Clerk"** shall mean the Clerk of the Circuit Court for St. Johns County, ex-officio Clerk of the Board, or such other person as may be duly authorized to act on his or her behalf.

**"Coverage Agreement"** has the meaning set forth in the FACT Trust Agreement.

**"County"** means St. Johns County, a political subdivision of the State of Florida.

**"Extraordinary Loss Reserve Contribution"** has the meaning set forth in the FACT Trust Agreement.

**"FACT"** means the Florida Association of Counties Trust.

**"FACT Trust Agreement"** means the Agreement and Declaration of Trust, dated as of March 1, 1989, creating and establishing FACT,

a copy of which is appended hereto as Attachment A, and if it becomes effective, the First Amendment thereto.

**"First Amendment"** means the First Amendment to Agreement and Declaration of Trust, in substantially the form appended hereto as Attachment B.

**"Joinder Agreement"** means the Joinder to Agreement and Declaration of Trust, dated as of October 1, 1989, between the County and FACT, in substantially the form appended hereto as Attachment C.

**"Loan"** means the loan to be made by the Florida Liability Insurance Commission to the County from proceeds of the Series 1989A Bonds.

**"Loan Agreement"** means the Loan Agreement, in substantially the form appended hereto as Attachment D, between the County and the Florida Liability Insurance Commission, pursuant to which the Commission will loan a portion of the Series 1989A Bond proceeds to the County.

**"Resolution"** means this Resolution, as the same may from time to time be amended, modified or supplemented.

**"Second Guaranteed Entitlement Revenues"** means, for any fiscal year of the State of Florida, the amount of revenue received by the County from the Revenue Sharing Trust Fund for Counties pursuant to the provisions of Chapter 218, Part II, Florida Statutes, equal to (a) the aggregate amount received by the County in State fiscal year 1981-1982 under the provisions of the then existing (i) Section 210.20(2)(a), Florida Statutes, tax on cigarettes and (ii) Section 199.292(4), Florida Statutes, tax on intangible personal property; less (b) the aggregate amount received by the County in State fiscal year 1971-1972 under the provisions of the then existing (i) Section 210.20(2)(c), Florida Statutes, tax on cigarettes, (ii) Section 323.16(4), Florida Statutes, road tax and (iii) Section 199.292(4), Florida Statutes, tax on intangible personal property.

**"Series 1989A Bonds"** means the Pooled Liability Insurance Program Revenue Bonds, Series 1989A, to be issued by the Florida Liability Insurance Commission.

The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Resolution; the term "heretofore" shall mean before the date of adoption of this Resolution; and the term "hereafter" shall mean after the date of adoption of this Resolution.

Words importing the masculine gender include every other gender.

Words importing the singular number include the plural number, and vice versa.

**SECTION 2. AUTHORITY FOR RESOLUTION.** This Resolution is adopted pursuant to the provisions of the Act.

**SECTION 3. RESOLUTION TO CONSTITUTE CONTRACT.** In consideration of FACT's issuance of a Coverage Agreement to the County and deferral of the County's obligation to pay its Extraordinary Loss Reserve Contribution to FACT until the County receives the proceeds of the Loan, this Resolution shall be deemed to be and shall constitute a contract between the County and FACT.

**SECTION 4. FINDINGS.** It is hereby ascertained, determined and declared that:

(A) FACT has been established pursuant to the FACT Trust Agreement for the purpose of offering a pooled liability program to counties and other units of local government, providing coverage tailored to local governments' needs which is broader than the coverage generally available from other sources.

(B) The County desires to participate in the FACT liability coverage program through the purchase of a Coverage Agreement from FACT.

(C) Pursuant to the FACT Trust Agreement, payment of an Extraordinary Loss Reserve Contribution is a condition precedent to purchase of a Coverage Agreement from FACT.

(D) It is necessary, desirable and in the best interests of the County to fund its Extraordinary Loss Reserve Contribution through a Loan from the Florida Liability Insurance Commission.

**SECTION 5. COMMITMENT TO PARTICIPATE IN FACT PROGRAM.** Adoption of this Resolution will constitute a binding commitment of the County to participate in the FACT liability coverage program pursuant to the terms of the FACT Trust Agreement.

**SECTION 6. AUTHORIZATION OF JOINDER AGREEMENT.** The County hereby authorizes and directs the Chairman to execute, and the Clerk to attest under the seal of the County, the Joinder Agreement, for the purpose of becoming a party to the FACT Trust Agreement (as amended by the First Amendment, if it becomes effective) and evidencing the County's agreement to become bound by the terms thereof (except to the extent that the terms thereof may be modified by the provisions of this Resolution and the Joinder Agreement), and to deliver the Joinder Agreement to FACT for execution by its appropriate officers. Upon execution and delivery of the Joinder Agreement by the County and FACT, all of the terms and provisions of the Joinder Agreement and the FACT

Trust Agreement shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein. The Joinder Agreement shall be in substantially the form appended hereto as Attachment C, with such changes, amendments, modifications, omissions and additions as may be approved by the Chairman. Execution of the Joinder Agreement by the Chairman shall be deemed to be conclusive evidence of approval of such changes. Notwithstanding any provision of the Joinder Agreement or the FACT Trust Agreement to the contrary, if the County fails to pay its Extraordinary Loss Reserve Contribution and reimburse FACT for the cost of processing its application for membership and for any costs incurred in connection with the reduction in Loan principal for existing Members, as required by Section 8 hereof, on or prior to January 1, 1990, the Joinder Agreement shall become void ab initio and neither the County nor FACT shall have any further rights or obligations thereunder.

**SECTION 7. PURCHASE OF LIABILITY COVERAGE.** The Board hereby authorizes and directs the purchase of liability coverage from FACT pursuant to a Coverage Agreement in substantially the form attached hereto as Attachment E. Upon issuance of the Coverage Agreement, the County agrees to immediately pay the premium for the period commencing October 1, 1989 and ending September 30, 1990, in the amount of \$104,695.00. Notwithstanding any provision of the Joinder Agreement, the FACT Trust Agreement or the Coverage Agreement to the contrary, if the County fails to pay its Extraordinary Loss Reserve Contribution and reimburse FACT for the cost of processing its application for membership and for any costs incurred in connection with the reduction in Loan principal for existing Members, as required by Section 8 hereof, on or prior to January 1, 1990, the Coverage Agreement shall become void ab initio and neither the County nor FACT shall have any further rights or obligations thereunder. In such event, FACT shall, within a reasonable time and after a review by FACT of the accounts of the County, which FACT may require to be reviewed or audited by an independent certified public accountant, return to the County that portion of the premium paid to FACT which equals such premium less actual payments of claims under the Coverage Agreement, all claims expenses incurred under the Coverage Agreement and other expenses directly incurred by FACT in respect of the account of the County.

**SECTION 8. EXTRAORDINARY LOSS RESERVE CONTRIBUTION.** The County hereby agrees to make its Extraordinary Loss Reserve Contribution and to reimburse FACT for the cost of processing its application for membership and for any costs incurred in connection with the reduction in Loan principal for existing Members. The County's Extraordinary Loss Reserve Contribution shall not exceed \$313,628.00.

**SECTION 9. AUTHORIZATION OF LOAN AGREEMENT.** The County hereby elects to fund its Extraordinary Loss Reserve Contribution

and reimburse FACT for the cost of processing its application for membership and for any costs incurred in connection with the reduction in Loan principal for existing Members, through a Loan from the Florida Liability Insurance Commission of funds derived by the Commission from issuance of its Pooled Liability Insurance Program Revenue Bonds, Series 1989A. In connection with such Loan, the County hereby authorizes and directs the Chairman to execute, and the Clerk to attest under the seal of the County, the Loan Agreement, and to deliver the Loan Agreement to the Florida Liability Insurance Commission for its execution. All of the provisions of the Loan Agreement, when executed and delivered by the County as authorized herein and when duly authorized, executed and delivered by the Florida Liability Insurance Commission, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein, and the Loan Agreement shall be in substantially the form attached hereto as Attachment D, with such changes, amendments, modifications, omissions and additions, including the date of such Loan Agreement, as may be approved by the Chairman. Execution of the Loan Agreement by the Chairman shall be deemed to be conclusive evidence of approval of such changes. The principal amount of the Loan shall not exceed \$348,878.00 and the final principal payment shall be due not later than January 1, 1998. The County's required payments of principal and interest on the Loan shall not exceed \$63,033.00 in any County fiscal year.

**SECTION 10. SECURITY FOR THE LOAN.** It is understood and agreed that the County's obligation to repay the Loan will be secured by a pledge of and lien upon the Second Guaranteed Entitlement Revenues. The County hereby certifies that the Second Guaranteed Entitlement Revenues are not pledged, in whole or in part, directly or indirectly, for the benefit of any other obligations of the County.

**SECTION 11. GENERAL AUTHORITY.** The members of the Board and the officers, attorneys and other agents or employees of the County are hereby authorized to do all acts and things required of them by this Resolution, the Joinder Agreement, the FACT Trust Agreement, the Loan Agreement or the Coverage Agreement, or desirable or consistent with the requirements of this Resolution, the Joinder Agreement, the FACT Trust Agreement, the Loan Agreement or the Coverage Agreement for the full punctual and complete performance of all the terms, covenants and agreements contained in this Resolution, the Joinder Agreement, the FACT Trust Agreement, the Loan Agreement and the Coverage Agreement, and each member, employee, attorney and officer of the County or its Board is hereby authorized and directed to execute and deliver any and all papers and instruments and to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution, the Joinder Agreement, the FACT Trust Agreement the Loan Agreement and the Coverage Agreement.

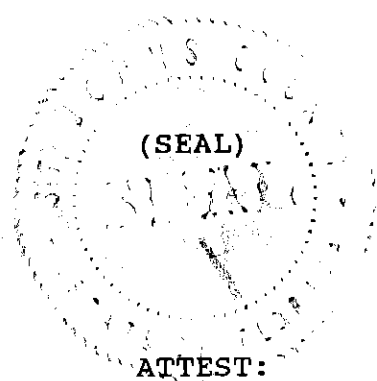
**SECTION 12. SEVERABILITY.** If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof.

**SECTION 13. REPEAL OF INCONSISTENT RESOLUTIONS.** All resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

**SECTION 14. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

DULY ADOPTED this 12th day of December, 1989.

**BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA**



By: Craig A. Maguire  
Chairman

Paul B. Mendenhall  
Clerk to the Board

**ATTACHMENT A**

**AGREEMENT AND DECLARATION OF TRUST**

*Continued*

**AGREEMENT AND DECLARATION OF TRUST**

**creating and establishing the**

**FLORIDA ASSOCIATION OF COUNTIES TRUST**



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## AGREEMENT AND DECLARATION OF TRUST

**THIS AGREEMENT AND DECLARATION OF TRUST** is made and entered into as of March 1, 1989, by and among Lee Draper, Robert Fernandez, Ernie Padgett, Bill Peebles, Sue Schmitt, Richard Seltzer, and Lee Vause as the trustees of the Florida Association of Counties Trust (the "Trustees"), and Bay County, Brevard County, Jackson County, Leon County, Okaloosa County, and Polk County, as the charter members of the Florida Association of Counties Trust (the "Charter Members").

**WHEREAS**, pursuant to the Act (as hereinafter defined), public agencies of the State of Florida (the "State") are authorized to establish local government liability pools; and

**WHEREAS**, pursuant to the Act, the Charter Members desire to establish such a local government liability pool to be known as the Florida Association of Counties Trust for the purpose of pooling the resources described herein to provide liability insurance coverage for themselves and for other public agencies of the State; and

**WHEREAS**, pursuant to the Act, it is the desire and intent of the Trustees to serve in the capacity of Trustees of the Florida Association of Counties Trust for the purpose of operating, managing and maintaining the assets and liabilities thereof; and

**WHEREAS**, it is deemed to be in the best interest of the Florida Association of Counties Trust to execute and deliver an Agreement and Declaration of Trust fully setting forth the duties and responsibilities of the Trustees;

**NOW THEREFORE**, for and in consideration of the mutual covenants and agreements herein contained, the Florida Association of Counties Trust is hereby established and created as follows:

## ARTICLE I

### DEFINITIONS

**Section 1.01. Definitions.** The following capitalized terms shall have the meanings set forth below unless the text otherwise expressly requires. Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations.

**"Act"** shall mean, collectively, Chapter 163, Part I, Florida Statutes, Chapter 125, Part I, Florida Statutes, Chapter 166, Part II, Florida Statutes, Section 768.28 (14), Florida Statutes, and other applicable provisions of law.

**"Agreement"** shall mean this Agreement and Declaration of Trust, including any amendments or supplements hereto executed and delivered in accordance with the terms hereof.

**"Administrator"** shall mean the County Association or any successor appointed or employed as provided in Section 5.07 of the Agreement.

**"Board"** shall mean the Trustees constituting the governing board of the Insurance Trust.

**"Chairman"** shall mean the chairman of the Board initially designated in Section 4.02 of this Agreement or any successor appointed thereafter as provided in Section 4.10 of this Agreement.

**"Charter Members"** shall mean the initial Public Agency signatories to this Agreement.

**"Claims Reserve Subaccount"** shall mean one or more subaccounts created within the Operating Account pursuant to Section 2.02 of this Agreement for the purpose of allocating funds for the payment of known claims.

**"Commission"** shall mean the Florida Liability Insurance Commission, a public body corporate and politic created pursuant to the Act.

**"County Association"** shall mean the Florida Association of Counties, Inc., a Florida not-for-profit corporation.

**"Coverage Agreement"** shall mean the liability coverage agreement entered into between a Member and the Board providing for participation in the Insurance Trust and specifying the Liability Coverage provided by the Insurance Trust to the Member for the Coverage Period.

**"Coverage Period"** shall mean the period of time in which Liability Coverage is provided to a Member under a Coverage Agreement. Each Coverage Period shall end on the last calendar day of a Fiscal Year.

**"Designated Member Subaccount"** shall mean a subaccount in the Extraordinary Loss Reserve Account established by the Board at the request of a Member pursuant to Section 2.05 of the Operations Manual.

**"Distribution Date"** shall mean the date Trust Assets are distributed to the Members upon dissolution of the Insurance Trust pursuant to Article VI of this Agreement.

**"Excess Reserve Amount"** shall mean, at any time of calculation, the amount on deposit in the Extraordinary Loss Reserve Account in excess of the Extraordinary Loss Reserve Requirement.

**"Extraordinary Loss Reserve Account"** shall mean the separate account in the Insurance Trust Fund established pursuant to Section 2.02(A) of this Agreement.

**"Extraordinary Loss Reserve Account Requirement"** shall mean the amount established by the Board in its discretion, upon consideration of the Service Company's recommendation, as necessary to be on deposit in the Extraordinary Loss Reserve Account for the provision of actuarially sound Liability Coverage to the Members for up to one future Fiscal Year. The initial Extraordinary Loss Reserve Account Requirement shall be \$5,000,000.

**"Extraordinary Loss Reserve Contribution"** shall mean the contribution to the Insurance Trust Fund required of each Public Agency, pursuant to Section 3.01 or 3.06(A) of this Agreement, as a condition of becoming a Member. Each Extraordinary Loss Reserve Contribution shall include amounts required to fund the Extraordinary Loss Reserve Account and amounts required to pay costs associated with the initial formation of the Insurance Trust.

**"Fiscal Year"** shall mean the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be designated by the Board.

**"Insurance Trust"** shall mean the Florida Association of Counties Trust which is hereby created as a local government liability pool pursuant to the Act.

**"Insurance Trust Fund"** shall mean the Florida Association of Counties Insurance Trust Fund created pursuant to Section 2.02 of this Agreement.

**"Investment Earnings"** shall mean the aggregate of interest earned, dividends, and gains or losses realized from the investment of moneys in the Insurance Trust Fund.

**"Liability Coverage"** shall mean the coverage or indemnity of certain liability of Members and other covered organizations and persons, within the monetary limits and under the terms and conditions established by the Board, all as described and specified in the Coverage Agreement.

**"Loan"** shall mean an unrepaid amount of any loan from the Commission to a Member.

**"Loan Agreement"** shall mean the loan agreement between the Commission and any Member.

**"Member"** shall mean and include each Charter Member and any other Public Agency located in the State of Florida which is accepted for membership in the Insurance Trust pursuant to Article III of this Agreement; provided however, that any Public Agency that has received Reserve Contribution Refunds equal to its Extraordinary Loss Reserve Contribution shall no longer be deemed a "Member".

**"Operating Account"** shall mean the separate account in the Insurance Trust Fund established pursuant to Section 2.02(A) of this Agreement.

**"Operations Manual"** shall mean the Operations Manual adopted by the Board initially in the form attached hereto as Exhibit C, including all appendices thereto, as periodically amended, and all other policies and regulations approved by the Board for the operation and administration of the Insurance Trust or relating to the provision of Liability Coverage.

**"Percentage Share"** shall mean, with respect to each Member, at any time of calculation, the percentage derived by dividing such Member's Extraordinary Loss Reserve Contribution less the sum of all Reserve Contribution Refunds to such Member, by the aggregate amount of Extraordinary Loss Reserve Contributions made by all Members less the sum of all Reserve Contribution Refunds to all Members.

**"Policy"** shall mean and include any policy of insurance and/or reinsurance purchased by or assigned to the Insurance Trust and shall be deemed to include any and all amendments or riders attached to each such policy or policies.

**"Premium Credit"** shall mean the amount of Investment Earnings to which a Member may be entitled as a credit against its Premium or otherwise, pursuant to Section 3.06(F) of this Agreement.

**"Premium"** shall mean annual payments or installments required of a Member under the Coverage Agreement for Liability Coverage, as actuarially computed and adjusted under the provisions of the Operations Manual.

**"Program Documents"** shall mean this Agreement, the Operations Manual, the Coverage Agreement, the Regulations and any Policy.

**"Public Agency"** shall mean a "public agency" as defined in Part I of Chapter 163, Florida Statutes, which is a "state or political subdivision" within the meaning of Section 103(c)(1) of the Internal Revenue Code of 1986, as amended.

**"Regulations"** shall mean all laws and regulations affecting the Insurance Trust, as they are currently in force or hereafter amended, which are promulgated by the State of Florida or a department or a division thereof.

**"Reserve Contribution Refund"** shall mean the refund of all or a portion any Member's Extraordinary Loss Reserve Contribution pursuant to Sections 3.06(B), (C), (D) or (G) of this Agreement but shall not include any Premium Credit.

**"Risk Management Account"** shall mean the Risk Management Account created within the Insurance Trust Fund pursuant to Section 2.02 of this Agreement.

**"Secretary"** shall mean the secretary of the Board initially designated in Section 4.02 of this Agreement or any successor appointed thereafter as provided in Section 4.10 of this Agreement.

**"Service Company"** shall mean an independent firm, corporation or other business entity qualified to serve as a professional liability coverage service provider which has been designated by the Board, pursuant to Section 5.09 of this Agreement, to provide all or part of the services necessary in the establishment, operation and conduct of the business of the Insurance Trust.

**"State"** shall mean the State of Florida.

**"Termination Date"** shall mean the date on which a Member's participation in the Insurance Trust is terminated pursuant to Section 3.12 of this Agreement.

**"Trust Assets"** shall mean the sum of all monies and other assets held by the Trustees on behalf of the Insurance Trust; which shall include, but not be limited to, all bank accounts, savings accounts or certificates of deposit, Premiums received from Members, interest income, or other return thereon, Policies together with any premium dividends, refunds or other sums payable on account of such Policies, all investments made and held by the Trustees on behalf of the Insurance Trust, and any other property

of any kind whatsoever, received and held for the uses and purposes declared by this Agreement.

**"Trust Counsel"** shall mean an attorney or firm of attorneys, experienced in matter of local government law and duly admitted to practice law in the State, engaged or employed by the Board pursuant to Section 5.08 of this Agreement.

**"Trustees"** shall mean the trustees of the Insurance Trust initially designated in Section 4.02 of this Agreement or any successors appointed thereafter as provided in Section 4.03 of this Agreement.

**"Vice-Chairman"** shall mean the vice-chairman of the Board initially designated in Section 4.02 of this Agreement or any successor appointed thereafter as provided in Section 4.10 of this Agreement.



## ARTICLE II

### PURPOSE OF TRUST AND APPLICATION OF TRUST ASSETS

**Section 2.01. Creation of Insurance Trust.** There is hereby created and established a local government liability pool to be known as the Florida Association of Counties Trust, the operation and administration of which shall be the responsibility of the Trustees. The initial Trustees hereby accept the trusts imposed upon them by this Agreement and agree to perform such trusts. The Trust Assets shall be held by the Trustees on behalf of the Members for the purpose of providing and maintaining on a group basis as provided in the Act, a voluntary joint shared risk program for Public Agencies located in the State to provide Liability Coverage. Title to all Trust Assets paid to the Insurance Trust Fund and all of the property of the Insurance Trust Fund shall be vested in and remain exclusively in the Insurance Trust Fund. The Trustees, Administrator, Service Company and Members shall not have any right, title or interest in or to any of the Insurance Trust Fund assets or the Trust Assets or any part thereof. It is the intention of the parties hereto that the Insurance Trust Fund shall constitute an irrevocable trust, until terminated as provided herein, for the sole and exclusive benefit of Members entitled to the benefits of the Insurance Trust Fund, and no benefits or moneys or property of this trust shall at any time be subject in any manner to anticipation, alienation, claims for alimony or marital or child support, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempts to do so shall be void.

### **Section 2.02. Funds and Accounts.**

(A) The Board covenants and agrees to establish with one or more banks, trust companies or other entities in the State, which are eligible under the laws of the State to be depositories of public funds, a trust fund to be known as the "Florida Association of Counties Insurance Trust Fund," which shall consist of the following Accounts: (1) the "Florida Association of Counties Insurance Operating Account" which may include one or more Claims Reserve Subaccounts, (2) the "Florida Association of Counties Extraordinary Insurance Loss Reserve Account," and (3) such other accounts or subaccounts as the Board shall deem advisable or which may be necessary to comply with the Program Documents, applicable Regulations and insurance accounting practices as defined in the National Association of Insurance Commissioners' Standard Accounting Principles.

(B) The moneys required to be accounted for in each of the accounts established herein may be deposited in a single bank account, and amounts allocated to the various accounts may be invested in a common investment pool, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the moneys on deposit therein and such

investments for the various purposes of such accounts as herein provided.

**Section 2.03. Operating Account.**

(A) Premiums shall be deposited upon receipt into the Operating Account. Funds on deposit in the Operating Account shall be applied for the following purposes:

(1) to pay claims which are or may be covered by a Coverage Agreement;

(2) to pay or provide for the payment of premiums and other expenses on any Policy or Policies, if any, including any reinsurance or excess insurance of the Insurance Trust, when such premiums shall become due;

(3) to provide for a risk management program as described in Section 2.06 of this Agreement;

(4) to enforce the payment of or to pay or provide for the payment of all reasonable and necessary expenses of collecting Premiums required under the Coverage Agreement;

(5) to administer or provide for the administration of the affairs of the Insurance Trust and its Trust Assets, including, without limitation, the payment of all expenses which may be incurred in connection with the establishment, preservation and extension of the Insurance Trust, the employment of such administrative, legal, expert and clerical assistance (including the Administrator, the Trust Counsel and the Service Company), the purchase of surety bonds, the leasing of such premises and the purchase or lease of such materials, printed matter, supplies and equipment as the Board, in its discretion, finds necessary or appropriate; and

(6) to make direct payments in lieu of Premium Credits in accordance with Section 3.06(F) of this Agreement.

Investment Earnings derived from the funds on deposit in the Operating Account shall be retained in the Operating Account.

(B) Amounts equal to the Service Company's estimate of the Insurance Trust's aggregate unpaid liability for known claims, including allocated loss expenses and settlement costs, shall be set aside in a Claims Reserve Subaccount in the Operating Account. If the Service Company determines that the funds on deposit in the Operating Account exceed the amount reasonably required for the purposes of such Account, any excess amounts may be transferred to the Extraordinary Loss Reserve Account.

**Section 2.04. Extraordinary Loss Reserve Account.** Extraordinary Loss Reserve Contributions shall be deposited upon receipt into the Extraordinary Loss Reserve Account. Notwithstanding the foregoing, that portion of each Charter Member's Extraordinary Loss Reserve Contribution required to pay costs associated with the initial formation of the Insurance Trust shall be deposited to the Operating Account; provided, however, that the aggregate amount of Charter Members' Extraordinary Loss Reserve Contributions deposited in the Extraordinary Loss Reserve Account shall not be less than the Extraordinary Loss Reserve Account Requirement. Funds on deposit in the Extraordinary Loss Reserve Account shall be applied for the following purposes:

(A) for transfer to the Operating Account if (1) there are no funds on deposit in the Operating Account other than those set aside in a Claims Reserve Subaccount (2) necessary to comply with written direction of a Member pursuant to Section 2.05(B) of the Operations Manual; and

(B) for the payment of Reserve Contribution Refunds in accordance with Sections 3.06 (B), (C), (D) and (G) of this Agreement.

Investment Earnings derived from the funds on deposit in the Extraordinary Loss Reserve Account shall be credited to the Operating Account.

**Section 2.05. Application of Trust Assets.** The Board may use and apply the Trust Assets on its own behalf or may delegate the use and application of such Trust Assets to the Administrator or the Service Company for the following purposes:

(A) to pay claims which are or may be covered by a Coverage Agreement;

(B) to pay or provide for the payment of premiums and other expenses on any Policy or Policies, if any, including any reinsurance or excess insurance of the Insurance Trust, when such premiums shall become due;

(C) to provide for a risk management program as described in Section 2.06 of this Agreement.

(D) to enforce the payment of or to pay or provide for the payment of all reasonable and necessary expenses of collecting Premiums required under the Coverage Agreement;

(E) to administer or provide for the administration of the affairs of the Insurance Trust and its Trust Assets, including, without limitation, the payment of all expenses which may be incurred in connection with the establishment, preservation and extension of the Insurance Trust, the employment of such

administrative, legal, expert and clerical assistance (including the Administrator and the Service Company), the purchase of surety bonds, the leasing of such premises and the purchase or lease of such materials, printed matter, supplies and equipment as the Board, in its discretion, finds necessary or appropriate; and

(F) to make payments to Members, in accordance with Sections 3.06(B), (C), (D), (F) and (G) of this Agreement.

**Section 2.06. Risk Management Program.** Recognizing the potential effect of a vigorous risk management program upon total losses suffered by Members, the Insurance Trust shall allocate an amount determined by the Board not to exceed five percent of the Premiums for risk management purposes. The risk management program may, among other things: fund studies of Members' exposures and losses; fund preparation and production of risk management manuals, pamphlets and other materials; conduct risk management education and training for Members' officials and employees; encourage the formation and expansion of risk management departments of Members through direct assistance, grants or other means; provide continuing education of Members' risk management and other personnel; and implement other risk management activities for Members.

**Section 2.07. Separate Accounts.** The moneys required to be accounted for in each of the foregoing funds, accounts and subaccounts established herein may be deposited in a single bank account, and funds allocated to the various funds, accounts and subaccounts established herein may be invested in a common investment pool, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the moneys on deposit therein and such investments for the various purposes of such funds, accounts and subaccounts as herein provided.

The designation and establishment of the various funds, accounts and subaccounts in and by this Agreement shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues for certain purposes and to establish certain priorities for application of such revenues as herein provided. Any of the various funds, accounts or subaccounts established by this Agreement may be further divided if necessary to comply with insurance accounting practices as defined in the National Association of Insurance Commissioners' Standard Accounting Principles.

## ARTICLE III

### MEMBERSHIP

**Section 3.01. Charter Members.** Upon establishment of the Insurance Trust, the Public Agency parties to this Agreement shall become Charter Members upon payment of their respective Premiums and the following Extraordinary Loss Reserve Contributions: Bay County, \$538,913.00; Brevard County, \$1,544,836.00; Jackson County, \$181,727.00; Leon County, \$733,364.00; Okaloosa County, \$619,343.00; and Polk County, \$1,616,817.00.

**Section 3.02. No Waiver of Immunity.** It is the intent of the Members that, by entering into this Agreement, that they do not waive and are not waiving any immunity provided to the Members or their officers, employees, agents or independent contractors by any State law.

**Section 3.03. Qualifications for New Members.** An applicant for membership in the Insurance Trust shall demonstrate to the satisfaction of the Board that it: (A) is a Public Agency located in the State; (B) qualifies for participation in the Insurance Trust under the Act; (C) qualifies for participation in the Insurance Trust under the eligibility requirements set forth in the Operations Manual; (D) submits an application for participation in the Insurance Trust in the form approved by the Board; (E) deposits, prior to the effective date of any Liability Coverage, an Extraordinary Loss Reserve Contribution pursuant to Section 3.06(A); and (F) purchases Liability Coverage and pays its initial Premium. The Board may require each new Member to reimburse the Insurance Trust for the cost of processing its membership application. Such costs may be paid separately or as part of the initial Premium.

**Section 3.04. Acceptance for Membership.** The Board, in its sole discretion, shall have the right to accept or reject any applicant for membership. Membership in the Insurance Trust shall commence on the date determined by the Board as specified in the Coverage Agreement. Each new Member shall agree by written instrument to be bound by the terms of the Program Documents. Except as provided in Section 3.12 of this Agreement, all Members shall be entitled to purchase Liability Coverage and shall be responsible for the payment of Premiums in connection therewith.

**Section 3.05. Provision of Liability Coverage.** Liability Coverage shall be provided to each Member in accordance with a Coverage Agreement issued to each Member. Coverage Agreements shall be issued for periods not in excess of one year and shall terminate on the last calendar day of each Fiscal Year. A Member may elect not to purchase a Coverage Agreement for the next ensuing Fiscal Year, provided that written notice of such election is provided to the Insurance Trust not less than ninety (90) days

prior to the last calendar day of the current Fiscal Year. Not less than one hundred twenty (120) days prior to the last calendar day of the current Fiscal Year, the Insurance Trust shall notify each Member of its estimated Premium for the next ensuing Fiscal Year. Actual Premiums shall not exceed the estimate contained in such notice by more than ten percent (10%) unless incorrect, insufficient or incomplete rating data has been provided to the Insurance Trust by the Member. Notwithstanding the foregoing, a Member's right to purchase Liability Coverage may be terminated by the Board in accordance with Section 3.12 of this Agreement.

### **Section 3.06. Extraordinary Loss Reserve Contributions.**

(A) The Board shall, upon consideration of the Service Company's recommendation, determine the Extraordinary Loss Reserve Contribution and the amount of the initial Premium for each new applicant to provide actuarially sound Liability Coverage to such applicant; provided however, that the Extraordinary Loss Reserve Contribution for each new applicant shall not be less than such applicant's population (based upon the most recent population estimates for such applicant published by the University of Florida, Bureau of Economic and Business Research) multiplied by the sum of (1) the amount on deposit in the Extraordinary Loss Reserve Account as of the last day of the immediate prior calendar month and (2) the amount required to pay costs associated with the initial formation of the Insurance Trust, divided by the aggregate population of the existing Members (as of the date of their admission to membership). The Board shall require the applicant to contribute to the Insurance Trust an amount equal to such applicant's Extraordinary Loss Reserve Fund Contribution, in addition to its initial Premium, as a condition to accepting such applicant as a Member. After determining the amount of the Extraordinary Loss Reserve Contribution and Initial Premium for the new applicant and confirming the new applicant's desire to become a Member, the Board shall compute the Percentage Shares of all Members and the new applicant, of an amount equal to the sum of (1) the amount on deposit in the Extraordinary Loss Reserve Account as of the last day of the immediate prior calendar month and (2) the amount of the new applicant's Extraordinary Loss Reserve Contribution. The Board shall also determine, upon consideration of the Service Company's recommendation, if upon payment of the new applicant's Extraordinary Loss Reserve Contribution, there will be amounts on deposit in the Extraordinary Loss Reserve Account in excess of the Extraordinary Loss Reserve Requirement.

(B) If the Board determines, upon consideration of the Service Company's recommendation, that an Excess Reserve Amount will exist, it shall (1) reduce the new applicant's Extraordinary Loss Reserve Contribution by the amount of its Percentage Share of such Excess Reserve Amount and (2) provide a Notice of Admission, in substantially the form attached hereto as Exhibit A, to the Commission and each existing Member of the amount of each existing

Member's Percentage Share of such Excess Reserve Amount. The Board shall request that the Commission notify the Board of the outstanding principal amount of the Loan for each Member by completing and returning the Notice of Admission. If the new applicant has requested that it be permitted to finance all or a portion of its Extraordinary Loss Reserve Contribution with the proceeds of a Loan, the Commission and the Board shall determine the amount of Loan financing available to such new Member by completing a Notice of Reallocation, in substantially the form attached hereto as Exhibit B. The Board shall send the completed Notice of Reallocation to the Commission and each Member and arrange for a Reserve Contribution Refund to be made to each existing Member, either as a credit against such Member's Loan, a cash payment, or a credit against such Member's next Premium in the amount shown in the Notice of Reallocation. Any such Reserve Contribution Refund will be subject to any restrictions set forth in the Loan Agreements.

(C) At its first meeting of each Fiscal Year, the Board shall determine, upon consideration of the Service Company's recommendation, if (1) the Extraordinary Loss Reserve Account Requirement is sufficient and (2) whether there is an Excess Reserve Amount. If there is an Excess Reserve Amount, the Board shall give notice to the Commission and each Member and arrange for a Reserve Contribution Refund to be made to each Member, either as a credit against such Member's Loan, as a cash payment, or a credit against such Member's next Premium in amounts equal to each Member's Percentage Share of such Excess Reserve Amount. Any such Reserve Contribution Refund will be subject to any restrictions set forth in the Loan Agreements.

(D) Notwithstanding the provisions of Sections 3.06(B) or (C), the Board may, in its sole discretion, apply all or any portion of an Excess Reserve Amount to make Reserve Contribution Refunds to Members no longer purchasing Liability Coverage from the Insurance Trust.

(E) In the event a Member receives a Reserve Contribution Refund pursuant to Section 3.06(D), the full amount thereof must be repaid to the Insurance Trust prior to the purchase of any future Liability Coverage by such Member. In the event any repayment of a Reserve Contribution Refund results in an Excess Reserve Amount, such Excess Reserve Amount shall be distributed in the manner described in Section 3.06(B) of the Agreement.

(F) Each Member shall be entitled to a Premium Credit against the Premium payable for any Fiscal Year following the initial Fiscal Year, in an amount to be computed and paid or credited as follows:

(1) During any period in which there are no funds on deposit in a Designated Member Subaccount, the Premium Credit of

each Member shall be computed as the sum of (a) such Member's Percentage Share of the Investment Earnings on the Extraordinary Loss Reserve Account for the immediate prior Fiscal Year plus (b) that portion of the Investment Earnings on the Operating Account for the immediate prior Fiscal Year equal to the aggregate of such Investment Earnings multiplied by such Member's Premium for such Fiscal Year divided by the sum of all Members' Premiums for such Fiscal Year.

(2) During any period in which there are funds on deposit in a Designated Member Subaccount, the Premium Credit of each Member for which a Designated Member Subaccount has been maintained during the immediate prior Fiscal Year shall be computed as the sum of (a) the Investment Earnings on the Designated Member Subaccount maintained for such Member for the immediate prior Fiscal Year plus (b) the product of (i) the average rate of investment earnings on amounts on deposit in the Extraordinary Loss Reserve Account during the immediate prior Fiscal Year, times (ii) such Member's Extraordinary Loss Reserve Contribution less the aggregate amount of Reserve Contribution Refunds paid or credited to such Member and less the average daily balance on deposit in the Designated Member Subaccount maintained for such Member, times (iii) the average daily balance on deposit in the Extraordinary Loss Reserve Account divided by the difference between the aggregate amount of Extraordinary Loss Reserve Contributions of all Members and the aggregate amount of Reserve Contribution Refunds paid or credited to all Members, plus (c) that portion of the Investment Earnings on the Operating Account for the immediate prior Fiscal Year equal to the aggregate of such Investment Earnings multiplied by such Member's Premium for such Fiscal Year divided by the sum of all Members' Premiums for such Fiscal Year.

(3) During any period in which there are funds on deposit in a Designated Member Subaccount, the Premium Credit of each Member for which a Designated Member Subaccount has not been maintained during the immediate prior Fiscal Year shall be computed as the sum of (a) the product of (i) the average rate of investment earnings on amounts on deposit in the Extraordinary Loss Reserve Account during the immediate prior Fiscal Year, times (ii) such Member's Extraordinary Loss Reserve Contribution less the aggregate amount of Reserve Contribution Refunds paid or credited to such Member, times (iii) the average daily balance on deposit in the Extraordinary Loss Reserve Account divided by the difference between the aggregate amount of Extraordinary Loss Reserve Contributions of all Members and the aggregate amount of Reserve Contribution Refunds paid or credited to all Members, plus (b) that portion of the Investment Earnings on the Operating Account for the immediate prior Fiscal Year equal to the aggregate of such Investment Earnings multiplied by such Member's Premium for such Fiscal Year divided by the sum of all Members' Premiums for such Fiscal Year.



(4) Notwithstanding the foregoing, Premium Credits shall be reduced or eliminated by the Board, if necessary, if the implementation thereof would jeopardize the ability of the Insurance Trust to provide Liability Coverage to Members on an actuarially sound basis. The Premium Credit for any Member whose Extraordinary Loss Reserve Contribution was paid during the immediate prior Fiscal Year shall be computed only on Investment Earnings for such Member's period of membership. Any Member electing not to purchase Liability Coverage in accordance with Section 3.05 hereof or whose right to purchase Liability Coverage has been terminated pursuant to Section 3.12 hereof shall receive an equivalent direct payment in lieu of its Premium Credit.

(G) Upon the expiration of four consecutive complete Fiscal years during which a Member has not purchased Liability Coverage from the Insurance Trust, such Member shall be entitled to a refund of its Percentage Share of the amount on deposit in the Extraordinary Loss Reserve Account at the end of the last Fiscal Year during which such Member purchased Liability Coverage, which shall be payable in not more than three equal annual installments; provided however, that there shall be no entitlement to any such refund or annual installment if the payment thereof would jeopardize the ability of the Insurance Trust to provide Liability Coverage to Members on an actuarially sound basis.

**Section 3.07. Limits of Liability.** All Members understand and agree that all property, liability or other claims made against any Member payable by the Insurance Trust shall be limited to that amount established by the Board in the Program Documents and specified in the applicable Coverage Agreement or Policy. It is further understood and agreed that the aggregate liability of the Insurance Trust is expressly limited to the amount of Trust Assets available for the payment of claims as determined by the Board. Any and all liability in excess of such amounts shall be borne by the Member against whom such claim was brought.

**Section 3.08. Other Membership Obligations.** Each Member agrees to be bound initially and continually by all of the burdens, obligations, duties and requirements placed on a Member by the Program Documents and by all of the terms of this Agreement as amended from time to time. Each Member further agrees to abide by the procedures, policies and decisions promulgated by the Board for the administration of the Insurance Trust, which burdens, obligations, duties and responsibilities shall include, but not be limited to, the following:

(A) Each Member agrees to initiate and maintain a risk management program to attempt to reduce the exposure of the Member and its officials and employees to claims and losses and agrees to comply with the provisions of the risk management program of the Insurance Trust, including all reasonable action to implement the recommendations of any loss control inspections; provided however,

that each Member shall remain solely responsible for all decisions concerning its risk management program and practices and may not rely on evaluations or recommendations made by the Board, the Administrator, the Trust Counsel, the Service Company or their respective officials, directors, officers, employees, agents or independent contractors in making final decisions concerning the Member's risk management programs and practices. Neither the Insurance Trust, the Board, the Administrator, the Trust Counsel or the Service Company, nor their respective officials, officers, directors, employees, agents or independent contractors shall be liable for any claim, loss or liability caused by or arising out of any risk management program or any risk management related evaluation or recommendation, whether or not caused in whole or in part by the actual or alleged negligence of any such person or organization.

(B) In the event of an "occurrence", an "offense", an "error or omission" (each as defined in the Coverage Agreement) or any other happening to which the Coverage Agreement may apply, the Member shall provide all notices and reports and shall comply with all other terms and provisions of the Coverage Agreement.

(C) The Member shall cooperate with the Board, the Administrator, the Trust Counsel and the Service Company and upon the request of their agents require the appropriate officers, officials, employees, agents or independent contractors of the Member to attend court hearings and trials and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and otherwise cooperate in the conduct of suits, court hearings or proceedings relating to any Liability Coverage under the Coverage Agreement. The Member shall not, except at its own cost, which shall not be reimbursed out of the accounts and funds of the Insurance Trust, voluntarily make any payment, assume any obligation or incur any expense other than for such immediate medical attention and other services at the time of injury as are required by law.

(D) Each Member shall make prompt payment of all Premiums and other payments required by the Program Documents.

(E) Each Member does hereby appoint the Administrator, the Trust Counsel and the Service Company as its agent to act in the Member's behalf to file reports and to make or arrange for payment of claims, medical expenses and all other things required or necessary insofar as they affect the Member's liability.

(F) Each Member agrees that, in the event of the payment of any loss by the Insurance Trust under this Agreement, the Insurance Trust shall be subrogated to the extent of such payment to all the rights of the Member against any person or other entity legally responsible for damages for said loss, and in such event, the

Member hereby agrees to render all reasonable assistance, other than pecuniary assistance, to effect recovery.

(G) Each Member agrees that time is of the essence in the performance of its obligations to the Insurance Trust.

**Section 3.09. Provision of Records.** The Members shall furnish to the Board, the Service Company and the Administrator, such records and any and all other information that may be required in connection with the Program Documents, including information required in connection with issuance of a Policy or Policies.

**Section 3.10. Inspections.** The Board, the Service Company, the Administrator and any of their agents, representatives, employees or independent contractors, shall be permitted at all reasonable times to inspect all land, buildings and places and all equipment, machinery, papers and records for which Liability Coverage is provided under the Coverage Agreement whether under the control of the Member, or its employees, agents or independent contractors. In addition, inspection and examination shall be permitted at all reasonable times within four years after the termination of status as a Member, of a Member's books, vouchers, contracts, documents and records of any and every kind which show or tend to show or verify the Members' contributions which are payable or were paid under the terms of the Program Documents.

**Section 3.11. Annual Membership Meeting.** An annual meeting of the Members shall be held after the close of each Fiscal Year at such time and on such date and at such place as shall be determined by the Board. The Board shall furnish each Member notice of the time, place and date of the annual meeting at least fourteen (14) days prior to the date of the meeting. At each annual meeting of the Members, the Chairman of the Board shall submit a statement of the claims experiences of the Insurance Trust during the preceding Fiscal Year, together with a financial report of the Insurance Trust for the same period.

**Section 3.12. Termination of Liability Coverage.**

(A) The right of any Member to purchase Liability Coverage from the Insurance Trust may be terminated: (1) if a Member fails to remit its Premiums on the date due under the terms of the Coverage Agreement; (2) if a Member fails to continue to comply with the requirements set forth in Section 3.03 of this Agreement; (3) if a Member files any report related to its Liability Coverage containing a materially false statement or a material omission; (4) because of the failure of a Member to meet other requirements found by the Board to be necessary to preserve the stability and strength of the Insurance Trust for continued membership in the Insurance Trust including compliance with established underwriting criteria and participation in risk management programs approved by the Board; (5) if it is subsequently discovered that a Member made a

false statement or misrepresentation, whether intentional or unintentional, in meeting the requirements of Section 3.03 of this Agreement and in the event such false statement and misrepresentation is found by the Board, in its sole discretion, to have been a material factor of membership; or (6) because of failure to perform or comply with all terms and conditions of this Agreement or any of the other Program Documents.

(B) Upon the occurrence of an event or condition described in Section 3.12(A), the Board may terminate a Member's Coverage Agreement and its right to purchase future Liability Coverage in accordance with the following procedure:

(1) Upon recommendation of the Service Company, the Administrator shall send a written notice of termination to the affected Member (the "Notice of Termination"), by registered or certified mail, which shall include (a) a brief description of the event or occurrence upon which the termination is based; (b) a statement that such termination will become effective on the thirtieth day following such Member's receipt of the Notice of Termination (the "Termination Date"); and (c) the time, date and location at which the Board will convene, if requested by the Member, to consider rescinding the Notice of Termination, which date shall be not earlier than the 15th day following the date on which the Notice of Termination is delivered to the postal authorities for delivery to the Member.

(2) Such Member's Coverage Agreement and right to purchase future Liability Coverage will be terminated on the Termination Date unless the Member submits a written request to the Board to rescind the Notice of Termination within 5 days of its receipt thereof.

(3) Upon receipt of such Member's request to rescind the Notice of Termination, the Board shall convene a meeting at the time, date and location specified in the Notice of Termination. At the meeting, the Board shall hear a report from the Service Company regarding the reasons for issuance of the Notice of Termination and such Member will be permitted an opportunity to refute the report of the Service Company and the findings contained in the Notice of Termination.

(4) The Board may, by affirmative vote of not less than four (4) Trustees, rescind the Notice of Termination. If the Board takes no action, the Liability Coverage of the Member and its officers and employees shall terminate as of the Termination Date. Subsequent to the Termination Date, no liability shall accrue to the Insurance Trust or its Members for any "occurrence", "offense", "error or omission" (each as defined in the Coverage Agreement) or any other happening to which the Coverage Agreement may otherwise apply, with respect to the Member whose Liability Coverage has been terminated.

(C) If a Member's right to purchase Liability Coverage is terminated during a Fiscal Year, any unearned portion of the Premium paid by such Member shall be returned at the earliest practicable date. For purposes of this Section 3.12(C), Premiums shall be deemed earned on an equal daily basis over the Coverage Period.

(D) The Extraordinary Loss Reserve Contribution of such Member shall be retained by the Insurance Trust subject to the provisions of Section 3.06(D) or (G) of this Agreement. Prior to the date such Member has received Reserve Contribution Refunds equal to its Extraordinary Loss Reserve Contribution, it shall, unless otherwise provided herein, be entitled to all rights granted to Members pursuant to this Agreement other than the right to purchase Liability Coverage.

**Section 3.13. No Rights of Membership Granted.** Nothing contained in this Article III, or any other section of this Agreement or in any other Program Document, shall be construed to grant any Public Agency the right to become a Member of the Insurance Trust or to receive Liability Coverage under a Coverage Agreement issued by the Insurance Trust regardless of technical or apparent compliance with requirements and conditions for membership as provided herein. Membership in the Insurance Trust and Liability Coverage under the Coverage Agreement is within the sole discretion of the Board despite any enumeration of any eligibility requirements in this Agreement and the other Program Documents.

**Section 3.14. Status of Member Obligations.** Anything in this Agreement and Declaration of Trust to the contrary notwithstanding, it is understood and agreed that the ad valorem taxing power and the full faith and credit of the Member has not been pledged to secure any obligations of the Member hereunder. Neither the Florida Liability Insurance Commission nor the Florida Association of Counties Trust shall have any right to compel the exercise of any ad valorem taxing power of the Member to pay any obligations of the Member owing hereunder. All obligations of the Member under this Agreement and Declaration of Trust shall be payable solely from Pledged Revenues as such revenues are described in the Loan Agreement by and between the Member and the Florida Liability Insurance Commission. The provisions of this paragraph shall survive the termination of this Agreement And Declaration of Trust.

## ARTICLE IV

### APPOINTMENT AND ORGANIZATION OF TRUSTEES

**Section 4.01. Number and Qualification of Trustees.** The Insurance Trust shall be administered by a Board of Trustees consisting of seven (7) Trustees. Each Trustee shall be an elected or otherwise duly qualified member of the governing body of a Public Agency or a full-time employee of a Public Agency and shall not be an owner, officer or employee of the Service Company. The initial Trustees shall be those listed in Section 4.02 of this Agreement. Not less than four (4) Trustees shall be members of the governing board or full-time employees of a Member currently purchasing Liability Coverage from the Insurance Trust and shall be designated "Member Trustees." A Member Trustee may also be a member of the Board of Directors of the County Association. If possible, at least four (4) Trustees shall be members of the Board of Directors of the County Association. Except as required to maintain not less than four (4) Member Trustees, Trustees appointed to fulfill the requirements set forth in the foregoing sentence shall not be required to be an officer or full-time employee of a Member.

**Section 4.02. Initial Trustees.** Commencing upon the effective date of this Agreement, the initial Trustees and officers of the Board and their initial terms shall be as follows:

<u>Name</u>	<u>Position</u>	<u>Term Expires</u>
Richard Seltzer*	Chairman/Trustee	September 30, 1991
Sue Schmitt*	Vice-Chairman/Trustee	September 30, 1991
Lee Vause*	Secretary/Trustee	September 30, 1991
Bill Peebles*	Trustee	September 30, 1991
Lee Draper*	Trustee	September 30, 1990
Ernie Padgett*	Trustee	September 30, 1990
Robert Fernandez	Trustee	September 30, 1990

\* Member Trustees.

**Section 4.03. Appointment and Terms.** Upon the conclusion of the initial terms set forth in Section 4.02, successor Trustees shall serve for two (2) year terms. Trustees shall be appointed by majority vote of the Board at the annual meeting or any special meeting called for the purpose of Trustee appointment. In the event of a vacancy prior to the expiration of a term because of

resignation, removal or any other reason, a successor Trustee may be appointed to serve the remainder of the term of the vacated Trustee by majority vote of the Board at the annual meeting or any special meeting called for the purpose of Trustee appointment. A Trustee may be removed, with or without cause, by an affirmative majority vote of the Board at the annual meeting or any special meeting called for the purpose of Trustee removal. In the event, for any reason, there ever exists less than four (4) Trustees, the President of the County Association shall have the power to appoint successor Trustees to serve the remainder of the term of the vacated Trustee or Trustees. No person shall serve more than two (2) successive terms as a Trustee; provided however, that any Trustee initially appointed for a term of less than two years may serve two full terms following the expiration of such Trustees initial term.

#### **Section 4.04. Resignations.**

(A) Any Trustee may resign by delivering, either by mail or in person, his written resignation to the Chairman.

(B) Any Trustee leaving office for whatever reason shall forthwith turn over to the remaining Trustees, at the principal office of the Insurance Trust, any and all records, books, documents, property or other assets in his possession owned by the Insurance Trust or by the Board incident to the fulfillment of this Agreement and the administration of the Insurance Trust.

(C) The powers of the Board to act shall not be impaired or limited in any way pending the appointment of a successor Trustee to fill any vacancy.

**Section 4.05. Successor Trustees.** Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Board an instrument in writing accepting such appointment hereunder, and thereupon such successor, without any further act, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessor shall, nevertheless, on the written request of the Commission, or of the successor Trustee, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder.

**Section 4.06. Board Meetings.**

(A) The annual meeting of the Board shall be held each year immediately following the annual meeting of the Members required by Section 3.11 of this Agreement.

(B) Special meetings of the Board may be called by the Chairman and in his absence by the Vice-Chairman, or by any three (3) Trustees. By unanimous consent of all of the Trustees, special meetings of the Board may be held without notice at any time and place; otherwise, notice of all special meetings of the Board shall be mailed to each Trustee at least ten (10) days prior to the time fixed for the meeting. The Administrator shall receive notice of all meetings. All notices of special meetings of the Board shall state the purpose thereof. In the event all of the Trustees shall severally or collectively consent in writing to any action taken or to be taken by the Insurance Trust, such action is valid action as though it had been authorized at a meeting of the Board.

(C) Telephonic regular or special meetings by conference call or other method of electronic voice transmission which permits each participant to hear every other participant and join in the discussion are specifically authorized.

(D) In the event all of the Trustees shall severally or collectively consent in writing to any action taken or to be taken by the Insurance Trust, such action is a valid action as though it had been authorized at a formal meeting.

(E) The Board shall meet not less than semiannually.

(F) Absence of any Trustee for three (3) consecutive meetings in a year without justification, excuse or good cause shall be deemed a resignation by such Trustee and the Board may declare vacant the position, which shall be filled in the manner indicated above.

**Section 4.07. Quorum and Voting.** A quorum for the transaction of business at any regular or special meeting of the Board shall consist of a majority of the Trustees then in office, but shall never be less than four (4) Trustees; provided however, that a majority of the Trustees present may act to continue the meeting to any time and date specified in such action. Each Trustee shall be entitled to one vote at any meeting of the Board. No vote by proxy shall be permitted. The affirmative vote of a majority of the Trustees present and eligible to vote shall be required for any action of the Board.

**Section 4.08. Conflicts of Interest.** No Trustee shall vote on any matter which inures to his or her special private gain, or the special gain of any principal, other than a Public Agency, by



whom he or she is retained. Such Trustee shall, prior to a vote being taken, disclose the nature of his or her interest in the matter from which he or she is abstaining from voting.

**Section 4.09. Principal Office.** The Board shall establish and maintain a principal office for the Insurance Trust, the exact location of which will be made known to the Members and others interested in the Insurance Trust. The books and records pertaining to the Trust shall be made available, upon reasonable notice, to the Members and the County Association at the principal office of the Insurance Trust.

**Section 4.10. Officers of the Board.** Officers of the Board required by this Agreement shall be elected at the annual meeting held in accordance with Section 4.06(A) of this Agreement. In addition, the Board may elect such other officers from their number as it deems advisable. Notwithstanding their stated terms, all officers shall serve at the pleasure of the Board.

(A) The Board shall elect a Chairman from their number by a majority vote, who shall serve for a period of one year, or until a successor shall have been duly elected and qualified, whichever is later and may be elected to an unlimited number of consecutive terms. The initial Chairman shall be the Trustee designated in Section 4.02 of this Agreement. The Chairman shall be the chief executive officer of the Insurance Trust, shall preside at all meetings of the Board and of the Members of the Trust, shall have general supervision over the affairs of the Trust and over the other officers, and shall perform all such other acts and duties as are incident to the Chairman's responsibilities as chief executive officer.

(B) The Board shall elect a Vice-Chairman from their number by a majority vote, who shall serve for a period of one year, or until a successor shall have been duly elected and qualified, whichever is later and may be elected to an unlimited number of consecutive terms. The initial Vice-Chairman shall be the Trustee designated in Section 4.02 of this Agreement. In case of the absence or disability of the Chairman, the Chairman's duties shall be performed by the Vice-Chairman. The Vice-Chairman shall perform such additional duties as are authorized by the Board.

(C) The Board shall elect a Secretary from their number by a majority vote, who shall serve for a period of one year, or until a successor shall have been duly elected and qualified, whichever is later and may be elected to an unlimited number of consecutive terms. The initial Secretary shall be the Trustee designated in Section 4.02 of this Agreement. The Secretary shall record and circulate the minutes of all meetings, shall prepare agendas and records, and perform such additional duties as are authorized by the Board.

**Section 4.11. Compensation.** No Trustee shall be compensated for service as a Trustee. A Trustee may be reimbursed for out-of-pocket expenses in attending meetings or for other travel on behalf of the Insurance Trust. No Trustee shall be employed or engaged by the Board to provide professional or other services to the Insurance Trust.

**Section 4.12. Standard of Care.** The Trustees shall use ordinary care and reasonable diligence in the administration of the Insurance Trust. Nothing contained in this Agreement, either expressly or by implication, shall be deemed to impose any duties or responsibilities on the Trustees other than those expressly set forth in this Agreement.

**Section 4.13. Liability.**

(A) Neither the Trustees nor any Member shall be liable on account of the failure of any insurer or reinsurer to make any payment under any Policy or any annuity held by the Insurance Trust or for the failure, insolvency or bankruptcy of any depository or custodian of the Insurance Trust Fund.

(B) A Trustee shall not be personally liable for monetary damages to any person for any statement, vote decision, or failure to act, regarding the management or policy of the Insurance Trust unless:

(1) the Trustee breached or failed to perform his or her duties as a Trustee; and

(2) the Trustee's breach of, or failure to perform, his or her duties constitutes:

(a) A violation of the criminal law, unless the Trustee had reasonable cause to believe such conduct was lawful or had no reasonable cause to believe such conduct was unlawful. A judgment or other final adjudication against a Trustee in any criminal proceeding for violation of the criminal law shall estop that Trustee from contesting the fact that such breach, or failure to perform, constitutes a violation of the criminal law; but does not estop the Trustee from establishing that such Trustee had reasonable cause to believe that such conduct was lawful or had no reasonable cause to believe that such conduct was unlawful;

(b) A transaction from which the Trustee derived an improper personal benefit, either directly or indirectly; or

(c) Recklessness or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(C) For the purposes of this Section 4.13, the term "recklessness" means the acting or omission to act, in conscious disregard of a risk: (1) known, or so obvious that it should have been known to the Trustee; and (2) known to the Trustee, or so obvious that it should have been known, to be so great as to make it highly probable that harm would follow from such action or omission.

**Section 4.14. Indemnification.** The Board shall, to the extent permitted by law, indemnify any person who was or is a party (other than an action by, or in the right of, the Insurance Trust), by reason of the fact that such person is or was a Trustee, officer, employee or agent of the Insurance Trust or was serving at the request of the Insurance Trust or was serving as an employee, or agent of the Insurance Trust against liability incurred in connection with such proceedings on behalf of the Insurance Trust, including any approval of such proceedings, if such person acted in good faith and in a manner reasonably believed to be in, or not opposed to, the best interest of the Insurance Trust and, with respect to any criminal action or proceedings, had no reasonable cause to believe such conduct was unlawful. The termination of any proceedings 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 person did not act in good faith and in a manner which he reasonably believed to be in, or not opposed to, the best interest of the Insurance Trust, or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

## ARTICLE V

### POWERS AND DUTIES OF TRUSTEES

**Section 5.01. Determination of Eligibility.** The Board shall determine all questions of the scope of Liability Coverage, eligibility, methods of providing or arranging for benefits and all other related matters. It shall have full power to construe the provisions of this Agreement and the other Program Documents and the terms used herein and therein. Any such determination and any such construction adopted by the Board in good faith shall be binding upon all parties hereto and the Members, provided such determination or such construction is consistent with the laws of the State.

**Section 5.02. Discharge of Claims.** The Board shall have full power to assume and discharge any lawful and proper award or claim pertaining to Liability Coverage of Members. Any such award or claim shall be paid from such of the Trust Assets held by the Insurance Trust as the Board shall determine under the provisions of the Program Documents.

**Section 5.03. Amendment of Operations Manual.** The Operations Manual attached hereto as Exhibit C is hereby approved by the Charter Members and the initial Trustees and incorporated in this Agreement by reference as if fully set out herein. The Board shall have the authority to amend the Operations Manual, including all appendices thereto, by action of a majority of the Trustees present at an annual or special meeting of the Board; provided however, that no amendment to Section 7.06 relating to admission of new members shall be made without the affirmative vote of at least five (5) Trustees. No amendment to the Operations Manual shall be inconsistent with the substantive rights and obligations of Members specifically set forth in this Agreement. New Members shall be deemed to have approved the Operations Manual upon application for membership in the Insurance Trust.

**Section 5.04. Enforcement of Agreement.** The Board shall have the right to enforce the performance of all obligations in this Agreement and the other Program Documents and to institute proceedings of any nature whatsoever to enforce the same. Except as set forth in the Operations Manual, neither the Board, the Service Company nor the Administrator shall be authorized to extend credit to any Member.

**Section 5.05. Establishment of Liability Coverage.** The Board shall have the right to establish the Liability Coverage of Members of the Insurance Trust to be provided under the Coverage Agreements and to reduce or increase such Liability Coverage in the manner provided in the Coverage Agreements.

**Section 5.06. Policies of Insurance or Reinsurance.** The Board shall have the power to contract for Policies of insurance (including reinsurance) and to set the limits of any claim against any Member to be paid out of the Insurance Trust or by such Policies of insurance or reinsurance.

**Section 5.07. Appointment of Administrators.** The Board may hire or appoint one or more Administrators to perform such duties and functions as shall be specified in an agreement executed by the Administrator and by the Board. In the absence of an Administrator, the Chairman shall assume those responsibilities. The initial Administrator shall be the County Association. Replacement or termination of the County Association as an Administrator shall require joint approval by the Board and the Board of Directors of the County Association.

**Section 5.08. Appointment of Trust Counsel.** The Board shall have the power to engage or employ a Trust Counsel. The Trust Counsel will be responsible for general legal representation of the Insurance Trust, defense of certain claims, and supervision of all claims defense.

**Section 5.09. Appointment of Service Companies.** The Board shall have the power to contract in writing with one or more Service Companies. Such contracts shall provide the duties and compensation of the Service Companies and such other matters as the Board shall deem appropriate, but not inconsistent with the terms of this Agreement and the Act.

**Section 5.10. Investments.** All funds on deposit in the accounts established pursuant to Section 2.02 of this Agreement shall be continuously invested and reinvested. The Board may contract or otherwise arrange for the investment and investment management of any or all Trust Assets. The Chairman, Vice-Chairman, Secretary and a representative of the Administrator shall serve as an investment committee for the Insurance Trust. The investment committee shall oversee the investment of the Trust Assets in accordance with provisions of applicable law and this Agreement and shall develop an investment policy which shall be approved by the Board. Except as otherwise provided in this Agreement or the Operations Manual, all earnings derived from the investment of funds in each account or subaccount will be retained in such respective account or subaccount.

**Section 5.11. Books and Records.** The Board shall keep or cause to be kept true and accurate books of account and records of all their transactions as Trustees and shall provide financial statements to the Members on a periodic basis. Such financial statements and records shall be maintained in accordance with insurance accounting practices as defined in the National Association of Insurance Commissioners' Standard Accounting Principles.

**Section 5.12. Annual Audits.** The financial statements required by Section 5.11 of this Agreement shall be reviewed by an independent certified public accountant as required by any applicable Regulations but not less often than annually. A statement of the results of said review shall be made available for inspection by Members and others as required by law at the principal office of the Insurance Trust, or at such other place as may be designated by the Board.

**Section 5.13. Reports to Members and County Association.** The Board, within its discretion, shall, at reasonable intervals, furnish to the Members reports representing the status of the Insurance Trust Fund and such other pertinent information regarding the operation of the Insurance Trust and the benefits obtained under any Policies as may seem desirable or advisable, but shall not be required to furnish such reports more often than annually. The Board shall cause to be made and filed all required documents and reports to governmental entities as required by applicable law and Regulations. The Board shall also provide a financial status report to the Board of Directors of the County Association at each Board of Directors meeting.

## ARTICLE VI

### TERMINATION OF INSURANCE TRUST

#### Section 6.01. Termination.

(A) The Insurance Trust shall not be authorized to issue new Coverage Agreements for any Fiscal Year in which there will be insufficient Trust Assets, including Premiums to be paid in connection with Coverage Agreements for such Fiscal Year, to provide actuarially sound Liability Coverage to the Members.

(B) The Board may elect not to issue new Coverage Agreements for any reason and at any time after January 1, 1996.

(C) Upon the occurrence of any event described in Sections 6.01(A) or (B), the Insurance Trust shall be terminated in accordance with the provisions of this Article VI.

#### Section 6.02. Procedure for Termination.

(A) In the event the Insurance Trust is terminated, the Board shall continue to meet at such times as shall be necessary to conclude the affairs of the Insurance Trust.

(B) All Trust Assets shall be transferred to the Operating Account and held solely for the purposes described in Sections 2.05(A) and (E) of this Agreement.

(C) At the beginning of each Fiscal Year, the Board shall, upon consideration of the Service Company's recommendation, determine the amount of Trust Assets which should be retained for the purposes described in Section 6.02(B). Trust Assets not required for such purposes shall be distributed to the Members in proportion to their Percentage Shares.

(D) If at any time all of the Trust Assets are set aside in a Claims Reserve Subaccount, the amounts reserved for the benefit of each Member shall, upon payment of all other expenses of the Insurance Trust, be distributed directly to such Members.

(E) Upon distribution of all remaining Trust Assets pursuant to Sections 6.02(C) or (D), all obligations imposed by the Program Documents with respect to the Members, the Insurance Trust and the Trustees shall be discharged. Thereafter, any claim due to an "occurrence", "offense", "error or omission" (each as defined in the Coverage Agreement) or any other happening to which the Coverage Agreement may otherwise have applied, shall become the responsibility of the Member against whom such claim is asserted.

## ARTICLE VII

### GENERAL PROVISIONS

**Section 7.01. Amendments.** This Agreement may be amended at any time, and from time to time, (A) by the affirmative vote of four (4) Trustees and (B) upon receipt of written consents to such amendment executed by Members whose aggregate Percentage Shares exceed fifty percent (50%). Notwithstanding the foregoing, no amendment may be made without the approval of all current Members hereto, which (A) shall divert the Trust Assets to a purpose other than that set forth in Section 2.05 of this Agreement; (B) affects the computation of Percentage Shares, (C) modifies the rights and obligations of Members as set forth in Sections 3.05, 3.06, 3.08, 3.11, 3.14, 5.12, 7.01 and Article VI of this Agreement.

**Section 7.02. Fidelity Bonds.** Each Trustee and each person who is authorized by the Board to sign checks or is or may be engaged in handling Trust Assets or securities held in the Insurance Trust Fund, or any other person who must be bonded according to applicable Regulations, shall be bonded at the expense of the Insurance Trust by a duly authorized fidelity company in such amounts as may from time to time be required by the Board or by any applicable law.

**Section 7.03. Reliance by Third-Parties.** No person, firm or corporation dealing with the Board shall be obligated to see to the application of any property or Trust Assets of the Insurance Trust Fund or to see that the terms of the Insurance Trust have been complied with or be obliged to inquire into the necessity of any act of the Board, and every instrument executed by the Board shall be conclusive in favor of any person, firm or corporation relying thereon that:

(A) at the time of the delivery of said instrument, the Insurance Trust was in full force and effect;

(B) said instrument was effected in accordance with the terms and conditions of this Agreement and the Operations Manual; and

(C) the Board was duly authorized and empowered to execute such instrument.

**Section 7.04. Construction.** All questions pertaining to the validity, construction and administration of Insurance Trust created herein shall be determined in accordance with the laws of the State.



**Section 7.05. Counterparts.** This Agreement may be signed in one or more counterparts, all of which taken together shall constitute one instrument. The signatures of parties appearing on one or more counterparts shall bind them as fully as though all such parties had signed the same counterpart.





IN WITNESS WHEREOF, Ernie Padgett, as Trustee, has executed and delivered this Agreement and Declaration of Trust as of the day and year first above written.

Witnesses:

[Signature]  
Walew Krishna

[Signature]  
Ernie Padgett, Trustee

STATE OF Florida )  
COUNTY OF Jackson )

Before me personally appeared Ernie Padgett, to me well known and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this 5<sup>th</sup> day of April, A.D., 1989.

[Signature]  
Notary Public  
State of Florida

Notary Public, State of Florida  
My Commission Expires Aug. 9, 1991

My commission expires

IN WITNESS WHEREOF, Bill Peebles, as Trustee, has executed and delivered this Agreement and Declaration of Trust as of the day and year first above written.

Witnesses:

Mark T. Masterson  
John A. Anderson

Bill Peebles  
Bill Peebles, Trustee

STATE OF FLORIDA )  
COUNTY OF HILLSBOROUGH )

Before me personally appeared Bill Peebles, to me well known and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this 10th day of April, A.D., 1989.

Mark T. Masterson  
Notary Public  
State of FLORIDA

My commission expires

Notary Public, State of Florida  
My Commission Expires March 19, 1991  
Pended thru 1987 by Florida Department of Banking





IN WITNESS WHEREOF, Lee Vause, as Trustee, has executed and delivered this Agreement and Declaration of Trust as of the day and year first above written.

Witnesses:

Heber Glenn  
Linda V. Mysicki

Lee Vause  
Lee Vause, Trustee

STATE OF Florida )  
COUNTY OF Leon )

Before me personally appeared Lee Vause, to me well known and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that he executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this 7th day of April, A.D., 1989.

Linda V. Mysicki  
Notary Public  
State of Florida

My commission expires \_\_\_\_\_

Notary Public, State of Florida  
My Commission Expires July 7, 1990  
Bonded Thru Troy Fain - Insurance Inc.

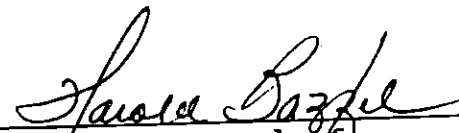


IN WITNESS WHEREOF, the Board of County Commissioners of Bay County, Florida has caused this Agreement and Declaration of Trust to be executed and delivered as of the day and year first above written.

BAY COUNTY, FLORIDA

  
\_\_\_\_\_  
Chairman, Board of County  
Commissioners

ATTEST:

  
\_\_\_\_\_  
Clerk to the Board of  
County Commissioners

IN WITNESS WHEREOF, the Board of County Commissioners of Brevard County, Florida has caused this Agreement and Declaration of Trust to be executed and delivered as of the day and year first above written.

BREVARD COUNTY, FLORIDA

Roger W. Gibson  
Chairman, Board of County  
Commissioners

ATTEST:


[Signature]  
Clerk to the Board of  
County Commissioners

IN WITNESS WHEREOF, the Board of County Commissioners of Jackson County, Florida has caused this Agreement and Declaration of Trust to be executed and delivered as of the day and year first above written.

JACKSON COUNTY, FLORIDA

  
\_\_\_\_\_  
Chairman, Board of County  
Commissioners

ATTEST:

  
\_\_\_\_\_  
Clerk to the Board of  
County Commissioners

IN WITNESS WHEREOF, the Board of County Commissioners of Leon County, Florida has caused this Agreement and Declaration of Trust to be executed and delivered as of the day and year first above written.

LEON COUNTY, FLORIDA


  
\_\_\_\_\_  
Chairman, Board of County  
Commissioners

ATTEST:


  
\_\_\_\_\_  
Clerk to the Board of  
County Commissioners

IN WITNESS WHEREOF, the Board of County Commissioners of Okaloosa County, Florida has caused this Agreement and Declaration of Trust to be executed and delivered as of the day and year first above written.

OKALOOSA COUNTY, FLORIDA

  
Chairman, Board of County  
Commissioners

ATTEST:

  
Clerk to the Board of  
County Commissioners

IN WITNESS WHEREOF, the Board of County Commissioners of Polk County, Florida has caused this Agreement and Declaration of Trust to be executed and delivered as of the day and year first above written.

POLK COUNTY, FLORIDA

  
\_\_\_\_\_  
Chairman, Board of County  
Commissioners

ATTEST:

  
\_\_\_\_\_  
Clerk to the Board of  
County Commissioners

**EXHIBIT A**

**NOTICE OF ADMISSION OF NEW MEMBER(S) AND  
EXCESS RESERVE AMOUNT**

Florida Association of Counties Trust

TO: Existing Members of the Florida Association of Counties Trust  
and the Florida Liability Insurance Commission

The Board of Trustees (the "Board") of the Florida Association of Counties Trust, (the "Insurance Trust") hereby gives notice pursuant to Section 3.06(B) of the Agreement and Declaration of Trust dated as of March 1, 1989, pursuant to which the Insurance Trust was created (the "Agreement"), that the Board has approved the following Public Agencies as Member(s) of the Insurance Trust effective \_\_\_\_\_ (date) (the "Admission Date"), that the Extraordinary Loss Reserve Contribution for such Member(s) has been determined to be the amount shown below and that such Member(s) requested that financing for the Extraordinary Loss Reserve Contribution be made available in the amount shown below:

<u>New Member</u>	<u>Amount of Extraordinary Loss Reserve Contribution</u>	<u>Amount of Financing Requested</u>
-------------------	--	--

You are further advised that as a result of the Extraordinary Loss Reserve Contribution to be made by such new Member(s), the Board has determined that there will exist on the Admission Date of such new Member(s) an Excess Reserve Amount in the Extraordinary Loss Reserve Account in the total amount of \$\_\_\_\_\_. Such Excess Reserve Amount has been allocated to each of the existing Members, based on their Percentage Share of the Insurance Trust Fund, in the amounts shown in Column 1 below.

In order to determine how much financing is available for the Extraordinary Loss Reserve Contribution to be made to the new Member(s) and how much of a refund is available to be made to each of the existing Members, the Florida Liability Insurance Commission (the "Commission") is requested to indicate, as of the Admission Date, the outstanding principal amount of the Loan to each Member by completing Column 2 below.

<u>Names of Existing Members</u>	(1) Excess Reserve <u>Amount</u> \$	(2) Outstanding Loan <u>Principal Amount</u> \$
Total	\$	\$

Upon completing the information requested herein, the Commission shall return this notice to the Board at the following address: Florida Association of Counties Trust, \_\_\_\_\_, Florida Attention: \_\_\_\_\_. All capitalized terms used in this notice and not otherwise defined herein shall have the meanings ascribed thereto in the Agreement.

BOARD OF TRUSTEES OF THE  
FLORIDA ASSOCIATION OF COUNTIES TRUST

cc: New Members of Florida Association of Counties Trust



**EXHIBIT B**

**NOTICE OF REALLOCATION OF LOAN  
PROCEEDS UPON ADMISSION OF NEW MEMBER(S)**

Florida Association of Counties Trust

To: Existing Members of the Florida Association of Counties Trust  
and the Florida Liability Insurance Commission

The Board of Trustees (the "Board") of the Florida Association of Counties Trust (the "Insurance Trust") has heretofore given Notice of Admission of New Member(s) and Excess Reserve Amount, dated \_\_\_\_\_ (the "Notice of Admission") that the Public Agencies shown below requested financing for the Extraordinary Loss Reserve Contribution in connection with their admission as Members of the Insurance Trust. Based on the information provided in the Notice of Admission, the Board and the Florida Liability Insurance Commission (the "Commission") have determined that \$\_\_\_\_\_ aggregate amount of financing is available to the new Member(s), which will be provided by the existing Members with outstanding Loan amounts, in the respective amounts indicated in Column B. The Commission shall give a credit in the amounts indicated in Column B below to each existing Member that provides such financing against the outstanding principal amount of its Loan, in accordance with Section [10.02] of the Loan Agreements.

The Board shall cause a cash refund to be made to each of the existing Members in the amount (indicated in Column C below) equal to such Member's Percentage Share of the Excess Reserve Amount (indicated in Column A below) minus the amount, if any, indicated in Column B given as a credit to each Member that provides financing to the new Member(s).

	(A)	(B)	(C)
	Excess Reserve Amount	Loan Financing Provided to New Member(s)	Cash/Premium Refund/Credit
<u>Existing Member</u>	\$ _____	\$ _____	\$ _____
<b>Total</b>	\$ _____ =====	\$ _____ =====	\$ _____ =====

The amount of Loan Financing Provided to New Members (Column B) shall be determined by the Board and the Commission as follows: For any Member that did not finance its Extraordinary Loss Reserve Contribution with a Loan or any Member that has no principal amount of its Loan outstanding as of the Admission Date set forth in the Notice of Admission, the amount in Column B shall be zero. For any

Member that has an Percentage Share of the Excess Reserve Amount (Column A) that is equal to or greater than the principal amount of its Loan outstanding as of the Admission Date, the amount in Column B shall be equal to such outstanding principal amount of the Loan (except as provided in the next paragraph). For any Member that has an Percentage Share of the Excess Reserve Amount (Column A) that is less than the principal amount of its Loan outstanding as of the Admission Date, the amount in Column B shall be equal to such Member's Percentage Share of the Excess Reserve Amount shown in Column A (except as provided in the next paragraph).

Notwithstanding the calculation made pursuant to the preceding paragraph, the amount of Column B for each Member shall be equal to the adjusted amount described in this paragraph in the event the Total of Column B would be greater than the total amount of financing requested by the new Member(s) that have been approved by the Commission. The amount determined for each Member according to the preceding paragraph will be adjusted by multiplying such amount by a fraction the numerator of which is the total amount of financing requested by the new Member(s) that have been approved by the Commission and the denominator of which is the total amount of Column B that would have been determined in accordance with the preceding paragraph.

In the event the total of Column B is less than the total amount of financing requested by the new Member(s) that have been approved by the Commission, financing in the amount of such deficiency will not be available to the new Member(s). In such case, the Board shall determine how it will allocate the total amount of Column B available for Loan financing among the new Members requesting financing.

Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Agreement and Declaration of Trust dated as of March 1, 1989 pursuant to which the Insurance Trust was created.

BOARD OF TRUSTEES  
FLORIDA ASSOCIATION OF COUNTIES TRUST

cc: New Members of Florida Association of Counties Trust

**EXHIBIT C**

**FORM OF OPERATIONS MANUAL**

**OPERATIONS MANUAL**

**for the**

**FLORIDA ASSOCIATION OF COUNTIES TRUST**

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**FLORIDA ASSOCIATION OF COUNTIES TRUST  
OPERATIONS MANUAL**

**ARTICLE I**

**DEFINITIONS**

**Section 1.01. Definitions.** The following capitalized terms shall have the meanings set forth below unless the text otherwise expressly requires. Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations.

**"Act"** shall mean, collectively, Chapter 163, Part I, Florida Statutes, Chapter 125, Part I, Florida Statutes, Chapter 166, Part II, Florida Statutes, Section 768.28 (14), Florida Statutes, and other applicable provisions of law.

**"Administrator"** shall mean the County Association or any successor appointed or employed pursuant to Section 5.07 of the Trust Agreement.

**"Board"** shall mean the Trustees constituting the governing board of the Insurance Trust.

**"Bonds"** shall mean the Pooled Liability Insurance Program Revenue Bonds issued by the Commission.

**"Chairman"** shall mean the chairman of the Board initially designated in Section 4.02 of the Trust Agreement or any successor appointed thereafter as provided in Section 4.10 of the Trust Agreement.

**"Charter Members"** shall mean the initial Public Agency signatories to the Trust Agreement.

**"Claims Reserve Subaccount"** shall mean one or more subaccounts created within the Operating Account pursuant to Section 2.02 of the Trust Agreement for the purpose of allocating funds for the payment of known claims.

**"Commission"** shall mean the Florida Liability Insurance Commission, a public body corporate and politic created pursuant to the Act.

**"Compliance Notice"** shall have the meaning set forth in Section 3.02(C) hereof.

**"County Association"** shall mean the Florida Association of Counties, Inc., a Florida not-for-profit corporation.

**"Coverage Agreement"** shall mean the liability coverage agreement, in substantially the form attached hereto as Appendix A, including any endorsements thereto which shall be in substantially the form attached hereto as Appendix B, entered into between a Member and the Board providing for participation in the Insurance Trust and specifying the Liability Coverage provided by the Insurance Trust to the Member for the Coverage Period.

**"Coverage Period"** shall mean the period of time in which Liability Coverage is provided to a Member under a Coverage Agreement. Each Coverage Period shall end on the last calendar day of a Fiscal Year.

**"Designated Member Subaccount"** shall mean a subaccount in the Extraordinary Loss Reserve Account established by the Board at the request of a Member pursuant to Section 2.05 of this Operations Manual.

**"Distribution Date"** shall mean the date Trust Assets are distributed to the Members upon dissolution of the Insurance Trust pursuant to Article VI of the Trust Agreement.

**"Excess Reserve Amount"** shall mean, at any time of calculation, the amount on deposit in the Extraordinary Loss Reserve Account in excess of the Extraordinary Loss Reserve Account Requirement.

**"Extraordinary Loss Reserve Account"** shall mean the separate account in the Insurance Trust Fund established pursuant to Section 2.02(A) of the Trust Agreement.

**"Extraordinary Loss Reserve Account Requirement"** shall mean the amount established by the Board in its discretion, upon consideration of the Service Company's recommendation, as necessary to be on deposit in the Extraordinary Loss Reserve Account for the provision of actuarially sound Liability Coverage to the Members for up to one future Fiscal Year. The initial Extraordinary Loss Reserve Account Requirement shall be \$5,000,000.

**"Extraordinary Loss Reserve Contribution"** shall mean the contribution to the Insurance Trust Fund required of each Public Agency, pursuant to Section 3.01 or 3.06(A) of the Trust Agreement, as a condition of becoming a Member. Each Extraordinary Loss Reserve Contribution shall include amounts required to fund the Extraordinary Loss Reserve Account and amounts required to pay costs associated with the initial formation of the Insurance Trust.

**"Fiscal Year"** shall mean the period commencing on October 1 of each year and continuing through the next succeeding



September 30, or such other period as may be designated by the Board.

**"Index System"** shall mean the insurance industry's claims reporting and indexing system.

**"Insurance Trust"** shall mean the Florida Association of Counties Trust which has been created pursuant to the Trust Agreement as a local government liability pool.

**"Insurance Trust Fund"** shall mean the Florida Association of Counties Insurance Trust Fund created pursuant to Section 2.02 of the Trust Agreement.

**"Investment Earnings"** shall mean the aggregate of interest earned, dividends, and gains or losses realized from the investment of moneys in the Insurance Trust Fund.

**"Liability Coverage"** shall mean the coverage or indemnity of certain liability of Members and other covered organizations and persons, within the monetary limits and under the terms and conditions established by the Board, all as described and specified in the Coverage Agreement.

**"Loan"** shall mean an unrepaid amount of any loan from the Commission to a Member.

**"Loan Agreement"** shall mean the agreement between the Commission and any Member pursuant to which a Member borrows Bond proceeds.

**"Member"** shall mean and include each Charter Member and any other Public Agency located in the State of Florida which is accepted for membership in the Insurance Trust pursuant to Article III of the Trust Agreement; provided however, that any Public Agency that has received Reserve Contribution Refunds equal to its Extraordinary Loss Reserve Contribution shall no longer be deemed a "Member".

**"Notice of Noncompliance"** shall have the meaning set forth in Section 3.02(C) hereof.

**"Operating Account"** shall mean the separate account in the Insurance Trust Fund established pursuant to Section 2.02(A) of the Trust Agreement.

**"Operations Manual"** shall mean this Operations Manual.

**"Percentage Share"** shall mean, with respect to each Member, at any time of calculation, the percentage derived by dividing such Member's Extraordinary Loss Reserve Contribution less the sum of all Reserve Contribution Refunds to such Member, by the aggregate

amount of Extraordinary Loss Reserve Contributions made by all Members less the sum of all Reserve Contribution Refunds to all Members.

**"Policy"** shall mean and include any policy of insurance and/or reinsurance purchased by or assigned to the Insurance Trust and shall be deemed to include any and all amendments or riders attached to each such policy or policies.

**"Premium Credit"** shall mean the amount of Investment Earnings to which a Member may be entitled as a credit against its Premium or otherwise, pursuant to Section 3.06(F) of the Trust Agreement.

**"Premium"** shall mean annual payments or installments required of a Member under the Coverage Agreement for Liability Coverage, as actuarially computed and adjusted under the provisions of this Operations Manual.

**"Program Documents"** shall mean the Trust Agreement, this Operations Manual, the Coverage Agreement, the Regulations and any Policy.

**"Public Agency"** shall mean a "public agency" as defined in Part I of Chapter 163, Florida Statutes, which is a "state or political subdivision" within the meaning of Section 103(c)(1) of the Internal Revenue Code of 1986, as amended.

**"Regulations"** shall mean all laws and regulations affecting the Insurance Trust, as they are currently in force or hereafter amended, which are promulgated by the State of Florida or a department or a division thereof.

**"Reserve Contribution Refund"** shall mean the refund of all or a portion any Member's Extraordinary Loss Reserve Contribution pursuant to Sections 3.06(B), (C), (D) or (G) of this Agreement but shall not include any Premium Credit.

**"Risk Management Account"** shall mean the Risk Management Account created within the Insurance Trust Fund pursuant to Section 2.02 of this Agreement.

**"Secretary"** shall mean the secretary of the Board initially designated in Section 4.02 of the Trust Agreement or any successor appointed thereafter as provided in Section 4.10 of the Trust Agreement.

**"Service Company"** shall mean Bliss-McKnight Management Corporation of Florida or any successor appointed pursuant to Section 5.09 of the Trust Agreement.

**"State"** shall mean the State of Florida.

**"Termination Date"** shall mean the date on which a Member's participation in the Insurance Trust is terminated pursuant to Section 3.12 of the Trust Agreement.

**"Trust Agreement"** shall mean the Agreement and Declaration of Trust, dated as of March 1, 1989, providing for creation of the Insurance Trust.

**"Trust Assets"** shall mean the sum of all monies and other assets held by the Trustees on behalf of the Insurance Trust; which shall include, but not be limited to, all bank accounts, savings accounts or certificates of deposit, Premiums received from Members, interest income, or other return thereon, Policies together with any premium dividends, refunds or other sums payable on account of such Policies, all investments made and held by the Trustees on behalf of the Insurance Trust, and any other property of any kind whatsoever, received and held for the uses and purposes declared by the Trust Agreement.

**"Trust Counsel"** shall mean an attorney or firm of attorneys, experienced in matter of local government law and duly admitted to practice law in the State, engaged or employed by the Board pursuant to Section 5.08 of the Trust Agreement.

**"Trustees"** shall mean the trustees of the Insurance Trust initially designated in Section 4.02 of the Trust Agreement or any successors appointed thereafter as provided in Section 4.03 of the Trust Agreement.

**"Uninsured Retention"** shall mean the amount designated on a Coverage Agreement as the self-insured portion or "deductible amount" of any claim.

**"Vice-Chairman"** shall mean the vice-chairman of the Board initially designated in Section 4.02 of the Trust Agreement or any successor appointed thereafter as provided in Section 4.10 of the Trust Agreement.

## ARTICLE II

### FUNDS AND ACCOUNTS

**Section 2.01. Establishment of Funds and Accounts.** An Insurance Trust Fund will be established as required by the Trust Agreement. Accounts will be established within the Trust Fund as necessary to comply with the Trust Agreement, applicable Regulations and insurance accounting practices as defined in Accounting Practices and Procedures Manual for Fire and Casualty Insurance Companies as published, from time to time, by the National Association of Insurance Commissioners, or as commonly used within the insurance industry in the preparation of accounting for property/casualty insurance company operations utilizing the convention blank prescribed by the National Association of Insurance Commissioners. In addition to the accounts which may otherwise be required, the Board shall establish and maintain Risk Management Accounts and such Designated Member Subaccounts it shall determine to be necessary or desirable. Any funds received on behalf of the Insurance Trust by the Board, the Service Company, the Administrator, the Trust Counsel or their respective employees, officers, agents or independent contractors shall be immediately transmitted to the Service Company for deposit in the accounts of the Insurance Trust.

#### **Section 2.02. Operating Account.**

(A) Premiums shall be deposited upon receipt into the Operating Account. Funds on deposit in the Operating Account shall be applied for the following purposes:

(1) to pay claims which are or may be covered by a Coverage Agreement;

(2) to pay or provide for the payment of premiums and other expenses on any Policy or Policies, if any, including any reinsurance or excess insurance, of the Insurance Trust or the Board, when such premiums shall become due;

(3) to provide for a risk management program as described in Article VI this Operations Manual;

(4) to enforce the payment of or to pay or provide for the payment of all reasonable and necessary expenses of collecting Premiums required under the Coverage Agreement;

(5) affairs of the Insurance Trust and its Trust Assets, including, without limitation, the payment of all expenses which may be incurred in connection with the establishment, preservation and extension of the Insurance Trust, the employment of such administrative, legal, expert and clerical assistance (including the Administrator, the Trust Counsel and the Service Company), the

purchase of surety bonds, the leasing of such premises and the purchase or lease of such materials, printed matter, supplies and equipment as the Board, in its discretion, finds necessary or appropriate; and

(6) to make direct payments in lieu of Premium Credits in accordance with Section 3.06(F) of the Trust Agreement.

Investment Earnings derived from the funds on deposit in the Operating Account shall be retained in the Operating Account.

(B) Amounts equal to the Service Company's estimate of the Insurance Trust's aggregate unpaid liability for known claims, including allocated loss expenses and settlement costs, shall be credited to a Claims Reserve Subaccount in the Operating Account. If the Service Company determines that the funds on deposit in the Operating Account exceed the amount reasonably required for the purposes of such Account, any excess amounts may be transferred to the Extraordinary Loss Reserve Account.

**Section 2.03. Extraordinary Loss Reserve Account.**

Extraordinary Loss Reserve Contributions shall be deposited upon receipt into the Extraordinary Loss Reserve Account. Notwithstanding the foregoing, that portion of each Charter Member's Extraordinary Loss Reserve Contribution required to pay costs associated with the initial formation of the Insurance Trust shall be deposited to the Operating Account; provided, however, that the aggregate amount of Charter Members' Extraordinary Loss Reserve Contributions deposited in the Extraordinary Loss Reserve Account shall not be less than the Extraordinary Loss Reserve Account Requirement. Funds on deposit in the Extraordinary Loss Reserve Account shall be applied for the following purposes:

(A) for transfer to the Operating Account if there are insufficient funds on deposit in the Operating Account; and

(B) for the payment of Reserve Contribution Refunds in accordance with Sections 3.06 (B), (C), (D) and (G) of the Trust Agreement.

Investment Earnings derived from the funds on deposit in the Extraordinary Loss Reserve Account shall be credited to the Operating Account on a periodic basis.

**Section 2.04. Application of Trust Assets.** The Board may use and apply the Trust Assets on its own behalf or may delegate the use and application of such Trust Assets to the Administrator or the Service Company for the following purposes:

(A) to pay claims and claims expenses which are or may be covered by a Coverage Agreement;

(B) to pay or provide for the payment of premiums and other expenses on any Policy or Policies, if any, including any reinsurance or excess insurance of the Insurance Trust, when such premiums shall become due;

(C) to provide for a risk management program as described in Article VI of this Operations Manual.

(D) to enforce the payment of or to pay or provide for the payment of all reasonable and necessary expenses of collecting Premiums required under the Coverage Agreement;

(E) to administer or provide for the administration of the affairs of the Insurance Trust and its Trust Assets, including, without limitation, the payment of all expenses which may be incurred in connection with the establishment, preservation and extension of the Insurance Trust, the employment of such administrative, legal, expert and clerical assistance (including the Administrator and the Service Company), the purchase of surety bonds, the leasing of such premises and the purchase or lease of such materials, printed matter, supplies and equipment as the Board, in its discretion, finds necessary or appropriate; and

(F) to make refunds to Members, in accordance with Sections 3.06(B), (C), (D), (F) and (G) of the Trust Agreement.

**Section 2.05. Designated Member Subaccounts.** The Board may, upon request of any Member, establish a Designated Member Subaccount in the Extraordinary Loss Reserve Account to account for the Extraordinary Loss Reserve Contribution of such Member in the manner set forth in this Section 2.05.

(A) Designated Member Subaccounts may be established for the purpose of separately accounting for the proceeds of a Member's Extraordinary Loss Reserve Contribution and the investment earnings therefrom; provided that, except as set forth in this Section 2.05, all funds and accounts may be commingled for purposes of making, holding and disposing of investments. Amounts on deposit in such Designated Member Subaccounts shall be used and applied for the same purposes as other Trust Assets.

(B) Amounts on deposit in any Designated Member Subaccount established pursuant to this Section 2.05 be held therein until transferred in accordance with written direction from the Member or disbursed by the Board for the purposes described in Section 2.05 of the Trust Agreement and shall not be invested at a yield higher than that designated by such Member upon creation of such Subaccount, in the absence of written direction from the Member. No transfer from the Extraordinary Loss Reserve Account pursuant to written direction of a Member shall be made unless a concurrent deposit to the Extraordinary Loss Reserve Account is made in an equal amount.

(C) Each Member shall be entitled to a Premium Credit against the Premium payable for any Fiscal Year following the initial Fiscal Year, in an amount to be computed and paid or credited as follows:

(1) During any period in which there are no funds on deposit in a Designated Member Subaccount, the Premium Credit of each Member shall be computed as the sum of (a) such Member's Percentage Share of the Investment Earnings on the Extraordinary Loss Reserve Account for the immediate prior Fiscal Year plus (b) that portion of the Investment Earnings on the Operating Account for the immediate prior Fiscal Year equal to the aggregate of such Investment Earnings multiplied by such Member's Premium for such Fiscal Year divided by the sum of all Members' Premiums for such Fiscal Year.

(2) During any period in which there are funds on deposit in a Designated Member Subaccount, the Premium Credit of each Member for which a Designated Member Subaccount has been maintained during the immediate prior Fiscal Year shall be computed as the sum of (a) the Investment Earnings on the Designated Member Subaccount maintained for such Member for the immediate prior Fiscal Year plus (b) the product of (i) the average rate of investment earnings on amounts on deposit in the Extraordinary Loss Reserve Account during the immediate prior Fiscal Year, times (ii) such Member's Extraordinary Loss Reserve Contribution less the aggregate amount of Reserve Contribution Refunds paid or credited to such Member and less the average daily balance on deposit in the Designated Member Subaccount maintained for such Member, times (iii) the average daily balance on deposit in the Extraordinary Loss Reserve Account divided by the difference between the aggregate amount of Extraordinary Loss Reserve Contributions of all Members and the aggregate amount of Reserve Contribution Refunds paid or credited to all Members, plus (c) that portion of the Investment Earnings on the Operating Account for the immediate prior Fiscal Year equal to the aggregate of such Investment Earnings multiplied by such Member's Premium for such Fiscal Year divided by the sum of all Members' Premiums for such Fiscal Year.

(3) During any period in which there are funds on deposit in a Designated Member Subaccount, the Premium Credit of each Member for which a Designated Member Subaccount has not been maintained during the immediate prior Fiscal Year shall be computed as the sum of (a) the product of (i) the average rate of investment earnings on amounts on deposit in the Extraordinary Loss Reserve Account during the immediate prior Fiscal Year, times (ii) such Member's Extraordinary Loss Reserve Contribution less the aggregate amount of Reserve Contribution Refunds paid or credited to such Member, times (iii) the average daily balance on deposit in the Extraordinary Loss Reserve Account divided by the difference

between the aggregate amount of Extraordinary Loss Reserve Contributions of all Members and the aggregate amount of Reserve Contribution Refunds paid or credited to all Members, plus (b) that portion of the Investment Earnings on the Operating Account for the immediate prior Fiscal Year equal to the aggregate of such Investment Earnings multiplied by such Member's Premium for such Fiscal Year divided by the sum of all Members' Premiums for such Fiscal Year.

(4) Notwithstanding the foregoing, Premium Credits shall be reduced or eliminated by the Board, if necessary, if the implementation thereof would jeopardize the ability of the Insurance Trust to provide Liability Coverage to Members on an actuarially sound basis. The Premium Credit for any Member whose Extraordinary Loss Reserve Contribution was paid during the immediate prior Fiscal Year shall be computed only on Investment Earnings for such Member's period of membership. Any Member electing not to purchase Liability Coverage in accordance with Section 3.05 hereof or whose right to purchase Liability Coverage has been terminated pursuant to Section 3.12 hereof shall receive an equivalent direct payment in lieu of its Premium Credit.

**Section 2.06. Separate Accounts.** The moneys required to be accounted for in each of the foregoing funds, accounts and subaccounts established herein may be deposited in a single bank account, and funds allocated to the various funds, accounts and subaccounts established herein may be invested in a common investment pool, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the moneys on deposit therein and such investments for the various purposes of such funds, accounts and subaccounts as herein provided.

The designation and establishment of the various funds, accounts and subaccounts in and by this Operations Manual shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues for certain purposes and to establish certain priorities for application of such revenues as herein provided. Any of the various funds, accounts or subaccounts established by this Operations Manual may be further divided if necessary to comply with insurance accounting practices as defined in the National Association of Insurance Commissioners' Standard Accounting Principles.

**Section 2.07. Bank Accounts.** All bank accounts shall be opened by the Service Company pursuant to resolutions approved by the Board. Resolutions authorizing all bank accounts shall designate the persons authorized to draw against such accounts and shall authorize designated personnel of the Service Company to pay



claims and claims expenses in accordance with Article V of this  
Operations Manual.

## ARTICLE III

### LIABILITY COVERAGE

**Section 3.01. Issuance of Coverage Agreements.** The Service Company shall be authorized to issue Coverage Agreements to Members only in the form attached hereto as Appendix A. The terms and conditions of the Coverage Agreements may be modified only by written endorsements. The Service Company is authorized to offer the endorsements included in the attached Appendix B. Coverage limits shall be in amounts established by the Board. The Board may, at its discretion, establish minimum amounts of Uninsured Retention for any Coverage Agreement.

**Section 3.02. Exclusions from Liability Coverage.**

(A) The Insurance Trust may, upon the recommendation of the Service Company, issue a Coverage Agreement that specifically excludes coverage for designated risks otherwise encompassed by the standard form if:

(1) the Member has insured or otherwise provided for the coverage of such excluded risks or has elected to retain such excluded risks;

(2) the Member has violated or failed to comply with the terms and conditions of this Operations Manual or its Coverage Document and such violation or failure to comply materially increases the Insurance Trust's exposure with respect to such excluded risks; or

(3) such excluded risks are so materially different in either kind or degree as to have a deleterious effect upon the other Members.

Nothing contained in the foregoing Section 3.02(A)(1), however, shall be construed to grant any Member a unilateral right to purchase Liability Coverage of narrower scope than that set forth in the standard form of Coverage Agreement. If the Service Company recommends issuance of a restricted Coverage Agreement for the reasons set forth in Section 3.02(A)(2), the Member shall be notified and permitted a reasonable opportunity to address the Board on the subject of such restricted coverage.

(B) The Insurance Trust may, upon the recommendation of the Service Company, during any Coverage Period or prior to the issuance of a Coverage Agreement, specifically exclude coverage for any premises, facility, equipment, operation, policy, rule, resolution or ordinance of a Member which:

(1) the Service Company or the Administrator has inspected or reviewed or caused to be inspected or reviewed and (a)

has determined to be demonstrably unsafe or dangerous or unlawful or unconstitutional, (b) has found the operation, continuation or enforcement of which is a hazard to the public or to employees of the Member or a violation of laws or the constitution of the State of Florida or the United States of America or (c) has determined that the risks associated therewith are so materially different in either kind or degree as to have a deleterious effect upon the other Members, and

(2) the Member has not, upon provision of written notice specifying the deficiency, made the premises, facility, equipment or operation, policy, rule, resolution or ordinance (a) safe for employees and the public, or (b) lawful or constitutional or (c) homogenous with the risks of the other Members, as the case may be.

If the Service Company or the Administrator recommends issuance of a restricted Coverage Agreement for the reasons set forth in Section 3.02(B)(1) or (2), the Member shall be notified and permitted a reasonable opportunity to address the Board on the subject of such restricted coverage.

(C) If any exclusion from Liability Coverage for the reasons set forth in Section 3.02(B)(1) or (2) is to begin during a Coverage Period, the exclusion shall become effective ten days from the Member's receipt of written notice (the "Notice of Exclusion") specifying the applicable provision of Section 3.02(B)(1) or (2). A copy of the Notice of Exclusion shall be provided by the Service Company to the Board. If the Member has (1) completed correction or modification of the matters set forth in the notice from the Service Company, (2) substantially commenced correction or modification of the matters set forth in the notice from the Service Company, or (3) disputes the findings contained in the notice from the Service Company, it shall provide written notice thereof (the "Compliance Notice") to the Service Company and the Board prior to the effective date of such exclusion from Liability Coverage. The provision of a Compliance Notice by the Member shall operate to suspend the exclusion from Liability Coverage pending action of the Board as described below.

Upon receipt of the Compliance Notice, the Service Company shall cause a review or inspection of any correction or modification and determine whether such correction or modification is adequate to negate the Notice of Noncompliance. If the Service Company determines that the correction or modification is adequate, it shall notify the Member that the Notice of Noncompliance has been revoked.

If the Service Company determines that the correction or modification is inadequate to negate the Notice of Noncompliance or if the Compliance Notice disputes the matters set forth in the Notice of Noncompliance, the issue shall be brought to the Board at the earliest practicable date for resolution.

(D) If the Board determines that the subject premises, facility, equipment, operation, policy, rule, resolution or ordinance is (1) demonstrably unsafe or dangerous or unlawful or unconstitutional, (2) the operation, continuation or enforcement thereof is a hazard to the public or to employees of the Member or a violation of laws or the constitution of the State of Florida or the United States of America, or (3) that the risks associated therewith are so materially different either in kind or degree as to have deleterious effect upon the other Members, the exclusion from Liability Coverage shall become effective immediately.

(E) Notwithstanding the foregoing, the Insurance Trust shall not issue a Coverage Agreement which includes coverage of acts, errors or omissions which are excluded by reinsurance then applicable to the Insurance Trust, unless the limits of liability of such coverage are not greater than the uninsured retention of the Insurance Trust with respect to such reinsurance and such coverage is specifically approved by the Board.

(F) Notwithstanding the provisions of Section 3.02(B)(1), Section 3.02(C) or Section 7.04 hereof, neither the Service Company, the Administrator, the Board, the Insurance Trust, nor the officers, officials, employees, agents or independent contractors of any of the foregoing shall be liable to the Member, its officials or employees, or to other third parties for failure to review or inspect, properly review or inspect or timely review or inspect, whether or not any or all of the foregoing are wholly or partially caused by the negligence of the Service Company, the Administrator, the Board, the Insurance Trust, or the officers, officials, employees, agents or independent contractors of any of them.

## ARTICLE IV

### PREMIUMS

**Section 4.01. General Criteria.** In order to promote a fair and just determination of Premiums between and among Members of different organizational structures and populations and with differing exposure to loss, the Insurance Trust has established an exposure based Premium determination system, as set forth in Section 4.02 which quantifies actual exposures of each Member. The system shall be based on the Insurance Trust statistics, other insurance and loss related statistics and trends and other related factors (e.g., changes in laws or precedent) as the Service Company deems appropriate. Such Premium determination system and actual rates shall be subject to modification by the Board.

The sole remedy of any Member for any error or omission in the determination and approval of Premiums by the Board shall be the adjustment of the Premium to the correct amount, whether or not such error or omission arose in whole or in part out of the sole or partial negligence of the Board, the Service Company, the Administrator or any of the officers, employees, agents or other independent contractors of the Insurance Trust.

**Section 4.02. Determination of Premiums.** Premiums for each Member shall be determined by the Service Company in accordance with the general rating criteria attached to this Operations Manual as Appendix C. Premiums computed pursuant to Appendix C shall be subject to modification in accordance with the experience and schedule rating modification criteria attached to this Program Manual as Appendix D.

**Section 4.03. Notification to Members.** The Insurance Trust shall endeavor to notify each Member of its estimated Premium for the next ensuing Fiscal Year not less than one hundred twenty (120) days prior to the last calendar day of the current Fiscal Year. Actual Premiums shall not exceed the estimate contained in such notice by more than ten percent (10%) unless incorrect, insufficient or incomplete rating data has been provided to the Insurance Trust by the Member.

**Section 4.04. Payment of Premiums.** Annual Premiums shall be payable in their entirety within 30 days of the beginning of any Coverage Period. Members may elect to pay Premiums on a semi-annual or quarterly basis. In such event, a deferred payment charge equal to five percent of the total Premium shall be paid with the first semi-annual or quarterly installment.

**Section 4.05. Failure to Pay Premiums.** All Premium payments by Members to the Insurance Trust shall be in immediate cash convertible funds and shall be made within 30 days of billing. If a Member fails to pay any Premium on a timely basis, the Service

Company shall provide written notice by certified or registered mail of such failure to the person or office designated for by the Member to receive notice on its behalf. On the tenth day following the Member's receipt of such notice, Liability Coverage shall terminate effective on midnight of the last day of the calendar quarter for which a Premium has been paid. In such event, the Board may expel such Member from the Insurance Trust and shall withhold any Premium Credits otherwise due to such Member until such Premium is paid in full.

**Section 4.06. Unearned Premiums.** If a Member's right to purchase Liability Coverage is terminated during a Fiscal Year, any unearned portion of the Premium paid by such Member shall be returned as soon as practicable. For purposes of this Section 4.05, Premiums shall be deemed earned on an equal daily basis over the Coverage Period.

## ARTICLE V

### CLAIMS MANAGEMENT

**Section 5.01. Reporting.** All claims shall be filed in accordance with the requirements set forth in the Coverage Agreement and in accordance with this Operations Manual.

Members shall report all claims to the Service Company utilizing appropriate ACORD claims forms and providing such other data or documentation as may be requested by the Service Company. In cases involving litigation or a potential claim (actual or threatened), death, serious injury or likely loss in excess of \$100,000, the Member shall also telephone the Service Company and verbally report the loss as soon as practicable after the occurrence of the causation event. The Member shall immediately forward all such claims information to the Service Company at the address provided, from time to time, and cooperate with the Service Company in investigation of the claim.

**Section 5.02. Investigation and Defense.** The Service Company is authorized to incur on behalf of the Insurance Trust, investigation and other claims expenses or costs in an amount deemed appropriate to the investigation and defense of claims and incidents which may lead to claims against the Members or former Members. The selection and retention of legal counsel shall be subject to the approval of Trust Counsel. Trust Counsel shall supervise the defense of all claims handled by other legal counsel.

All technical claims administration questions such as, but not limited to, the method of investigating and otherwise handling the claim, the individual or organization retained to investigate or adjust the claim in the field, the reserves for each claim and the reserves for expenses thereof, and the claims reserves to be applied and maintained in bulk to the Insurance Trust (i.e., incurred but not reported claims reserves and claims development reserves), shall be administered and determined by the Service Company upon consultation with the Trust Counsel, subject to the Trust Agreement and this Operations Manual.

**Section 5.03. Reserves.** Reserves shall be established for each claim in accordance with industry practice and the Trust Agreement. All reserve accounting shall be based on the Service Company's best current estimate, upon consultation with the Trust Counsel, of likely cost of loss and associated expenses, not discounted for the time value of money.

**Section 5.04. Settlement of Claims.** The Service Company is hereby granted the authority, without further action by the Board, to reserve and settle such claims as it deems appropriate in an amount which does not exceed \$25,000. Any claim reserve greater \$25,000 but less than \$100,000 shall be established by mutual

agreement among the Service Company, the Administrator and the Trust Counsel; provided that if mutual agreement cannot be reached, such claim reserve shall be established by the Board. Any claim reserve greater than \$100,000 shall be established by the Board. Establishment of a claim reserve in accordance with this Section 5.04 shall constitute authorization for the Service Company to settle such claim within the amount of the claim reserve. Notwithstanding the foregoing, the Board may, at any time and for any reason, elect to control the settlement of any claim. In the event of any such election no settlement may be made without approval of the Board.

**Section 5.05. Collection and Expenditure Authority.** Claims will be paid by check or draft issued by the Service Company on accounts maintained by the Insurance Trust, including accounts established with respect to uninsured retention pursuant to Section 5.06 hereof. Within the limits established pursuant to Section 5.04 hereof, the Service Company is hereby granted the authority to pay, without further action by the Board, by draft or check issued by the Service Company against accounts of the Insurance Trust, any part or all of any claim or expenses or costs incurred by attorneys, other independent contractors of the Insurance Trust or Service Company with respect to such claim.

**Section 5.06. Administration of Uninsured Retention.** Subject to the Board's right to establish minimum levels of Uninsured Retention for any Coverage Agreement, a Member may elect to purchase Liability Coverage with Uninsured Retention in the following amounts: \$0, \$5,000, \$10,000, \$25,000, \$50,000 or \$100,000. Uninsured Retention applicable to the Coverage Agreement for any Member shall be administered as follows:

(A) If the amount of Uninsured Retention is less than \$10,000, the Insurance Trust shall, at the request of the Member, advance the amount of Uninsured Retention for purposes of paying claims and claims expenses. The amount of such advance by the Insurance Trust shall be repaid either (1) at the time of and in addition to payment of the Member's next Premium or (2) at the end of the Coverage Period if the Member has not renewed its Liability Coverage. In either event, such repayment may include interest to the date of repayment at a rate equal to the average rate of interest earned on the investment of moneys on deposit the Operations Account during the immediate prior Fiscal Year (or at the rate of 5% per annum during the initial Fiscal Year).

(B) If the amount of Uninsured Retention is greater than or equal to \$10,000, the Member shall, pursuant to Section 136.091, Florida Statutes, advance funds to the Insurance Trust for the purpose of paying claims and claims expenses, in an amount to be established by the Board not in excess of the amount of such Member's Uninsured Retention. Such funds shall be deposited in a special checking account held by a county depository pursuant to



Chapter 136, Florida Statutes. The Service Company shall be authorized to issue checks or drafts on such account for payment of claims or claims expenses or to reimburse the Insurance Trust for such payments. The Member shall replenish such account upon presentation of documentation by the Insurance Trust for claims and claims expenses paid equal to the amount of the requested replenishment.

(C) In order to protect the interests of the Insurance Trust and to provide quality administration of claims within the Uninsured Retention:

(1) the Service Company may, in its discretion, require that claims against the Member (or its officials or employees), wholly or partially within the Uninsured Retention, be administered by the Service Company; or

(2) the Service Company may, in its discretion, allow the Member to administer, in whole or in part, such Member's claims, with such reporting, data maintenance and other requirements as the Service Company may deem appropriate.

**Section 5.07. Claims in Excess of Limits.** Neither the Insurance Trust, the Board, the Service Company, the Administrator, the Trust Counsel, the Service Company nor their officers, employees, agents or independent contractors (or the officers, directors or employees of any of the foregoing) shall be obligated to settle any claim within the limits of liability of the Liability Coverage or within any time period, nor shall any of the foregoing be liable to any Member, any insured officer, employee, agent or independent contractor or any claimant for any failure or alleged failure to settle any claim within the limits of liability of the Coverage Agreement or within any time period, whether or not any such failure is caused by sole or partial negligence of any one or more of the foregoing.

**Section 5.08. Local Insurance Broker.** Any local insurance agent or broker appointed by a Member to assist in claims and risk management shall represent the Member, and is not an agent or representative of the Insurance Trust, the Board, the Administrator, the Trust Counsel or the Service Company. Such insurance agent or broker shall have no authority, with respect to the Board, the Insurance Trust, the Administrator, the Trust Counsel or the Service Company, to bind Liability Coverage, alter or amend any Coverage Document or any of the terms or conditions thereof, compromise or settle any claim or suit, or collect any moneys or funds.

## ARTICLE VI

### RISK MANAGEMENT PROGRAM

**Section 6.01. Risk Management Account.** The Board shall in each annual budget allocate an amount, not to exceed five percent of the Premiums, to the Risk Management Account. The Risk Management Account will be utilized, in accordance with this Article VI, to implement management of a risk management program for Members as directed by the Board.

**Section 6.02. Application of Funds.** The Risk Management Account may be utilized for, among other things, funding studies of Members' exposures and losses, funding preparation and production of risk management manuals, pamphlets and other materials, conducting risk management education and training for Members' officials and employees, encouraging the formation and expansion of risk management departments of Members, providing of continuing education of Members' risk management and other personnel and implementing other risk management activities for Members. Amounts on deposit in the Risk Management Account may be applied for any other purpose described in Section 2.02 of this Operations Manual, if deemed necessary by the Board.

**Section 6.03. Responsibilities of County Association.** The responsibilities of the County Association with respect to the Insurance Trust Risk Management Program shall be:

(A) to administer, with the assistance of the Service Company, the Risk Management Program of the Insurance Trust;

(B) to administer, with the assistance of the Service Company, (1) continuing professional education of Members' risk management personnel, (2) funding of acquisition, development and distribution of risk management materials, training, and educational programs to Members and their officials and employees, and (3) funding of provision of outside risk management experts for risk management consultation, seminars, workshops and for development of risk management training and education materials;

(C) to provide risk management educational opportunities for Members and their officials and employees by utilizing what it deems to be appropriate County Association meetings and workshops for risk management seminars and other programs and to publicize such opportunities in its regular publications; provided however, that nothing herein shall preclude the County Association from allowing attendance or participation by non-Member local governments or officials or employees at or in such seminars and programs;

(D) to utilize its regular publications to provide, from time to time, risk management educational articles and discussions; and

(E) to work with the Trust Counsel and the Service Company in assisting state legislators and others in understanding Members' risk management concerns.

The County Association's risk management related activities for the Insurance Trust shall be considered operations of the Risk Management Account and shall be compensated from the Risk Management Account in accordance with the County Association's contract with the Insurance Trust.

**Section 6.04. Responsibilities of Service Company.** The responsibilities of the Service Company with respect to the Insurance Trust's risk management program shall be to assist the County Association by:

(A) assisting in arranging for development and distribution of risk management materials and programs for and to Members and their officials and employees;

(B) assisting in arranging for risk management seminars and programs at County Association meetings and workshops and on other occasions;

(C) employing and administering the operations of one or more risk management field representatives to assist and work with Members in their risk management activities and to inspect and review Members' premises, operations, policies and procedures; and

(D) to assist the County Association and the Trust Counsel in educating state legislators and others with respect to the Members' risk management concerns and needs.

The Service Company's risk management activities for the Insurance Trust shall be considered operation of the Risk Management Account, and the cost to the Service Company of such activities may be reimbursed to the Service Company from the Risk Management Account in accordance with the Service Company's contract with the Insurance Trust.

**Section 6.05. Responsibilities of Members.** The responsibilities of the Members with respect to the Insurance Trust risk management program shall be:

(A) to cooperate with the Insurance Trust and its risk management representatives, the Trust Counsel, the Service Company, the County Association, the Trust Counsel and other Insurance Trust contractors and agents in (1) risk management education of Members' officials and employees, (2) review and inspection of Members' premises, operations, policies and procedures, and (3) implementing reasonable risk management programs, policies and practices recommended by the Insurance Trust;

(B) to assist other Members in the Insurance Trust by cooperating with the Insurance Trust risk management representative in sharing risk management programs and ideas with other Members; and

(C) to develop and implement a risk management plan and to endeavor, in accordance with that plan, to attempt to reduce the risk of liability of the Member and its officials and employees.

## ARTICLE VII

### GENERAL PROVISIONS

**Section 7.01. Service Company.** The Service Company shall have such power and authority for the operation and maintenance of the Insurance Trust as provided in the agreement between the Board and the Service Company.

**Section 7.02. Administrator.** The Administrator shall have such power and authority for the operation and maintenance of the Insurance Trust as provided in the agreement between the Board and the Administrator.

**Section 7.03. Trust Counsel.** The Trust Counsel shall have such power and authority for the operation and maintenance of the Insurance Trust as provided in the agreement between the Board and the Trust Counsel.

**Section 7.04. Access to Premises and Records.**

(A) The Service Company, the Administrator, the Trust Counsel and the Board shall have access to the premises and books and records of each Member at all times (books and records shall be available only during regular office hours of the Member). The Service Company, the Administrator, the Trust Counsel and the Board may photocopy any books and records and may photograph or videotape any premises or operations of the Member at any time. The Service Company, the Administrator, the Trust Counsel or the Board or their representatives or agents may interview (and record in writing or electronically such interview) any officer, employee, agent or independent contractor of each Member at any time, for the Insurance Trust purposes. Each Member will cooperate with the Service Company, the Administrator, the Trust Counsel to make its officers, employees, agents or independent contractors available for such interviews. The Member shall promptly provide to the Board, the Service Company, the Administrator or the Trust Counsel any and all information (in writing if so requested) and documents available to the Member and requested by the Board, the Service Company, the Administrator or the Trust Counsel and provide any other information required or desirable for (A) administration of claims or the claims system and (B) development or administration of the Insurance Trust.

(B) Neither the Insurance Trust, the Board, the Service Company, the Administrator, the Trust Counsel nor their respective officers, employees, agents or independent contractors are under any obligation to inspect or review or properly inspect or review any one or more specific premises, operations, facilities, equipment, policies, resolutions or ordinances. There is no undertaking, in the event of any such inspection or review to make or advise the Member or its officers, employees, agents or

independent contractors to make or how to make such premises, operation, facility, equipment, policy, resolution or ordinance safe, healthful, lawful or constitutional nor is there any express or implied representation or warranty of any of the foregoing or of the sufficiency, appropriateness, effectiveness or any other aspect of such inspection or review or any recommendations or requests made as a result thereof. Neither the Insurance Trust, the Board, the Service Company, the Administrator, the Trust Counsel nor their respective officers, employees, agents or independent contractors shall be liable for their acts or omissions in inspecting or reviewing any one or more premises, operations, facilities, equipment policies, resolutions or ordinances, whether or not caused by the sole or partial negligence of any of the foregoing persons or organizations.

**Section 7.05. Liability Coverage Election.** A Member may elect not to purchase a Coverage Agreement for any Fiscal Year, provided that written notice of such election is provided to the Service Company and the Administrator not less than ninety (90) days prior to the last calendar day of the last Fiscal Year for which such Member has purchased a Coverage Agreement.

**Section 7.06. Admission of New Members.** The Service Company shall develop and implement underwriting standards to assess the admissibility of Public Agencies as Members of the Insurance Trust. Such underwriting standards shall be designed to protect the Insurance Trust and its Members from admission of new Members that would have an adverse affect on the actuarial stability of the Insurance Trust.

(A) The Service Company shall require any applicant for membership to submit (1) a fully completed application in a form designed by the Service Company and provided to the prospective Member and (2) complete copies of the prospective Member's existing or previous insurance policies of all kinds. The application form shall require data necessary or desirable to determine the initial Premium of the applicant and to assist the Service Company in administration of the Insurance Trust.

(B) The Service Company shall evaluate each applicant for compliance with the underwriting standards developed pursuant to this Section 7.06. Upon completion of its evaluation, the Service Company shall file a written report with the Board recommending either approval or denial of the application and specifying the reasons for its recommendation.

(C) The Board shall accept or reject each application for membership; provided however, that the affirmative vote of five (5) Trustees shall be required to approve an application which is recommended for denial by the Service Company.

(D) Nothing contained in this Section 7.06 or any other section of this Operations Manual or in any other Program Document, shall be construed to grant any Public Agency the right to become a Member of the Insurance Trust or to receive Liability Coverage under a Coverage Agreement issued by the Insurance Trust regardless of technical or apparent compliance with requirements and conditions for membership as provided herein. Membership in the Insurance Trust and Liability Coverage under the Coverage Agreement is within the sole discretion of the Board despite any enumeration of any eligibility requirements in this Operations Manual and the other Program Documents.

**Section 7.07. Participation in the Index System.** In order to promote equity and help combat claims fraud, the Service Company is authorized to subscribe to and participate in the Index System, the cost of which shall be considered and paid as a claims expense pursuant to Section 5.02 of this Operations Manual.

**Section 7.08. Maintenance of Financial Records.** The financial records of the Insurance Trust shall be kept and maintained by the Board or the Service Company pursuant to the schedule in Appendix E of this Operations Manual. In order that the Board have the capability of analyzing the financial results of the Insurance Trust utilizing standard insurance financial analysis and comparison with other insurers:

(A) All records shall be kept and maintained on the basis of statutory insurance accounting principles applicable, at the time of filing, to mutual and reciprocal insurers in the State (provided, however, that the Insurance Trust is not and shall not, without the consent of the Board, become a regulated insurer);

(B) The Service Company shall provide the Board and Administrator with quarterly statements of the financial condition of the Insurance Trust. The quarterly statement shall be in the form usually requested by the Florida Department of Insurance from Florida admitted insurers. The quarterly statement shall also include a full Schedule P (from the National Association of Insurance Commissioners' standard insurance accounting convention statement) Loss Development Exhibit;

(C) The Service Company shall provide the Board and Administrator with an annual statement of the financial condition of the Insurance Trust on the National Association of Insurance Commissioners' standard insurance accounting convention statement, to the extent that information required in and the presentation formats required in the statements are reasonably applicable to the then current legal structure of the Insurance Trust; and

(D) The Board and the Administrator shall timely provide to the Service Company, any financial information maintained in accordance with this Operations Manual by the Board and not

maintained by the Service Company required for inclusion in the annual statement and such quarterly or other periodic statements as are required and will provide the Service Company and the independent certified accountants for the Insurance Trust with requested confirmations of or with respect to such financial information, accounts or obligations.

**Section 7.09. Audits.** As required by the Trust Agreement, the books and records of the Insurance Trust shall be audited by an independent certified public accounting firm selected by the Board. Such independent certified public accounting firm must have extensive experience with insurance company audits and maintain an office within the State.

All financial information maintained by the Service Company, the Administrator and the Board, whether by manual or electronic means, must:

(A) contain such audit trails and internal controls as are necessary to enable an independent certified public accountant to be able to express an opinion on internal control, and

(B) be capable of reconciliation and reduction to a financial statement for each account on a monthly basis.

The Board, the Administrator and the Service Company shall each, for the financial information for which it is responsible, maintain proper documented procedures of operation and complete documented audit trail sufficient to allow an independent certified public accountant to be able to express an opinion on the fairness of representation of any financial statement based on such financial information.

**Section 7.10. Claims Records.** The Service Company shall maintain a full electronic record of all claims including the full English Language text of all claims administration operations of the Service Company, all claims decisions, all claims reserves, and all claims payment vouchers, drafts and checks issued by the Service Company for and on behalf of the Insurance Trust. In order that the Board have complete and timely claims and claims transaction and reserve information immediately available to it at all times, all the Insurance Trust claims information (as described in the preceding paragraph) shall be made available electronically to the Administrator and the Trust Counsel at their offices in Tallahassee on the same basis as such information is available to employees of the Service Company. Communications line use charges and Administrator and the Trust Counsel equipment charges shall be paid (from the funds of the Insurance Trust) as billed to the Administrator and the Trust Counsel by the Service Company and/or common carriers. All equipment supplied by the Service Company to the Administrator or the Trust Counsel shall remain Service Company's equipment.



The electronic records and the system in which those records are kept or maintained shall be held and kept confidential by the Board, the Administrator and the Trust Counsel and the employees of each of them, subject to the laws of the State. The employees of the Administrator, the Trust Counsel and the Board with access to such electronic records and the system in which those records are kept or maintained, shall execute a confidentiality agreement with the Service Company (or its affiliated data processing organization) in form acceptable to Service Company. The Administrator's employees and agents shall be obligated to keep and maintain secure areas for data, data equipment and files, limit access to data and files only to persons authorized by the Administrator, the Trust Counsel or the Service Company, and keep security procedures confidential. Service Company data systems are copyrighted, and the Board, the Administrator, the Trust Counsel and employees and agents of each shall not interfere with the copyright protection or act so as to abrogate or diminish such protection.

**Section 7.11. Ownership of Records.** All financial and claims records, documents and other data maintained by the Service Company for the Insurance Trust shall be owned by the Insurance Trust. Upon termination of any agreement between the Insurance Trust and the Service Company, the Service Company shall immediately deliver the following records, documents and other data to the Insurance Trust:

(A) a record of all outstanding Insurance Trust claims as of the date of termination which shall, at a minimum, include the claimant name, address, date of loss, amount of claims reserve, loss paid to date, a description of the occurrence, and a written summary, by claim, of the status of each claim;

(B) copies of all Insurance Trust claims file documents for claims then active;

(C) a complete historical transactional data history for the Insurance Trust, organized by Member and Coverage Agreement,

(D) all historical and current bank statements, bank drafts, cancelled checks and drafts, and all third party payable bills; and

(E) for the current Fiscal Year, an accounting account analysis through the date of termination.

The records, documents and other data referred to in this Section 7.11 may be in written, microfilm/fiche or electronic media format; provided however, that information provided in media format must be a computer industry standard data format.

**APPENDIX A**

**FORM OF COVERAGE AGREEMENT**

FLORIDA ASSOCIATION OF COUNTIES TRUST

TALLAHASSEE, FLORIDA
hereinafter called the "Trust"

GENERAL LIABILITY COVERAGE AGREEMENT

DECLARATIONS NUMBER: FAC 1001

Prior Number: New

1. The Member & its Address
: County of XYZ
: 123 Street
: ABC City, FL 00000

2. Coverage Agreement Period: (Mo., Day, Yr.)
From: March 1, 1989
To: October 1, 1989

12:01 A.M. standard time at the address of the Member as stated above.

3. The coverage afforded is only with respect to the coverages described in this coverage agreement. The limit of the Trust's liability against all such coverage, for which the insured is not otherwise immune, shall be:

- (a) \$100,000.00 per person with respect to covered liability of the insured arising out of Florida Law or Statutes,
(b) \$200,000.00 per occurrence with respect to covered liability of the insured arising out of Florida Law or Statutes,
(c) \$1,000,000.00 per occurrence with respect to covered liability of the insured arising out of the law of a jurisdiction other than that of the State of Florida...
(d) \$3,000,000.00 coverage agreement aggregate,

subject to all the terms of this coverage agreement having reference hereto.

Form numbers of forms and endorsements forming a part of this coverage agreement at its inception:

Deductible:
\$

Premium:
\$

This Declaration Page (sometimes referred to in the coverage agreement as the "Declarations") with Coverage Agreement Provisions, Endorsements(s) and Schedule(s) complete the above numbered coverage agreement, but this Coverage Agreement shall not be effective unless signed by an authorized representative of the Trust.

Countersigned by: Florida Association of Counties

Attest: Bliss-McKnight Management Corp. of Florida.

by:
Authorized Representative

by:
Service Contractor

COPY

# Florida Association of Counties Trust

## GENERAL LIABILITY COVERAGE AGREEMENT

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(REFER TO DECLARATIONS PAGE FOR COVERAGES APPLICABLE UNDER THIS COVERAGE AGREEMENT)

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<b>SCHEDULES AND ENDORSEMENTS (IF ANY).....</b>	Attached

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### COVERAGE AGREEMENT PROVISIONS

In consideration of the payment of the premium and the covenants and agreements set forth in the COVERAGE AGREEMENT, in reliance upon the statements of the APPLICATION and the DECLARATIONS which are made a part hereof, in reliance upon all terms, conditions, limits and other provisions of the COVERAGE AGREEMENT and subject to all the provisions of this COVERAGE AGREEMENT, the Trust agrees with the *Member* as follows:

**BODILY INJURY AND PROPERTY  
DAMAGE LIABILITY COVERAGE  
(COVERAGES A & B)**

---

(UNLESS OTHERWISE PROVIDED THEREIN, THE COVERAGE AGREEMENT PROVISIONS ENTITLED "THE TRUST'S LIMIT OF LIABILITY", "SUPPLEMENTARY PAYMENTS", "DEFINITIONS", "CONDITIONS" AND "GENERAL COVERAGE AGREEMENT EXCLUSIONS" ARE ALL APPLICABLE TO COVERAGES A & B.)

**I. WHO IS AN INSURED**

Each of the following is an *insured* under this *bodily injury* and *property damage* liability coverage to the extent set forth below:

(a) the *Member*,

(b) while acting within the scope of his or her duties as such:

Any member of the governing body of the *Member*,

Any elected or appointed official of the *Member*,

Any member of boards or commissions of the *Member*,

Any employee of the *Member*.

**II. WHAT IS COVERED**

**COVERAGE A - BODILY INJURY  
LIABILITY**

**COVERAGE B - PROPERTY DAMAGE  
LIABILITY**

The Trust will pay those sums which the *insured* shall become legally obligated to pay as *damages* because of

A. *Bodily Injury*, or

B. *Property Damage*,

to which this *bodily injury* and *property damage* liability coverage applies, caused by an *occurrence* which occurs within the *coverage territory* and the Trust shall have the right and duty to defend any suit against the *insured* seeking *damages* on account of *bodily injury* or *property damage* to which this *bodily injury* and *property damage* liability coverage applies, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the Trust shall not be obligated to pay any claim or judgement or to defend any suit after the applicable limit of the Trust's liability has been exhausted by payment or tender of payment, in whole or in part, of judgements or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under the SUPPLEMENTARY PAYMENTS provision of this coverage agreement.

**Exclusions:**

This *bodily injury* and *property damage* liability coverage does not apply:

(a) to *bodily injury* or *property damage* arising out of the ownership, maintenance, operation, use, loading or unloading of

(1) an *automobile* or aircraft owned or operated by or rented or loaned to any *insured*, or

(2) any other *automobile* or aircraft operated by any person in the course of his employment by any *insured*;

but this exclusion does not apply to the parking of an *automobile* on premises owned by, rented to or controlled by the *Member* or the ways immediately adjoining, if such *automobile* is not owned by or rented to or loaned to any *insured*;

(b) to *bodily injury* or *property damage* arising out of and in the course of the transportation of *mobile equipment* by an *automobile* owned or operated by or rented or

loaned to any *insured*;

(c) to any obligation for which the *insured* or any carrier as his insurer may be held liable under any workers' compensation, occupational disease, unemployment compensation or medical, death or disability benefits law or under any similar law.

(d) to *bodily injury* to any employee or official of the *insured* arising out of and in the course of his or her employment by the *insured* or to any obligation of the *insured* to indemnify another because of damages arising out of such injury;

(e) to *property damage* to

(1) property owned or occupied by or rented to the *insured*,

(2) property used by the *insured*,

(3) property in the care, custody or control of the *insured* or as to which the *insured* is for any purpose exercising physical control;

but parts (2) and (3) of this exclusion do not apply with respect to liability under a written sidetrack agreement and part (3) of this exclusion does not apply with respect to *property damage* (other than to *elevators*) arising out of the use of an *elevator* at premises owned, rented or controlled by the *Member*;

(f) to *property damage* to premises alienated by the *Member*, arising out of such premises or any part thereof;

(g) to loss of use of tangible property which has not been physically injured or destroyed resulting from

(1) a delay in or lack of performance, by or on behalf of the *Member*, of any contract or agreement, or

(2) the failure of the *member's products* or work performed by or on behalf of the *Member* to meet the level of performance, quality, fitness or durability warranted or represented by

or on behalf of the *Member*;

(h) to *property damage* to work performed by or on behalf of the *Member* arising out of the work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith;

(i) to *bodily injury* or *property damage* arising out of the ownership, maintenance, operation, use, loading or unloading of any *mobile equipment* while being used in any prearranged or organized racing, speed or demolition contest or in any stunting activity or in practice or preparation for any such contest or activity;

(j) to *damages* claimed for the withdrawal, inspection, repair, replacement, or loss of use of the *Member's products* or work completed by or for the *Member* or of any property of which such products or work form a part, if such products, work or property are withdrawn from the market or from use because of any known or suspected defect or deficiency therein;

(k) to *bodily injury* or *property damage* for which the *insured* or his indemnitee may be held liable

(1) as a person or organization engaged in the business of manufacturing, distributing, selling, or serving alcoholic beverages, or

(2) if not so engaged, as an owner or lessor of premises used for such purposes

if such liability is imposed

(i) by or because of the violation of any statute, ordinance or regulation pertaining to the sale, gift, distribution, serving or giving of any alcoholic beverage, or

(ii) by reason of the selling, serving or giving of any alcoholic beverage to a minor or to a person under the influence of alcohol or which causes or contributes to the intoxication of any person,

but part (ii) of this exclusion does not apply with respect to liability of the *insured* or his or her indemnitees as an owner or lessor described in part (2) of this exclusion, above;

### **III. TIME OF *BODILY INJURY* AND *PROPERTY DAMAGE***

This insurance applies only to *bodily injury* and *property damage* which occurs during the coverage period. *Property damage* that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the *occurrence* that caused it.

### **IV. ADDITIONAL DEFINITIONS**

When used in reference to this *bodily injury* and *property damage* coverage, "*damages*" means only those *damages* at law which are payable because of *bodily injury* and *property damage* arising out of an *occurrence* to which this *bodily injury* and *property damage* coverage applies.

**PERSONAL INJURY LIABILITY  
COVERAGE  
(COVERAGE C)**

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(UNLESS OTHERWISE PROVIDED THEREIN, THE COVERAGE AGREEMENT PROVISIONS ENTITLED "THE TRUST'S LIMIT OF LIABILITY", "SUPPLEMENTARY PAYMENTS", "DEFINITIONS", "CONDITIONS" AND "GENERAL COVERAGE AGREEMENT EXCLUSIONS" ARE ALL APPLICABLE TO COVERAGE C.)

**I. WHO IS AN INSURED**

Under this *personal injury* liability coverage, the *insured* shall be the same as indicated in parts (a) and (b) of the "WHO IS AN INSURED" provisions applicable to *BODILY INJURY AND PROPERTY DAMAGE LIABILITY COVERAGE* (COVERAGES A & B).

**II. WHAT IS COVERED**

**COVERAGE C - PERSONAL INJURY LIABILITY**

The Trust will pay those sums which the *insured* shall become legally obligated to pay as *damages* because of injury (herein called "*personal injury*"), sustained by any one or more of the following offenses (herein called "*offenses*") committed in the conduct of the *Member's* operations:

(A) False arrest, false detention or false imprisonment, or malicious prosecution;

(B) The publication or utterance of a libel or slander or of other defamatory or disparaging material or a publication or utterance in violation of an individual's right of privacy, except publications or utterances in the course of or related to advertising, broadcasting or telecasting activities conducted by or on behalf of the *Member*,

(C) Wrongful entry or eviction or other invasion of the right of private occupancy,

(D) Any violation of the Civil or Constitutional Rights of any person which creates a cause of action for *damages* by or on behalf of any such person under any one or more of the following Civil Rights Statutes:

United States Code, Title 42, Section 1981  
United States Code, Title 42, Section 1982  
United States Code, Title 42, Section 1983  
United States Code, Title 42, Section 1985  
United States Code, Title 42, Section 1986

(E) Any injury sustained by any person and arising out of Assault and Battery:

if such *offense* is committed within the territory described in paragraph (1) of the definition of the *coverage territory*, and the Trust shall have the right and duty to defend any suit against the *insured* seeking *damages* on account of *personal injury* to which this *personal injury* liability coverage applies, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the Trust shall not be obligated to pay any claim or judgement or to defend any suit after the applicable limit of the Trust's liability has been exhausted by payment or tender of payment, in whole or in part, of judgements or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under the SUPPLEMENTARY PAYMENTS provision of this coverage agreement.

**Exclusions:**

This *personal injury* liability coverage does not apply :

(a) to *personal injury* arising out of the willful violation of a penal statute or ordinance committed by or with the knowledge or consent of any *insured*;

(b) to *personal injury* arising out of a publication or utterance described in subsection (B) of this *personal injury* liability



coverage, if the first injurious publication or utterance of the same or similar material by or on behalf of the *insured* was made prior to the coverage period.

(c) to *personal injury* arising out of the publication or utterance described in subsection (B) of this personal injury liability coverage concerning any person, organization or business enterprise, or its products or services, made by or at the direction of any *insured* with knowledge of the falsity thereof;

(d) to fraudulent, criminal or, except with respect to malicious prosecution, malicious acts;

(e) to salary, wages or other compensation or benefits, back salary, back wages, back other compensation or benefits, or interest or penalties thereon payable to any person by the *insured*;

(f) to *personal injury* arising out of

(1) any violation or abrogation of voting rights or the elective franchise, including, without implied limitation, any unlawful discrimination, and

(2) any discrimination or other unlawful acts or omissions in legislating, organizing, administering or regulating elections, apportionment, election districts or district boundaries.

### III. TIME OF *PERSONAL INJURY*

This *personal injury* liability coverage applies only to *personal injury* arising out of an *offense* which occurs during the coverage period.

### IV. ADDITIONAL DEFINITION

When used in reference to this *personal injury* liability coverage, "*damages*" means only those *damages* at law which are payable because of *personal injury* arising out of an *offense* to which this *personal injury* coverage applies.

### V. ADDITIONAL PROVISION

No coverage agreement provision, other than this Coverage C, shall apply to any claim made or suit brought against any *insured* claiming damages for any and all violation of civil, constitutional or human rights and/or for any and all assault or battery, whether or not covered under this Coverage C.

**ERRORS OR OMISSIONS  
LIABILITY COVERAGE  
(COVERAGE F)**

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(UNLESS OTHERWISE PROVIDED THEREIN, THE COVERAGE AGREEMENT PROVISIONS ENTITLED "THE TRUST'S LIMIT OF LIABILITY", "SUPPLEMENTARY PAYMENTS", "DEFINITIONS", "CONDITIONS" AND "GENERAL COVERAGE AGREEMENT EXCLUSIONS" ARE ALL APPLICABLE TO COVERAGE F.)

**I. WHO IS AN INSURED**

Under this *errors or omissions* liability coverage, the *insured* shall be the same as indicated in parts (a) and (b) of the "WHO IS AN INSURED" provisions applicable to *BODILY INJURY AND PROPERTY DAMAGE LIABILITY COVERAGE* (COVERAGES A & B).

**II. WHAT IS COVERED**

**COVERAGE F - ERRORS OR OMISSIONS  
LIABILITY**

The Trust will pay those sums which the *insured* shall become legally obligated to pay as *damages* on account of any claim for breach of duty made against the *insured* by reason of any negligent act, error or omission, including misfeasance, malfeasance and nonfeasance, (herein called "*error or omission*") of the *insured* which occurs within the territory described in paragraph (1) of the definition of the *coverage territory*, and the Trust shall have the right and duty to defend any suit against the *insured* seeking *damages* on account of *errors or omissions* to which this *errors or omissions* liability coverage applies, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the Trust shall not be obligated to pay any claim or judgement or to defend any suit after the applicable limit of the Trust's liability has been exhausted by payment or tender of payment, in whole or in part, of judgements

or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under the SUPPLEMENTARY PAYMENTS provision of this coverage agreement.

**Exclusions:**

This *errors or omissions* liability coverage does not apply:

(a) to any fraudulent, criminal or malicious *error or omission*;

(b) to injury to, destruction or disappearance of money, securities or any tangible property or the loss of use thereof;

(c) to *bodily injury or personal injury*;

(d) to claims arising out of failure to effect or maintain proper insurance, liability coverage or bonds or to comply with the provisions of insurance contracts, policies or bonds;

(e) to failure to extend, levy, bill for, collect, return or distribute taxes or tax assessments, rents, fees or other monies or funds or to improper or incorrect extension, levy, collection, distribution, return or administration of tax assessments, taxes, rents, fees or other monies or funds;

(f) to liability for any loss to the *insured* or for any loss caused intentionally by or at the direction of the *insured*;

**III. TIME OF ERROR OR OMISSION**

This *errors or omissions* liability coverage applies only to *errors or omissions* which occur during the coverage period.

**IV. ADDITIONAL DEFINITION**

When used in reference to this *errors or omissions* liability coverage, "*damages*" means only those *damages* at law, other than *damages* payable to any *insured*, which are payable because of *errors or omissions* to which this *errors or omissions* liability coverage applies.

**UNLESS OTHERWISE PROVIDED THEREIN, THE FOLLOWING PROVISIONS ARE ALL APPLICABLE TO ALL COVERAGES**

*omission* or any related series of *occurrences, offenses, errors or omissions*, shall not exceed the limit of liability stated in the Declaration as "per occurrence."

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**THE TRUST'S LIMITS OF LIABILITY, DEDUCTIBLE**

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Regardless of the number of (1) *insureds* under this coverage agreement, (2) persons or organizations who sustain or are subject to *bodily injury, property damage, personal injury, errors or omissions* or any other loss, damage or injury,

Subject to the preceding sentence, regardless of the number of (1) *insureds* under this coverage agreement, (2) persons or organizations who sustain or are subject to *bodily injury, property damage, personal injury, errors or omissions* or any other loss, damage or injury, the total limit of the Trust's liability under this coverage agreement for all *damages* and for payments under the SUPPLEMENTARY PAYMENTS provision of this coverage agreement (which payments can be identified or allocated by the Trust to claims against the *insured*) shall not exceed the limit of liability stated in the Declarations as "coverage agreement aggregate."

(a) the total limit of the Trust's liability under this coverage agreement for coverages with respect to which the limit of liability is set forth in paragraph 3 (a) of the Declarations, for all *damages* to any one person or organization and arising out of any one *occurrence, offense, error or omission* or any related series of *occurrences, offenses, errors or omissions*, shall not exceed the limit of liability stated in the Declarations as "per person";

In the event that persons or organizations, other than persons and organizations described in parts (a) and (b) of the "WHO IS INSURED" provisions applicable to BODILY INJURY AND PROPERTY DAMAGE LIABILITY COVERAGE (COVERAGES A & B), are covered (whether solely or with other *insureds*), in whole or in part, directly or indirectly, by this coverage agreement, whether by the terms of this coverage agreement, including, without implied limitation, by contractual assumption of liability by contract or agreement, or by the terms of any endorsement hereto, including, without implied limitation, any additional insured endorsement, or otherwise:

(b) and the total limit of the Trust's liability under this coverage agreement for coverages with respect to which the limit of liability is set forth in paragraph 3 (b) of the Declarations, for all *damages* arising out of any one *occurrence, offense, error or omission* or any related series of *occurrences, offenses, errors or omissions*, shall not exceed the limit of liability stated in the Declarations as "per occurrence."

the total limit of the Trust's liability under this coverage agreement for all *damages* to any one person or organization and arising out of any one *occurrence, offense, error or omission* or any related series of *occurrences, offenses, errors or omissions*, shall not exceed that limit of liability which is applicable under this Coverage Agreement to the Member, with respect to such occurrences, offenses, errors or omissions,

(c) and the total limit of the Trust's liability under this coverage agreement for coverages with respect to which the limit of liability is set forth in paragraph 3 (c) of the Declarations, for all *damages* and for payments under the SUPPLEMENTARY PAYMENTS provision of this coverage agreement (which payments can be identified or allocated by the Trust to claims against the *insured*), arising out of any one *occurrence, offense, error or*

and the total limit of the Trust's liability under this coverage agreement for all *damages* arising out of any one *occurrence, offense, error or omission* or

any related series of occurrences, offenses, errors or omissions, shall not exceed that limit of liability which is applicable under this Coverage Agreement to the Member, with respect to such occurrences, offense, error or omission or any related series of occurrences, offenses, errors or omissions.

The amount stated in the Declarations as "Deductible" shall, for coverages with respect to which the limit of liability is set forth in paragraphs 3 (a) or 3 (b) of the Declarations, first be deducted from each claim or suit which results in payment for *damages*. The Trust may pay any part or all of the Deductible amount to effect settlement of such claim or suit and, upon notification of the action taken the *Member* shall promptly reimburse the Trust for such Deductible amount as has been paid by the Trust. No more than one Deductible amount shall be deducted from any one *occurrence, offense or error or omission*.

The amount stated in the Declarations as "Deductible" shall, for coverages with respect to which the limit of liability is set forth in paragraph 3 (c) of the Declarations, first be deducted from each claim or suit which results in payment for *damages* or payments under the SUPPLEMENTARY PAYMENTS provision of this coverage agreement (which payments can be identified or allocated by the Trust to claims against the *insured*). The Trust may pay any part or all of the Deductible amount to effect settlement of such claim or suit and, upon notification of the action taken the *Member* shall promptly reimburse the Trust for such Deductible amount as has been paid by the Trust.

## SUPPLEMENTARY PAYMENTS

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Subject to any applicable deductible and to the Trust's limit of liability (in consideration of the unused portion of the limit of liability), the Trust will pay:

- (a) (1) all expenses incurred by the Trust,

(2) all costs taxed against the *insured* in any suit defended by the Trust and

(3) all interest on the entire amount of any judgement therein which accrued after entry of the judgement and before the Trust has paid or tendered or deposited in court that part of the judgement which does not (in consideration of any applicable deductible and in consideration of the unused portion of the limit of liability stated in the Declarations as "coverage agreement aggregate") exceed the limit of the Trust's liability thereon;

(b) premiums on appeal bonds required in any such suit, premiums on bonds to release attachments in any such suit for an amount not in excess of the Trust's limit of liability (in consideration of the unused portion of the limit of liability stated in the Declarations as "coverage agreement aggregate"), and the cost of bail bonds required of the *insured* because of accident or traffic law violation arising out of the use of any vehicle to which this coverage agreement applies, not to exceed \$1,000.00 per bail bond, but the Trust shall have no obligation to apply for or furnish any such bonds;

(c) expenses incurred by the *insured* for first aid to others at the time of an *occurrence* for *bodily injury* to which this coverage agreement applies;

(d) reasonable expenses incurred by the *insured* at the Trust's request in assisting the Trust in the investigation or defense of any claim or suit, including actual loss of earnings not to exceed \$100.00 per day.

## DEFINITIONS

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When used in this coverage agreement (including, without implied limitation, schedules and endorsements forming a part of this coverage agreement):

"*automobile*" means a land motor vehicle, trailer or semitrailer designed for travel on

public roads (including any machinery or apparatus attached thereto), but does not include *mobile equipment*;

"*bodily injury*" means bodily injury, sickness, disease or disability sustained by any person, including mental anguish, mental injury, shock or death at any time resulting therefrom;

"*defined contract*" means an agreement under which the "*Member*" assumes the liability of others for *damages* because of *bodily injury, property damage, personal injury or errors or omissions* which would have otherwise been covered under this coverage agreement if the indemnitee was an *insured* under this coverage agreement and if such *bodily injury, property damage, personal injury or errors or omissions* occurred after the execution of the *defined contract*;

"*elevator*" means any hoisting or lowering device to connect floors or landings, whether or not in service, and all appliances thereof including any car, platform, shaft, hoistway, stairway, runway, power equipment and machinery, but does not include

an *automobile* servicing hoist,

a hoist without a platform outside a building if without mechanical power or if not attached to building walls,

a hod or material hoist used in alteration, construction or demolition operations,

an inclined conveyor used exclusively for carrying property, or

a dumbwaiter used exclusively for carrying property and having a compartment height not exceeding four feet;

"*insured*" means any person or organization qualifying as an "*insured*" in the "WHO IS INSURED" provision of the applicable coverage under this coverage agreement;

"*mobile equipment*" means

any of the following types of land vehicles, including any attached machinery or equipment:

(a) Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

(b) Vehicles maintained for use solely on or next to premises the *insured* owns or rents;

(c) Vehicles that travel on crawler treads;

(d) Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

(1) power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

(e) Vehicles not described in subparagraphs (a), (b), (c), or (d) above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding and building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

(f) Vehicles not described in subparagraphs (a), (b), (c), or (d) above maintained primarily for purposes other than the transportation of persons or cargo.

However, self propelled vehicles with the following types of permanently attached equipment are not "*mobile equipment*" but will be considered "*automobiles*:"

(1) Equipment designed primarily for :

- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing;
- (c) Street cleaning;

(2) Cherry picker and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

"*Member*" means the Florida Public Agency which is named in Item 1 of the Declarations of this coverage agreement;

"*Member's products*" means goods or products manufactured, sold, handled or distributed by the *Member* or by others on its behalf or under its name, including any container thereof (other than a vehicle), but *Members products* shall not include a vending machine or any property other than such container, rented to or located for use by others but not sold;

"*occurrence*" means an accident, including continuous or repeated exposure to conditions, which results in *bodily injury* or *property damage* neither expected or intended from the standpoint of the *insured*;

"*coverage territory*" means

- (1) the United States of America, its territories, Commonwealths and possessions, or Canada,
- (2) international waters or air space, or
- (3) anywhere in the world with respect to "*damages*" because of *bodily injury* or *property damage* arising out of a product which was sold for use or consumption within the territory described in subparagraph (1) of this definition, above, provided the original suit for such *damages* is brought within the

territory described in such subparagraph (1);

"*property damage*" means

(1) physical injury to or destruction of tangible property, including the loss of use thereof at any time resulting therefrom, or

(2) loss of use of tangible property which has not been physically injured or destroyed, provided such loss of use is caused by an *occurrence*.

"*temporary takings*" means those regulatory takings of real property or interests therein which are ultimately invalidated by the courts.

## CONDITIONS

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1. **PREMIUMS:** All premiums for this coverage agreement shall be computed in accordance with the Trust's manuals, rates, rating plans, premiums and minimum premiums applicable to the coverage afforded herein.

The *Member* shall maintain records of such information as is necessary for premium computation and shall send copies of such records to the Trust at the end of the coverage period and at such times during the coverage period as the Trust may direct.

### 2. INSPECTION - NO WARRANTY OR REPRESENTATION - NO LIABILITY OF THE TRUST, ITS AGENTS OR CONTRACTORS

The Trust, its agents or contractors, shall be permitted but not obligated to inspect the *Member's* property and operations at any time. It is understood that the Trust, its agents or contractors, though not obligated to make inspections or provide information, advice, documentation, report, recommendations, materials, equipment, or other property or services, (hereafter collectively referred to as "*products and services*") would not provide such *products and services* except on express reliance on the provisions of this condition 2 of the coverage agreement. Neither the Trust's, its agents' or contractors', right to make inspections nor the making thereof nor the provision of any *products or services*, whether or not resulting therefrom, shall constitute an undertaking, to, for or on behalf of the *insured* or others, to determine or warrant that such property or operations are safe or healthful, or are in compliance with any standard, law, rule or regulation.

THE TRUST AND ITS AGENTS AND CONTRACTORS MAKE NO WARRANTY OR REPRESENTATION WITH RESPECT TO ANY PRODUCTS OR SERVICES. THERE IS NO WARRANTY OF ANY KIND, INCLUDING, WITHOUT IMPLIED

### LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE.

THE *MEMBER* HEREBY WAIVES ANY AND ALL LIABILITY OF THE TRUST, ITS OFFICERS, EMPLOYEES, CONTRACTORS AND AGENTS (AND THEIR OFFICERS, EMPLOYEES AND AGENTS) FOR OR WITH RESPECT TO ANY AND ALL LOSS, INJURY (INCLUDING, WITHOUT IMPLIED LIMITATION, DEATH RESULTING THEREFROM) OR DAMAGE, CAUSED BY OR ARISING OUT OF THE *PRODUCTS AND SERVICES*, WHETHER OR NOT CAUSED BY THE SOLE OR PARTIAL NEGLIGENCE OF ANY OF SUCH PERSONS OR ORGANIZATIONS.

The Trust and its agents and contractors may examine and audit the *Member's* books and records at any time during the coverage period and extensions thereof and within three years after the final termination of this coverage agreement, as far as they relate to the subject matter of this coverage agreement.

3. **SETTLEMENTS AND SUITS:** The Trust and the *insured* recognize that settlement or compromise of claims may involve payment of monies and/or the taking of or forbearing to take action by one or more *insureds*. In the event that

(a) the Trust recommends in writing to the *insured* a settlement or compromise of any claim or suit involving either of the following: (i) payment of monies by the Trust or (ii) taking or forbearing to take action by one or more *insureds*, and

(b) all such *insureds* do not affirmatively accept such recommendation within 30 days of actual notice of such recommendation to the *insured* or within any earlier period requested by any court having jurisdiction of the claim or suit and specified in the notice to the *insured* (referred to herein as the "*response date*"),

the Trust's liability

for the claim or suit (and for the *occurrence, offense, error or omission*, or claim out of which they arose) and

for payments under the SUPPLEMENTARY PAYMENTS provision (including, without implied limitation, any liability for payment for the costs and expenses of defense of the *insured*) with respect to such claim or suit (and for the *occurrence, offense, error or omission*, or claim out of which they arose)

shall not exceed the sum of

(1) the amount of payment of monies by the Trust for which the claim or suit could have been settled, as set forth in the Trust's recommendation to the *insured*, and

(2) the costs and expenses incurred by the Trust, up to the *response date*, under the SUPPLEMENTARY PAYMENTS provision of the coverage agreement (including, without implied limitation, any costs and expenses incurred for the defense of the *insured*) with respect to the claim or suit.

Such sum shall not exceed the applicable Trust's limit of liability (in consideration of the unused portion of the limit of liability stated in the Declarations) and shall be reduced by any applicable deductible.

Neither this condition 3 nor any other provision of this coverage agreement shall impose on the Trust any obligation to notify the *insured* of any proposed settlement of any claim or suit.

**4. INSURED'S DUTIES IN THE EVENT OF OCCURRENCE, CLAIM OR SUIT (IN ADDITION TO ANY OTHER DUTIES WHICH MAY BE SET FORTH IN THE COVERAGE AGREEMENT):**

Subject to other coverage agreement provisions with respect to the subject matter of this condition 4 and in addition to any other duties which may be set forth in the coverage agreement:

(a) In the event of an *occurrence, an offense, an error or omission* or any other happening to which this coverage agreement may apply, written notice containing particulars sufficient to identify the *insured* and also reasonably obtainable information with respect to the time, place and circumstances thereof, the names and addresses of those injured or who suffered other loss or damage and the names and addresses of witnesses shall be given by or for the *insured* to the Trust or to any of its authorized agents or contractors as soon as practicable.

(b) If claim is made or suit brought against the *insured*, the *insured* shall immediately forward to the Trust every demand, notice, summons or other document or process received by the *insured* or by the *insured's* representative.

(c) The *insured* shall cooperate with the Trust and, upon the Trust's request, assist in making settlements, in the conduct of suits and arbitrations and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the *insured* because of any act, error or omission which, directly or indirectly, results in or contributes to *bodily injury, property damage, personal injury or errors or omissions* with respect to which coverage is afforded under this coverage agreement, and the *insured* shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The *insured* shall not, except at the *insured's* own cost and expense, voluntarily make any payment, assume any obligations or incur any expense.

**5. ACTION AGAINST THE TRUST:** No action shall lie against the Trust, unless, as a condition precedent thereto, there shall have been full compliance with all the terms and conditions of this coverage agreement, nor until the amount of the *insured's* obligation to pay shall have been finally determined either by judgement against the *insured* after trial (and any subsequent appeals therefrom) or by written agreement of the *insured*, the claimant and the Trust.



Any person or organization or the legal representative thereof who has secured such judgement shall thereafter be entitled to recover under this coverage agreement to the extent of the coverage afforded by this coverage agreement. No person or organization shall have any right under this coverage agreement to join the Trust as a party to any action against the *insured* to determine the *insured's* liability, nor shall the Trust be impleaded by the *insured* or the *insured's* legal representative. Bankruptcy or insolvency of the *insured* or of the *insured's* estate shall not relieve the Trust of any of its obligations hereunder.

6. SUBROGATION: In the event of any payment under this coverage agreement, the Trust shall be subrogated to all the *insured's* rights of recovery therefor against any person or organization and the *insured* shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The *insured* shall do nothing after loss to prejudice such rights.

7. CHANGES: Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this coverage agreement or estop the Trust from asserting any right under the terms of this coverage agreement, nor shall the terms of this coverage agreement be waived or changed, except by endorsement issued to form a part of this coverage agreement. It is provided, however, that a notice given by an *insured* to an authorized representative of the Trust shall constitute notice to the Trust.

8. ASSIGNMENT: Assignment of interest under this coverage agreement shall not bind the Trust until its consent is endorsed on this coverage agreement.

9. EXTENSION OF COVERAGE TERM: If the Trust shall agree to an extension of the term of this coverage agreement, such extension shall not operate to increase the limit of the Trust's liability stated in this coverage agreement.

10. CANCELLATION: This cancellation condition is subject to (i) the provisions of

any Operations Manual or (ii) the provisions of the Agreement and Declaration of Trust by and between the *Member* and the Trust

If the *Member* cancels, earned premium shall be computed in accordance with the customary short rate table and procedure. If the Trust cancels, earned premium shall be computed pro rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

11. DECLARATIONS: By acceptance of this coverage agreement, the *Member* agrees that the statements in the declarations and in any application for the coverage agreement (a copy of which is attached hereto and made a part hereof) are its agreements and representations, that this coverage agreement is issued in reliance upon the truth of such representations and that this coverage agreement embodies all agreements existing between the *Member* and the Trust or any of its agents relating to this coverage agreement and the coverage contained herein.

12. ATTORNEY SELECTION - DEFENSE: The *insured* agrees that, as a condition precedent to coverage of any claim or suit by or under this coverage agreement:

(a) the *insured* will accept the attorney or attorneys selected and retained by the Trust,

(b) the Trust is under no obligation to retain more than one attorney for any one *occurrence, offense, error or omission*, claim or suit, whether or not there is more than one defendant covered by the Trust under this and/or any other coverage agreement issued by the Trust and whether or not there is or may be or any such defendant perceives or determines that there is or may be a conflict of interest between or among any two or more defendants in or with respect to such *occurrence, offense, error or omission*, claim or suit or between or among such defendant or defendants and the Trust, and

(c) notwithstanding the foregoing provisions

of this condition, the *insured* may, in its discretion retain counsel (other than counsel provided by the Trust hereunder) to represent the *insured* in any claim or suit with respect to the subject matter of this coverage agreement, provided, however, that the cost of such retained counsel and expenses incurred thereby shall not be covered hereunder and shall be the sole liability of the person or organization retaining such counsel.

umbrella insurer or any third party claimant or beneficiary thereof.

13. **MEMBER IS AGENT FOR ALL INSUREDS:** For purposes of any matter relating to or arising out of this coverage agreement, the *Member* shall be the agent for all *insureds* under this coverage agreement. Any notice given or received by the *Member* and any determination, communication or other action of or by the *Member* shall be binding on all *insureds*. The Trust may, in its discretion, rely on statements, communications, notices and other actions of or from the *Member* with respect to itself or any *insured* without confirmation from any *insured*.

14. **NO OBLIGATION TO SETTLE WITHIN COVERAGE AGREEMENT LIMITS.** The Trust makes no undertaking to and is not obligated to

the insured,

any excess or umbrella insurer of any insured, or

any third party claimant or beneficiary thereof

to:

settle any claim or suit within the limits of liability applicable to this coverage agreement,

offer to settle any claim or suit within the limits of liability applicable to this coverage agreement, or

offer to settle any claim or suit or to otherwise pay out funds of the Trust in a manner most favorable to or not unfavorable to any insured, any excess or

## GENERAL EXCLUSIONS

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### 1. NUCLEAR ENERGY LIABILITY EXCLUSION (BROAD FORM)

This coverage agreement does not apply:

(a) to *bodily injury, property damage, personal injury or errors or omissions*

(i) with respect to which an *insured* under this coverage agreement is also an insured under a nuclear liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(ii) resulting from the *hazardous properties* of *nuclear material* and with respect to which (A) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (B) the *insured* is, or had this coverage agreement not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization;

(b) under any MEDICAL PAYMENTS COVERAGE or under any SUPPLEMENTARY PAYMENTS provision relating to first aid, to expenses incurred with respect to *bodily injury* resulting from the *hazardous properties* of *nuclear material* and arising out of the operation of a *nuclear facility* by any person or organization;

(c) to *bodily injury, property damage, personal injury or errors or omissions* resulting from the *hazardous properties* of *nuclear material*, if

(i) the *nuclear material* (A) is at any

*nuclear facility* owned by, or operated by or no behalf of, an *insured* or (B) has been discharged or dispersed therefrom,

(ii) the *nuclear material* is contained in *spent fuel* or *waste* at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an *insured*, or

(iii) the *bodily injury, property damage, personal injury or errors or omissions* arises out of the furnishing by an *insured* of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use or any *nuclear facility*, but if such facility is located within the United States of America, its territories or possessions, or Canada, this exclusion (iii) applies only to *property damage* to such *nuclear facility* and any property threat.

As used in this exclusion:

"*hazardous properties*" include radio-active, toxic or explosive properties;

"*nuclear material*" means *source material, special nuclear material* or *by-product material*;

"*source material*", "*special nuclear material*", and "*byproduct material*" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"*spent fuel*" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a *nuclear reactor*;

"*waste*" means any waste material (i) containing *byproduct material* and (ii) resulting from the operation by any person or organization of any *nuclear facility* included within the definition of *nuclear facility* under subparagraph (i) or (ii) thereof;

"*nuclear facility*" means

(a) any *nuclear reactor*,

(b) any equipment or device designed or

used for (i) separating the isotopes of uranium or plutonium, (ii) processing or utilizing *spent fuel*, or (iii) handling, processing or packaging *waste*,

(c) any equipment or device used for the processing, fabricating or alloying of *special nuclear material* if at the time the total amount of such material in the custody of the *insured* at the premises where such equipment or device is located consists or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of *waste*,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"*nuclear reactor*" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"*property damage*" when used in this exclusion includes

(a) the definition of *property damage* contained in the DEFINITIONS provision of the coverage agreement and

(b) all forms of radioactive contamination of property.

## 2. POLLUTION EXCLUSION:

This coverage agreement does not apply to:

(a) *Bodily injury, property damage, personal injury* (including, without implied limitation, *personal injury* arising out of violations of civil or constitutional rights or assault or battery), loss, injury or damage arising out of *errors or omissions*, any other loss, injury or damage arising out of any negligent or intentional act, error or omission, or other similar or dissimilar loss, injury or damage, arising out of the actual, alleged, potential or

threatened emission, discharge, dispersal, release, escape or existence of *pollutants*.

(b) Any loss, cost, expense payment or other obligation arising out of any direction or request by or for any government, or branch or agency thereof, that the *insured* or any other person or entity tests for; monitors; stops, controls or reduces the emission, discharge, escape, release, dispersal or existence of; cleans up; removes; contains; treats; detoxifies; or neutralizes *pollutants*.

(c) Claims arising out of the *insured's* failure to detect, regulate, control, or prevent acts, operations, or omissions which have caused or may be alleged to have caused the emission, discharge, dispersal, release, escape or existence of *pollutants*, or claims arising out of the *insured's* failure to take action or to take appropriate action to detect, regulate, prevent, reduce, or control loss, injury or damage to persons or property resulting from such discharge, dispersal, release or escape of *pollutants*.

(d) Claims arising out of the provision of water, gas or any other product or substance which is or alleged to be contaminated or potentially contaminated with *pollutants*.

"*Pollutants*" means (i) any solid, liquid, gaseous or thermal irritants, toxicants, toxicoids, mutagens, teratogens or contaminants, including, without implied limitation, smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste material (waste material includes, without implied limitation, materials which are intended to be or have been recycled, reconditioned or reclaimed), (ii) any other chemical compound or element (including, without implied limitation, any radioactive chemical or element or any subatomic particle) which does or may potentially cause or result in any form of loss, injury or damage to persons or property or which is or may potentially be a threat or hazard to or cause loss, injury, or damage to the public or individual health or safety, (iii) any sound or noise, (iv) any light or other electromagnetic forces, and (v) any odor or smell.

## 3. EXCLUSION OF COVERAGE OF

## CERTAIN ACTIONS OR RELIEF:

This coverage agreement does not apply to:

- (a) Actions requesting relief other than money damages at law, including, without implied limitation, actions for injunctions or restraining orders (including, without implied limitation, those actions containing prayers for general relief of unspecified type), declaratory judgment actions, actions legally defined as nuisance actions or for the abatement of a nuisance, and other actions of an equitable nature.
- (b) Actions for extraordinary relief such as, but not limited to, mandamus, quo warranto, prohibition, certiorari, habeas corpus, and *exeat*.
- (c) Actions for return of money or other property taken by, paid to, given to or otherwise transferred to the *insured*.
- (d) Actions to compel payments mandated by or provided for in statutes or ordinances (other than covered *damages* caused by violations of federal civil and constitutional rights, if coverage is expressly provided for in the coverage agreement and subject to the exclusions, applicable limit of liability and other terms and conditions of this coverage agreement).
- (e) Actions for or arising out of breach or specific performance of any contract or agreement or the the direct or consequential results of a breach of or failure to perform or enter into such contract or agreement, whether or not such breach or failure to perform constitutes an independent tort and actions for or in quasi-contract, restitution or unjust enrichment.
- (f) Criminal prosecution of a criminal act, civil actions alleging or arising out of commission of a criminal act, or civil or criminal penalties.
- (g) Actions for or arising out of condemnation; reverse or inverse condemnation; the permanent or temporary taking, in whole or in part, of any real or personal property or any interest therein or the right to the

possession, benefit, use or enjoyment thereof; adverse possession, dedication by adverse possession; trespass; or similar actions, provided, however, that the right and obligation under this coverage document to defend the *insured* (but not any obligation to pay sums which the *insured* shall become legally obligated to pay as *damages*), as set forth in Coverage C - *Personal Injury* coverage, shall apply to any action against the *insured* requesting *damages* arising out of a regulatory, total, *temporary taking* of property, provided further that such obligation to defend:

- (1) shall be subject to all other exclusions, applicable limits of liability and other terms and conditions of this coverage agreement, and
  - (2) shall not apply to actions for condemnation, inverse condemnation for permanent taking, adverse possession, dedication by adverse possession, trespass or similar actions.
- (h) Actions for or arising out of violation of or failure to comply with the Federal Fair Labor Standards Act, any state or local labor standards act, or any law regulating or relating to labor, labor practices or relations, unions or other labor organizations.
  - (i) Administrative proceedings of any kind, but this exclusion shall not apply to administrative proceedings in which the requested relief against the *insured* includes covered *damages* arising out of a covered *occurrence, offense, error or omission*.
  - (j) Claims or losses caused by, resulting from or arising out of the ownership, maintenance operation or use of electrical generating equipment.
  - (k) Claims or losses caused by, resulting from or arising out of the ownership, maintenance operation or use of natural and/or L P gas distribution systems or the existence, sale, resale or other condition of natural and/or L P gas.
  - (l) Actions for or arising out of liability assumed by the *insured* under any contract or

agreement except a *defined contract*; but this exclusion does not apply to a warranty of fitness or quality of the *Member's products* or a warranty that work performed by or on behalf of the *Member* will be done in a workmanlike manner.

The provisions of this exclusion do not directly or by implication (i) limit or preclude the effect or interpretation of any other exclusion contained in the coverage agreement or in any endorsement hereto or (ii) extend or expand any coverage contained in the coverage agreement or in any endorsement hereto.

#### 4. EXCLUSION OF DEFENSE OF SUITS OR OTHER ACTIONS NOT COVERED: The Trust shall not be obligated to

defend or

make any payment under the SUPPLEMENTARY PAYMENTS provisions of the coverage agreement with respect to

any suit or other action which does not claim or allege *damages* which the Trust would have to pay, under the terms and conditions of the coverage agreement, if the suit or other action is successful.

In the event a suit or other action contains

some counts or sections which allege damages which the Trust would have to pay and

other counts or sections which allege damages or other relief the Trust would not have to pay (referred to herein as "*other counts or sections*"),

the Trust shall be obligated to defend, subject to the exclusions, limit of liability and other terms and conditions of the coverage agreement, only those counts or sections which claim or allege *damages* the Trust would have to pay.

The Trust may, in its discretion, defend one or more of the *other counts or sections*, but undertaking such defense shall not, by

implication or otherwise,

create any obligation of the Trust to pay any sums which the *insured* shall become obligated to pay as a result of judgements or settlements of such *other counts or sections*,

create any obligation to continue the defense of any such *other counts or sections*, or

increase the limit of liability of the coverage agreement.

Payments made by the Trust to pay for the defense of the *insured*, whether or not undertaken at the discretion of the Trust, shall be considered payments made under the SUPPLEMENTARY PAYMENTS provision of the coverage agreement.

5. EXCLUSION OF JOINT VENTURES AND PARTNERSHIPS: This coverage agreement does not apply to claims or losses caused by, resulting from or arising out of the conduct of any partnership or joint venture of which an insured is a partner or member and which is not designated in this policy as a *Member*.

**APPENDIX B**

**FORM OF ENDORSEMENTS**

# FLORIDA ASSOCIATION OF COUNTIES TRUST

## MANUSCRIPT ENDORSEMENT

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In consideration of an additional premium of \$ \_\_\_\_\_, this endorsement forms a part of and modifies Coverage Agreement Number \_\_\_\_\_ between The Florida Association of Counties Trust and

\_\_\_\_\_, effective \_\_\_\_\_  
[complete this section only if endorsement is issued subsequent to issuance of the coverage agreement]

---

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the coverage agreement, other than as is above stated.



# FLORIDA ASSOCIATION OF COUNTIES TRUST

## EXCLUSION OF SHERIFF AND SHERIFF'S OPERATIONS - ENDORSEMENT

In consideration of the reduced premium charged, it is agreed that:

- 1) The "WHO IS AN INSURED" provision shall not include the Sheriff of the *member* county, the sheriff's department of the *member* county, any Sheriff's Deputy of the *member* county or any other official or employee of the Sheriff's Department of the *member* county
- 2) The coverage agreement shall not apply to any claim or suit arising out of:
  - a) operations performed by or under the control of the Sheriff of the *member* county, or
  - b) except with respect to premises owned by the named insured and used by the sheriff as a jail, premises owned, leased or under the care, custody or control of the Sheriff of the *member* county, or
  - c) any act, error or omission of the Sheriff of the *member* county or of any official or employee of the Sheriff's Department of the *member* county.

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Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the coverage agreement, other than as is above stated.

# FLORIDA ASSOCIATION OF COUNTIES TRUST

## ENDORSEMENT

### COORDINATION OF COVERAGES APPLICABLE TO SHERIFF'S DEPARTMENT

#### I Coverage of Sheriff's Department

In consideration of the reduced premium charged, it is agreed that the coverage provided by this coverage agreement to

The Sheriff's Department of the *member*,  
The Sheriff of the *member*,  
All Deputy Sheriffs of the *member*, and  
All employees of the Sheriff or the Sheriff's Department of the *member*

(the foregoing are hereafter referred to collectively as the "*Sheriff's Department*")

shall not apply to the *Sheriff's Department* to the extent that any

other insurance,  
self insurance, or  
risk funding mechanism, including, without implied limitation, participation in the Florida Sheriff's Self Insurance Fund

(the foregoing are hereafter referred to as "*Primary Coverages*")

is available or applicable to the *Sheriff's Department*, whether or not any or all *Primary Coverages* are valid or collectible.

#### II Defense of Claims or Suits

If and to the extent that the Trust has a duty under this coverage agreement to defend or pay for a defense, such duty shall not apply to the *Sheriff's Department* to the extent that any *Primary Coverages* providing or paying, in whole or in part, for a defense are available or applicable to the *Sheriff's Department*, whether or not any or all *Primary Coverages* are valid or collectible and whether or not the defense or defense payments available or applicable under the *Primary Coverages* are accepted by the *insured*.

Notwithstanding the foregoing, the Trust shall have the right, at its own expense, to participate in the defense of an *insured*. Any expenses incurred by the Trust in that defense shall be considered payments under the Supplementary Payments provision of the coverage agreement.

### III Application of Deductible and Limit of Liability

#### (a) PRIMARY COVERAGES DO NOT REDUCE DEDUCTIBLES.

Amounts paid or payable under a program of *Primary Coverages* shall not

- (1) reduce the deductible set forth in the coverage agreement nor
- (2) constitute payment or reimbursement of the deductible set forth in the coverage agreement.

(b) Notwithstanding the provisions of paragraph III (a) of this Endorsement, the limits of liability under this coverage agreement which are applicable to any one *occurrence, offense, error or omission* or any related series of *occurrences, offenses, error or omissions*, other than the limit of liability stated in the Declarations as "coverage agreement aggregate", shall be reduced, dollar for dollar, by the total limit of liability under a program of *Primary Coverages* which is applicable to such *occurrence, offense, error or omission* or any related series of *occurrences, offenses, error or omissions*, whether or not any or all *Primary Coverages* are valid or collectible.

#### (c) THIS COVERAGE AGREEMENT IS EXCESS OF PRIMARY COVERAGES

To the extent that this coverage agreement applies to the Sheriff's Department, the limits of liability available under this coverage agreement shall apply only in excess of and after application of the limits of liability under *Primary Coverages*, whether or not any or all *Primary Coverages* are valid or collectible.

### IV Continuation of *Primary Coverages*

The member agrees that such *Primary Coverages* as are available or applicable to the *Sheriff's Department* as of the inception date of this endorsement shall be continued in full force and effect and without reduction in available limits or coverages, except a reduction in limits by payment of losses or claims on account of the *Sheriff's Department*. If such *Primary coverages* are not continued or if they are diminished by any reason other than by payment of losses or claims on account of the *Sheriff's Department*, then the coverage provided by this coverage agreement shall apply in all respects as though such *Primary Coverages* had been continued in full force and effect and without reduction.

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Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the coverage agreement, other than as is above stated.

# FLORIDA ASSOCIATION OF COUNTIES TRUST

## EXCLUSION OF CERTAIN PREMISES OR OPERATIONS - ENDORSEMENT

This endorsement modifies the COVERAGE AGREEMENT to which it is attached. Attachment may be by reference to the Form Number of this endorsement or by completing the following attaching clause. Unless a different date is stated below, the effective date of this endorsement is the same as the effective date of the COVERAGE AGREEMENT to which it is attached.

Members Name	Coverage Agreement No.	Effective Date
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It is agreed that this COVERAGE AGREEMENT shall not apply any claim or suit caused by or arising out of any condition of the following premises or operations while owned, operated, leased or under the care, custody or control of the *Member*:

- Airports, Runways or Aircraft
- Gas or Electric Utilities
- Hospitals or Inpatient Clinics
- Stadiums with seating capacity in excess of 10,000
- Amusement Parks
- Mechanical Amusement Devices
- Race Tracks - Horse, Automobile or Motorcycle

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the coverage agreement, other than as is above stated.

# FLORIDA ASSOCIATION OF COUNTIES TRUST

## HOSPITAL ENDORSEMENT - EXTENSION OF COVERAGE FOR CERTAIN CLAIMS

In consideration of the premium charged, it is agreed that:

- 1) The exclusion of "Hospitals or inpatient clinics" set forth in Endorsement # FACT 6 is hereby deleted.
- 2) Exclusion (c) of Coverage F - Errors or Omissions Liability shall not apply to the provision of or failure to provide medical or nursing services, or the furnishing or failure to furnish drugs or medical supplies by
  - (a) the *member*; or
  - (b) the following persons while acting in the following capacities:
    - (i) any elected or appointed official of the *member*, or
    - (ii) any employee of the *member*, or
    - (iii) any rostered volunteer of the *member*.
- 3) The deductible amount stated in the Declarations shall be amended to be \$25,000 with respect to any *occurrence, offense, or error or omission* arising out of a hospital or inpatient clinic owned, operated or under the control of the *member*.
- 4) Coverage C - Personal Injury Liability Coverage shall not apply to offenses caused by or arising out of a hospital or inpatient clinic owned or operated by the *member*.

---

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the coverage agreement, other than as is above stated.

# FLORIDA ASSOCIATION OF COUNTIES TRUST

## PROPERTY IN CUSTODY OF SHERIFF OR POLICE DEPARTMENT - ENDORSEMENT

Exclusion (e) of Coverage A & B, Bodily Injury and Property Damage Coverage, is amended by adding the following:

Part (3) of this exclusion shall not apply to property (other than real property) which is in the care, custody or control of the *Member's* Sheriff or Police Department if;

- i) such property was physically damaged, destroyed or lost by an *Insured*, and
- ii) the damage, destruction or loss of property was not the result of an intentional act of an *Insured*.

The additional coverage provided by this endorsement shall be subject to the following limit of liability and deductible provisions.

Regardless of the number of *insureds* under this policy or the number of persons or organizations who sustain *property damage* to property which is in the care, custody or control of the *Member's* Sheriff or Police Department, the total limit of the Trust's liability for *damages* to property arising out of any one *occurrence* or series of related *occurrences* shall be \$25,000

The amount of \$1,000 shall first be deducted from each claim or suit which results in *damages*.

---

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the coverage agreement, other than as is above stated.

## PRIOR ACTS ENDORSEMENT

(manuscript endorsement-occurrence coverage agreement following a claims made policy)

This endorsement forms a part of and is attached to coverage agreement # \_\_\_\_\_

issued by the FLORIDA ASSOCIATION OF COUNTIES TRUST (hereinafter "Trust")

issued to: \_\_\_\_\_; and is effective 12:01am:

For and in consideration of the premium charged, it is hereby understood and agreed that Coverages A & B (Bodily Injury and Property Damage Liability) and Coverage F (Errors or Omissions Liability) are amended as follows:

### 1. Coverage Extended to Certain Prior Acts

(a) If, during the 730 days immediately preceding the inception date of this coverage agreement, the *Member* was a named insured under a policy of insurance (hereinafter referred to as the "*prior policy*") which provided insurance coverages similar to the *Bodily Injury, Property Damage and Errors or Omissions* insurance provided by this coverage agreement, and

(b) if such *prior policy*

(1) provided insurance coverage only for claims made during its policy period and

(2) did not contain a provision allowing coverage for claims occurring prior to or during its policy term, which were not made against the insured during the policy period of such *prior policy*, but were made within a period which includes by its terms the coverage period of this coverage agreement

then

(c) such insurance as is provided by this coverage agreement under Coverages A & B (Bodily Injury and Property Damage Liability), Coverage C (Personal Injury Liability) and Coverage F (Errors or Omissions Liability) is extended to liability of the insured for *damages* caused by or arising out of an *occurrence, error or omission* of the *insured* which:

(1) would otherwise be covered by this coverage agreement if the *occurrence, error or omission* had occurred during the coverage period of this coverage agreement, and

(2) which occurred during the 730 day period immediately prior to the inception date of this coverage agreement (such period is herein referred to as the "*prior acts period*") (liability for any such *occurrence, error or omission* occurring within the *prior acts period* is herein referred to as "*prior acts liability*").

However, such *prior acts liability* shall not apply to any *occurrence, error or omission* unless

(i) claim for such liability is first made against an insured during the coverage period of this coverage agreement, and

(ii) no *insured* had knowledge of such claim, knowledge that any person or organization was considering the bringing of such claim or knowledge of any *occurrence, error or omission* likely to result in such claim, and

(iii) such claim is reported to the Trust within the coverage period of this coverage agreement.

## 2. Additional Exclusions:

(a) This extension of coverage does not apply to coverages described in subparts D or E of Coverage C, (Personal Injury Liability) or to any other coverage except those specifically mentioned above.

(b) This extension of coverage does not apply to any claim or liability which would not have been covered under a *prior policy* had claim been made for such claim or liability during the policy period of the *prior policy* or during any extended reporting period of such *prior policy* (or which extended reporting period could have been purchased under such *prior policy*).

## 3. Additional Conditions

### (a) When Claim is Made

For purposes of this endorsement, claim by a person or organization seeking damages will be deemed to have been made when written notice, from such person or organization, of such claim is received by any *insured* or by the Trust, whichever comes first. It is provided, however, that with respect to determining whether claim has been made or reported to the insurer of a *prior policy*, the policy definition of that *prior policy* shall control.

### (b) Effect of this Endorsement

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, limits of liability, agreements or limitations of the coverage agreement, other than as stated above.



Florida Association of Counties Trust - (F.A.C.T.)

APPLICATION FOR "PRIOR ACTS" COVERAGE

(Note: Completion of this Application does not place any insurance coverage in effect.)

Name of Applicant: \_\_\_\_\_

Desired Retroactive Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Type of "Prior Acts" Coverage Being Applied For: \_\_\_\_\_

The undersigned APPLICANT, on behalf of all potential INSUREDS under any policy of insurance or coverage agreement hereby being applied for (herein called the INSUREDS), warrant that none of the INSUREDS are aware of any occurrence or incident which has or is likely to give rise to a claim under the type of insurance being applied for, other than those occurrences which have been reported under the terms of a prior insurance policy (and are not intended to be covered in any insurance now being applied for) or are listed below. In the event the warranty made is untrue or inaccurate, then in the sole discretion of the Trust, the Trust shall have the right to void any or all coverage documents issued in reliance on the warranty or to void coverage under coverage documents issued in reliance on the warranty of any or all occurrences, offenses or errors or omissions which first occurred prior to the inception of the first coverage document issued in reliance on the warranty.

	INJURED PARTY	DATE OF OCCURRENCE	DESCRIPTION OF OCCURRENCE
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

(Use reverse side as necessary)

Description of Previous Policy:

Company	Policy Number	Coverage Type	Policy Limit	Policy Inception and Expiration

Wherefore, the undersigned APPLICANT has, through its' designated official holding full power to act on behalf of the APPLICANT and all other INSUREDS, executed this application and warranty.

\_\_\_\_\_  
(Name of Local Public Entity - APPLICANT)

Attest: \_\_\_\_\_  
(Name)

By: \_\_\_\_\_  
(Name of Official and Title)

By: \_\_\_\_\_  
(Title)

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Date: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

# FLORIDA ASSOCIATION OF COUNTIES TRUST

## ADDITIONAL INSURED ENDORSEMENT (LIABILITY ARISING OUT OF MEMBERS PREMISES OR OPERATIONS)

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This endorsement forms a part of and modifies *Coverage Agreement* Number \_\_\_\_\_

between The Florida Association of Counties Trust and

\_\_\_\_\_, effective \_\_\_\_\_

[complete this section only if endorsement is issued subsequent to issuance of the coverage agreement]

In consideration of the premium charged it is agreed that Section I, WHO IS INSURED, of Coverages A & B, *Bodily Injury* and *Property Damage* Liability is amended to include as an *insured* the person or organization shown in the Schedule below, but only with respect to liability arising:

- (1) out of operations performed by the *member*, or
- (2) on premises owned by or rented to the *member*.

The limit of liability applicable to an *insured* under this endorsement shall be the same as, but not in addition to, the limit of liability applicable to the *Member*.

### Schedule

Name of Person or Organization:

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Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the coverage agreement, other than as is above stated.

# FLORIDA ASSOCIATION OF COUNTIES TRUST

## ADDITIONAL INSURED ENDORSEMENT (LIABILITY ARISING OUT OF LEASED PREMISES)

In consideration of an additional premium of \$ \_\_\_\_\_, this endorsement forms a part of and modifies Coverage Agreement Number \_\_\_\_\_ between The Florida Association of Counties Trust and

\_\_\_\_\_, effective \_\_\_\_\_

[complete this section only if endorsement is issued subsequent to issuance of the coverage agreement]

SCHEDULE	
DESIGNATION OF PERSON OR ORGANIZATION	DESIGNATION OF PREMISES AND PART THEREOF LEASED TO THE NAMED INSURED

In consideration of the premium charged, it is agreed that section I, Who is Insured, of coverages A & B, *Bodily Injury & Property Damage* Liability is amended to included as an insured the person or organization designated above, but only with respect to liability arising on the part of the premises designated above as leased to the *member*, and subject to the following additional exclusions:

The coverage does not apply:

1. to any occurrence which takes place after the *member* ceases to be a tenant in said premises;
2. to structural alterations, new construction or demolition operations performed by or on behalf of the person or organization designated above.

The limit of liability applicable to an *insured* under this endorsement shall be the same as, but not in addition to, the limit of liability applicable to the *Member*.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the coverage agreement, other than as is above stated.

# FLORIDA ASSOCIATION OF COUNTIES TRUST

## ADDITIONAL INSURED ENDORSEMENT (DESCRIBED VOLUNTEER WORKERS)

---

This endorsement forms a part of and modifies *Coverage Agreement* Number \_\_\_\_\_

between The Florida Association of Counties Trust and

\_\_\_\_\_, effective \_\_\_\_\_

[complete this section only if endorsement is issued subsequent to issuance of the coverage agreement]

---

In consideration of the premium charged it is agreed that Section I, WHO IS INSURED, of Coverages A & B, *Bodily Injury* and *Property Damage* Liability is amended to include as an *insured* any person(s) who is a volunteer worker for the *member* and is described in the Schedule below, but only while acting at the direction of and within the scope of their duties for the *member*. However, volunteer(s) are not *insureds* for:

1. *bodily injury* to co-volunteers or to any *insureds* arising out of and in the course of their duties for the *member*.
2. *property damage* to property owned, occupied or used by, in the care, custody or control of, or over which physical control is being exercised for any purpose by a co-volunteer or any *insured*.

The limit of liability applicable to an *insured* under this endorsement shall be the same as, but not in addition to, the limit of liability applicable to the *member*.

### Schedule

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Description of Volunteer Worker(s):

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Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the coverage agreement, other than as is above stated.

# CERTIFICATE OF COVERAGE

ISSUE DATE (MM/DD/YY)

MEMBER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE COVERAGE AGREEMENTS BELOW.

## ENTITY AFFORDING COVERAGE

PRODUCER

Florida Association of Counties Trust (FACT)  
311 S. Calhoun Street  
Tallahassee, FL 32301

THIS IS TO CERTIFY THAT COVERAGE AGREEMENTS LISTED BELOW HAVE BEEN ISSUED TO THE MEMBER ABOVE FOR THE COVERAGE PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE COVERAGE AFFORDED BY THE COVERAGE AGREEMENTS DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH COVERAGE AGREEMENTS.

TYPE OF COVERAGE	POLICY NUMBER	POLICY EFFECTIVE	POLICY EXPIRATION	LIABILITY LIMITS FOR COVERED LIABILITIES
<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> Comprehensive form <input checked="" type="checkbox"/> Premises/Operations <input checked="" type="checkbox"/> Products/Completed Oper. <input checked="" type="checkbox"/> Contractual <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Errors or Omissions <input checked="" type="checkbox"/> Personal Injury <input checked="" type="checkbox"/> Civil Rights <input type="checkbox"/> Exclude Sheriff's Operations <input type="checkbox"/> _____				Limit for Covered Liabilities under Florida Law or Statutes. \$100,000 per person <u>\$200,000 per occurrence</u> Limit for Covered Liabilities other than Florida Law or Statutes. <u>\$1,000,000 per occurrence</u> Limit for all Coverages under Coverage Agreement: \$3,000,000 Coverage Agreement Aggregate
<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> Any Auto <input type="checkbox"/> Owned Autos Only <input type="checkbox"/> Scheduled Autos Only <input type="checkbox"/> Non-owned Autos <input type="checkbox"/> Hired Autos <input type="checkbox"/> Excludes Sheriffs Dept. Autos <input type="checkbox"/> _____ <input type="checkbox"/> _____				Limit for Covered Liabilities under Florida Law or Statutes. \$100,000 per person <u>\$200,000 per occurrence</u> Limit for Covered Liabilities other than Florida Law or Statutes. <u>\$1,000,000 per occurrence</u> Limit for all coverages under Coverage Agreement: \$3,000,000 Coverage Agreement Aggregate
OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

CERTIFICATE HOLDER

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED COVERAGE AGREEMENTS BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF. THE ISSUING COMPANY WILL ENDEAVOR TO MAIL \_\_\_\_\_ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVE.

AUTHORIZED REPRESENTATIVE

# AUTO LIABILITY COVERAGE AGREEMENT

In return for the payment of the premium and subject to all the terms of this coverage agreement, we agree with you as follows:

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## PART I - WORDS AND PHRASES WITH SPECIAL MEANING - READ THEM CAREFULLY

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The following words and phrases have special meaning throughout this coverage agreement and appear in boldface type when used:

- A. "You" and "your" mean the political subdivision shown as MEMBER in ITEM ONE of the declarations.
- B. "We", "us", "our" and "trust" mean the Florida Association of Counties Trust.
- C. "Accident" includes continuous or repeated exposure to the same conditions resulting in **bodily injury** or **property damage** the insured neither expected nor intended.
- D. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads but does not include **mobile equipment**.
- E. "Bodily injury" means **bodily injury**, sickness or disease including death resulting from any of these.
- F. "Insured" means any person or organization qualifying as an insured in the WHO IS INSURED section of the applicable coverage. Except with respect to our limit of liability, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim is made or suit is brought.
- G. "Loss" means direct and accidental damage or loss.
- H. "Mobile equipment" means any of the following type of land vehicles:
  - 1. Specialized equipment such as: Bulldozers; Power shovels; Rollers, graders or scrapers; Farm machinery; Cranes; Street sweepers or other cleaners; Diggers; forklifts; Pumps; Generators; Air compressors; Drills; Other similar equipment.
  - 2. Vehicles designed for use principally off public roads.
  - 3. Vehicles maintained solely to provide mobility for such specialized equipment when permanently attached.
  - 4. Vehicles not required to be licensed.
  - 5. Autos maintained for use solely on your premises or that part of roads or other accesses that adjoin your premises.
- I. "Property damage" means damage to or loss of use of tangible property.
- J. "Trailer" includes semitrailer.

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## PART II - WHICH AUTOS ARE COVERED AUTOS

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- A. ITEM TWO of the declarations shows the autos that are covered autos for each of your coverages. The

numerical symbols explained in ITEM THREE of the declarations describe which autos are covered autos. The symbols entered next to a coverage designate the only autos that are covered autos.

## B. OWNED AUTOS YOU ACQUIRE AFTER THE COVERAGE AGREEMENT BEGINS.

- 1. If symbols "1", "2", "3", "4", "5" or "6" are entered next to a coverage in ITEM TWO, then you already have coverage for autos of the type described until the coverage agreement ends.
- 2. But, if symbol "7" is entered next to a coverage in ITEM TWO, an auto you acquire will be a covered auto for that coverage only if:
  - a. We already insure all autos that you own for that coverage or it replaces an auto you previously owned that had that coverage; and
  - b. You tell us within 30 days after you acquire it that you want us to insure it for that coverage.

## C. CERTAIN TRAILERS AND MOBILE EQUIPMENT

If the coverage agreement provides liability coverage, the following types of vehicles are covered autos for liability coverage:

- 1. Trailers with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
- 2. Mobile equipment while being carried or towed by a covered auto.

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## PART III - WHERE AND WHEN THIS COVERAGE AGREEMENT COVERS

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We cover accidents or losses which occur during the coverage agreement period:

- A. In the United States of America, its territories or possessions, Puerto Rico or Canada; or
- B. While the covered auto is being transported between any of these places.

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## PART IV - LIABILITY COVERAGE

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### A. WE WILL PAY.

- 1. We will pay all sums the insured legally must pay as damages because of **bodily injury** or **property damage** to which this coverage applies, caused by an accident and resulting from the ownership, maintenance or use of a covered auto.
- 2. We have the right and duty to defend any suit asking for these damages. However, we have no duty to defend suits for **bodily injury** or **property damage** not covered by this coverage agreement. We may investigate and settle any claim or suit as we consider appropriate. Our payment of the

**LIABILITY COVERAGE** limit ends our duty to defend or settle.

**B. WE WILL ALSO PAY.**

In addition to our limit of liability, we will pay for the insured:

1. Up to \$250 for cost of bail bonds (including bonds for related traffic law violations) required because of an accident we cover. We do not have to furnish these bonds.
2. Premiums on appeal bonds in any suit we defend.
3. Premiums on bonds to release attachments in a suit we defend but only for bonds up to our limit of liability.
4. All costs taxed to the insured in a suit we defend.
5. All interest accruing after the entry of the judgment in a suit we defend. Our duty to pay interest ends when we pay or tender our limit of liability.
6. Up to \$50 a day for loss of earnings (but not other income) because of attendance at hearings or trials at our request.
7. Other reasonable expenses incurred at our request.

**C. WE WILL NOT COVER - EXCLUSIONS.**

This coverage does not apply to:

1. Liability assumed under any contract or agreement.
2. Any obligation for which the insured or his or her insurer may be held liable under any workers' compensation or disability benefits law or under any similar law.
3. Any obligation of the insured to indemnify another for damages resulting from bodily injury to the insured's employee.
4. Bodily injury to any fellow employee of the insured arising out of and in the course of his or her employment.
5. Bodily injury to any employee of the insured arising out of and in the course of his or her employment by the insured. However, this exclusion does not apply to bodily injury to domestic employees not entitled to workers' compensation benefits.
6. Property damage to property owned or transported by the insured or in the insured's care, custody or control.
7. Bodily injury or property damage resulting from the handling of property:
  - a. Before it is moved from the place where it is accepted by the insured for movement into or onto the covered auto, or
  - b. After it is moved from the covered auto to the place where it is finally delivered by the insured.
8. Bodily injury or property damage resulting from the movement of property by a mechanical device (other than a hand truck) not attached to the covered auto.
9. Bodily injury or property damage caused by the dumping, discharge or escape of irritants, pollutants or contaminants. This exclusion does not apply if the discharge is sudden and accidental.

**D. WHO IS INSURED**

1. You are an insured for any covered auto.

2. Anyone else is an insured while using with your permission a covered auto you own, hire or borrow except:
  - a. The owner of a covered auto you hire or borrow from one of your employees or a member of his or her household.
  - b. Someone using a covered auto while he or she is working in a business of selling, servicing, repairing or parking autos unless that business is yours.
  - c. Anyone other than your employees, a lessee or borrower or any of their employees, while moving property to or from a covered auto.
3. Anyone liable for the conduct of an insured described above is an insured but only to the extent of that liability. However, the owner or anyone else from whom you hire or borrow a covered auto is an insured only if that auto is a trailer connected to a covered auto you own.

**E. OUR LIMIT OF LIABILITY**

1. Regardless of the number of covered autos, insureds, claims made or vehicles involved in the accident, the most we will pay for all bodily injury to any one person resulting from any one accident is the LIABILITY COVERAGE LIMIT shown in the declarations as applicable to any one person.
2. Subject to the preceding paragraph and regardless of the number of covered autos, insureds, claims made or vehicles involved in the accident, the most we will pay for all damages resulting from any one accident is the LIABILITY COVERAGE LIMIT shown in the declarations as applicable to any one accident.
3. All bodily injury and property damage resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one accident.

**F. OUT OF STATE EXTENSIONS OF COVERAGE**

1. While a covered auto is away from the state where it is licensed we will:
  - a. Increase this coverage agreement's liability limits to meet those specified by a compulsory or financial responsibility law in the jurisdiction where the covered auto is being used.
  - b. Provide the minimum amounts and types of other coverages, such as "No-Fault", required of out of state vehicles by the jurisdiction where the covered auto is being used.
2. We will not pay anyone more than once for the same elements of loss because of these extensions.

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**PART V - CONDITIONS**

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The coverage provided by this coverage agreement is subject to the following conditions:

## A. YOUR DUTIES AFTER ACCIDENT OR LOSS.

1. You must promptly notify us or our agent of any accident or loss. You must tell us how, when and where the accident or loss happened. You must assist in obtaining the names and addresses of any injured persons and witnesses.
2. Additionally, you and other involved insureds must:
  - a. Cooperate with us in the investigation, settlement or defense of any claim or suit. No insured shall, except at his or her own cost, voluntarily make any payment, assume any obligation or incur any expense.
  - b. Immediately send us copies of any notices or legal papers received in connection with the accident or loss.
  - c. Submit at our expense and as often as we require to physical examinations by physicians we select.
  - d. Authorize us to obtain medical reports and other pertinent medical information.
3. Additionally, to recover for loss to a covered auto or its equipment you must do the following:
  - a. Permit us to inspect and appraise the damaged property before its repair or disposition.
  - b. Do what is reasonably necessary after loss at our expense to protect the covered auto from further loss.
  - c. Submit a proof of loss when required by us.
  - d. Promptly notify the police if the covered auto or any of its equipment is stolen.

## B. OTHER COVERAGE OR INSURANCE.

1. For any covered auto you own this coverage agreement provides primary coverage. For any covered auto you don't own, the coverage provided by this coverage agreement is excess over any other collectible coverage or insurance. However, while a covered auto which is a trailer is connected to another vehicle the liability coverage this coverage agreement provides for the trailer:
  - a. Is excess while it is connected to a motor vehicle you don't own.
  - b. Is primary while it is connected to a covered auto you own.
2. When two or more policies cover on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the limit of our coverage agreement bears to the total of the limits of all the policies covering on the same basis.

## C. OUR RIGHT TO RECOVER FROM OTHERS

If we make any payment, we are entitled to recover what we paid from other parties. Any person to or for whom we make payment must transfer to us his or her rights of recovery against any other party. This person must do everything necessary to secure these rights and must do nothing that would jeopardize them.

## D. CANCELLING THIS COVERAGE AGREEMENT DURING THE COVERAGE AGREEMENT PERIOD.

1. You may cancel the coverage agreement by returning it to us or by giving us advance notice of the date cancellation is to take effect.
2. We may cancel the coverage agreement by mailing you at least 10 days notice at your last address known by us. We may deliver any notice instead of mailing it. Proof of mailing of any notice will be sufficient proof of notice.
3. The effective date of cancellation stated in the notice shall become the end of the coverage agreement period.
4. If this coverage agreement is cancelled, you may be entitled to a premium refund. If so, we will send you the refund. However, making or offering to make the refund is not a condition of cancellation. If you cancel, the refund, if any, will be computed in accordance with the customary short rate procedure. If we cancel, the refund, if any, will be computed pro rata.

## E. LEGAL ACTION AGAINST US.

No legal action may be brought against us until there has been full compliance with all the terms of this coverage agreement. In addition, under LIABILITY COVERAGE, no legal action may be brought against us until we agree in writing that the insured has an obligation to pay or until the amount of that obligation has been finally determined by judgment after trial. No person or organization has any right under this coverage agreement to bring us into any action to determine the liability of the insured.

## F. INSPECTION.

At our option we may inspect your property and operations at any time. These inspections are for our benefit only. By our right to inspect or by our making any inspection we make no representation that your property or operations are safe, not harmful to health or comply with any law, rule or regulation.

## G. CHANGES.

This coverage agreement contains all the agreements between you and us. Its terms may not be changed or waived except by endorsement issued by us. If a change requires a premium adjustment, we will adjust the premium as of the effective date of change. If we revise this coverage agreement form to provide more coverage without additional premium charge your coverage agreement will automatically provide the additional coverage as of the day the revision is effective in your state.

## H. TRANSFER OF YOUR INTEREST IN THIS COVERAGE AGREEMENT.

Your rights and duties under this coverage agreement may not be assigned without our written consent.

## I. BANKRUPTCY.

Bankruptcy or insolvency of the insured shall not relieve us of any obligations under this coverage agreement.

## J. TWO OR MORE COVERAGE AGREEMENTS ISSUED BY US.



If this coverage agreement and any other coverage agreement issued to you by us or any company affiliated with us apply to the same accident, the aggregate maximum limit of liability under all the policies shall not exceed the highest applicable limit of liability under any one coverage agreement. This condition does not apply to any coverage agreement issued by us or an affiliated company specifically to apply as excess coverage over this coverage agreement.

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#### NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (BROAD FORM)

It is agreed that:

A. The coverage agreement does not apply:

1. Under any Liability Coverage, to **bodily injury or property damage**
  - a. with respect to which an **insured** under the coverage agreement is also an **insured** under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an **insured** under any such policy but for its termination upon exhaustion of its limit of liability; or
  - b. resulting from the **hazardous properties of nuclear material** and with respect to which (1) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the **insured** is, or had this coverage agreement not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
2. Under any Medical Payments Coverage, or under any Supplementary Payments provision relating to first aid, to expenses incurred with respect to **bodily injury** resulting from the **hazardous properties of nuclear material** and arising out of the operation of a **nuclear facility** by any person or organization.
3. Under any Liability Coverage, to **bodily injury or property damage** resulting from the **hazardous properties of nuclear material**, if
  - a. the **nuclear material** (1) is at any **nuclear facility** owned by, or operated by or on behalf of, an **insured** or (2) has been discharged or dispersed therefrom;
  - b. the **nuclear material** is contained in **spent fuel** or **waste** at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an **insured**; or
  - c. the **bodily injury or property damage** arises out of the furnishing by an **insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any **nuclear facility**, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion c. applies only to **property damage** to such **nuclear facility** and any property thereat.

B. As used in this endorsement:

"**hazardous properties**" include radioactive, toxic or explosive properties;

"**nuclear material**" means **source material**, **special nuclear material** or **by-product material**;

"**source material**", "**special nuclear material**", and "**by-product material**" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"**spent fuel**" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a **nuclear reactor**;

"**waste**" means any waste material

- (a) containing **by-product material** other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its **source material** content, and
- (b) resulting from the operation by any person or organization of any **nuclear facility** included under the first two paragraphs of the definition of **nuclear facility**;

"**nuclear facility**" means

1. any **nuclear reactor**,
2. any equipment or device designed or used for (a) separating the isotopes of uranium or plutonium, (b) processing or utilizing **spent fuel**, or (c) handling, processing or packaging **waste**,
3. any equipment or device used for the processing, fabricating or alloying of **special nuclear material** if at any time the total amount of such material in the custody of the **insured** at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
4. any structure, basin, excavation, premises or place prepared or used for the storage or disposal of **waste**,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"**nuclear reactor**" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"**property damage**" includes all forms of radioactive contamination of property.

# FLORIDA ASSOCIATION OF COUNTIES TRUST

TALLAHASSEE, FLORIDA

**DECLARATIONS - AUTO LIABILITY COVERAGE AGREEMENT**  
 THIS DECLARATIONS MUST BE COMPLETED BY THE ATTACHMENT OF A SCHEDULE OF COVERED AUTOS

**Item One:**  
 DECLARATIONS NUMBER: **FAC SAMPLE** PRIOR NUMBER:

The MEMBER & its Address  
     : County of XYZ  
     : 123 Street  
     : ABC City, FL 00000

Coverage Agreement Period: (Mo., Day, Yr.)  
 From : March 1, 1989  
 To : October 1, 1989

12:01 A.M. standard time at the address of the Member as stated above.

**Item Two: SCHEDULE OF COVERAGES AND COVERED AUTOS**  
 This policy provides only those coverages where a premium (or "Incl.") is shown in the premium column below. Each of these coverages will apply only to those autos shown as covered autos. Autos are shown as covered autos for a particular coverage by the entry of one or more of the symbols from Item Three next to the name of the coverage.

COVERAGES	COVERED * AUTOS <small>(SEE NOTE BELOW)</small>	COVERAGE LIMIT  THE MOST WE WILL PAY FOR:	PREMIUM
• LIABILITY		Any one Person \$ 100,000 , or Any one Accident \$ 200,000	\$
• UNINSURED MOTORISTS OR • UNDERINSURED MOTORISTS		Any one Person \$ 100,000 , or Any one Accident \$ 200,000	\$
• AUTO MEDICAL PAYMENTS		Any one Person \$	\$
• PERSONAL INJURY PROTECTION		Any one person or accident is the amount stated in the Coverage Agreement	\$
* Entry of one or more of the symbols from Item Three shows which autos are covered autos.		<b>ESTIMATED TOTAL PREMIUM</b>	\$

**Item Three: SEE REVERSE SIDE FOR COVERED AUTO SYMBOLS**

**Item Four: SEE ATTACHED SCHEDULE OF COVERED AUTOS**

**Item Five: SCHEDULE OF HIRED AUTO COVERAGE:** COST OF HIRE: \$

**Item Six: SCHEDULE OF NON-OWNERSHIP LIABILITY:** NO. OF EMPLOYEES:

Forms/Endorsements which apply to this coverage:

DECLARATIONS - AUTO LIABILITY COVERAGE AGREEMENT - (Continued)

ITEM THREE DESCRIPTION OF COVERED AUTO DESIGNATION SYMBOLS

SYMBOL	DESCRIPTION	SYMBOL	DESCRIPTION
1 =	ANY AUTO.	6 =	OWNED AUTOS SUBJECT TO A COMPULSORY UNINSURED MOTORISTS LAW. Only those autos you own which because of the law in the state where they are licensed or principally garaged, are required to have and cannot reject uninsured motorists insurance. This includes those autos you acquire ownership of after the policy begins
2 =	OWNED AUTOS ONLY. Only those autos you own (and for liability coverage any trailers you don't own while attached to power units you own). This includes those autos you acquire ownership of after the policy begins	7 =	SPECIFICALLY DESCRIBED AUTOS. Only those autos described in ITEM FOUR for which a premium charge is shown (and for liability coverage any trailers you don't own while attached to any power unit described in ITEM FOUR).
3 =	OWNED PRIVATE PASSENGER AUTOS ONLY. Only the private passenger autos you own. This includes those private passenger autos you acquire ownership of after the policy begins.	8 =	HIRED AUTOS ONLY. Only those autos you lease, hire, rent or borrow. This does not include any auto you lease, hire, rent or borrow from any of your employees or members of their households.
4 =	OWNED AUTOS OTHER THAN PRIVATE PASSENGER AUTOS ONLY. Only those autos you own which are not of the private passenger type (and for liability coverage any trailers you don't own while attached to power units you own). This includes those autos not of the private passenger type, you acquire ownership of after the policy begins.	9 =	NONOWNED AUTOS ONLY. Only those autos you do not own, lease, hire or borrow which are used in connection with your business. This includes autos owned by your employees or members of their households but only while in your business or your personal affairs.
5 =	OWNED AUTOS SUBJECT TO NO-FAULT. Only those autos you own which are required to have No-Fault benefits in the state where they are licensed or principally garaged. This includes those autos you acquire ownership of after the policy begins provided they are required to have No-Fault benefits in the state where they are licensed or principally garaged.		

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**PERSONAL INJURY PROTECTION ENDORSEMENT  
(FLORIDA)**

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement effective	P o l i c y N o .
Named Insured	C o u n t e r s i g n e d b y

(Authorized Representative)

The Company agrees with the named insured, subject to all of the provisions of this endorsement and to all of the provisions of the policy except as modified herein, as follows:

**SECTION I**

**PERSONAL INJURY PROTECTION**

The Company will pay, in accordance with the Florida Motor Vehicle No-Fault Law to or for the benefit of the injured person:

- (a) 80% of medical expenses, and
- (b) 60% of work loss, and
- (c) replacement services expenses, and
- (d) funeral, burial or cremation expenses,

incurred as a result of **bodily injury**, caused by an accident arising out of the ownership, maintenance or use of a motor vehicle and sustained by any person while occupying the insured motor vehicle or, while a pedestrian, through being struck by the insured motor vehicle.

**Exclusions**

This insurance does not apply:

- (a) to any person while operating the insured motor vehicle without the express or implied consent of the named insured;
- (b) to any person, if such person's conduct contributed to his **bodily injury** under any of the following circumstances:
  - (i) causing **bodily injury** to himself intentionally;
  - or
  - (ii) while committing a felony;
- (c) to any pedestrian, other than the named insured or any relative, not a legal resident of the State of Florida;
- (d) to any person, other than the named insured, if such person is the owner of a motor vehicle with respect to which security is required under the Florida Motor Vehicle No-Fault Law;

- (e) to any person, other than the named insured or any relative, who is entitled to personal injury protection benefits from the owner of a motor vehicle which is not an insured motor vehicle under this insurance or from the owner's insurer;
- (f) to any person who sustains **bodily injury** while occupying a motor vehicle located for use as a residence or premises.

**Limit of Liability; Application of Deductible; Other Insurance**

Regardless of the number of persons insured, policies or bonds applicable, vehicles involved or claims made, the total aggregate limit of personal injury protection benefits available under the Florida Motor Vehicle No-Fault Law from all sources combined, including this policy, for all loss and expense incurred by or on behalf of any one person who sustains **bodily injury** as the result of any one accident shall be \$10,000; provided that payment for funeral, cremation or burial expenses included in the foregoing shall in no event exceed \$1,750.

Any amount payable under this insurance shall be reduced by the amount of benefits an injured person has recovered or is entitled to recover for the same elements of loss under the workmen's compensation laws of any state or the federal government or the Medicaid program.

If benefits have been received under the Florida Motor Vehicle No-Fault Law from any insurer for the same items of loss and expense for which benefits are available under this policy, the Company shall not be liable to make duplicate payments to or for the benefit of the injured person, but the insurer paying such benefits shall be entitled to recover from the Company its equitable pro rata share of the benefits paid and expenses incurred in processing the claim.

The amount of any deductible stated in the schedule of this endorsement shall be deducted from the total amount of all sums other wise payable by the Company with respect to all

loss and expense incurred by or on behalf of each person to whom the deductible applies and who sustains **bodily injury** as the result of any one **accident**, and if the total amount of such loss and expense exceeds such deductible, the total limit of benefits the Company is obligated to pay shall then be the difference between such deductible amount and the applicable limit of the Company's liability. Such deductible amount shall not be applied to funeral, cremation or burial expenses.

## Definitions

When used in reference to this Section:

**"bodily injury"** means bodily injury, sickness or disease, including death at any time resulting therefrom;

**"medical expense"** means reasonable expenses for necessary medical, surgical, x-ray, dental, ambulance, hospital, professional nursing and rehabilitative services, for prosthetic devices and for necessary remedial treatment and services recognized and permitted under the laws of the state for an injured person who relies upon spiritual means through prayer alone for healing in accordance with his religious beliefs;

**"named insured"** means the person or organization named in the declarations of the policy and if an individual, shall include the spouse if a resident of the same household;

**"motor vehicle"** means any self-propelled vehicle with four or more wheels which is of a type both designed and required to be licensed for use on the highways of Florida and any trailer or semi-trailer designed for use with such vehicle;

a **"motor vehicle"** does not include:

- (a) a mobile home; or
- (b) any motor vehicle is used in mass transit or public school transportation and designed to transport more than five passengers exclusive of the operator of the motor vehicle and which is owned by a municipality, a transit or public school transportation authority, or a political subdivision of the state.

**"occupying"** means in or upon or entering into or alighting from;

**"insured motor vehicle"** means a motor vehicle:

- (a) of which the **named insured** is the **owner**, and
- (b) with respect to which security is required to be maintained under the Florida Motor Vehicle No-Fault Law and
- (c) for which a premium is charged, or which is a trailer, other than a mobile home, designed for use with a motor vehicle;

**"relative"** means a person related to the **named insured** by blood, marriage or adoption (including a ward or foster

child) who is usually a resident of the same household as the **named insured**;

**"pedestrian"** means a person while not an occupant of any self-propelled vehicle;

**"owner"** means a person or organization who holds the legal title to a **motor vehicle**, and also includes:

- (a) a debtor having the right to possession, in the event a **motor vehicle** is the subject of a security agreement, and
- (b) a lessee having the right to possession, in the event a **motor vehicle** is the subject of a lease with option to purchase and such lease agreement is for a period of six months or more, and
- (c) a lessee having the right to possession, in the event a **motor vehicle** is the subject of a lease without option to purchase, and such lease agreement is for a period of six months or more, and the lease agreement provides that the lessee shall be responsible for securing insurance;

**"work loss"** means with respect to the period of disability of the injured person, any loss of income and earning capacity from inability to work proximately caused by the injury sustained by the injured person.

**"replacement services expenses"** means with respect to the period of disability of the injured person all expenses reasonably incurred in obtaining from others ordinary and necessary services in lieu of those that, but for such injury, the injured person would have performed without income for the benefit of his household.

## Policy Period; Territory

The insurance under this Section applies only to accidents which occur during the policy period

## Conditions

1. **Notice.** In the event of an accident, written notice of the loss must be given to the Company or any of its authorized agents as soon as practicable.

If any injured person or his legal representative shall institute legal action to recover damages for **bodily injury** against a third party, a copy of the summons and complaint or other process served in connection with such legal action shall be forwarded as soon as practicable to the Company by such injured person or his legal representative.

2. **Action Against the Company.** No action shall lie against the Company unless, as a condition precedent thereto, there shall have been full compliance with all terms of this insurance, nor until 30 days after the required notice of accident and reasonable proof of claim has been filed with the Company.

3. **Proof of Claim; Medical Reports and Examinations; Payment of Claim Withheld.** As soon as practicable the person making claim shall give to

the company written proof of claim, under oath if required, which may include full particulars of the nature and extent of the injuries and treatment received and contemplated, and such other information as may assist the company in determining the amount due and payable. Such person shall submit to mental or physical examinations at the company's expense when and as often as the company may reasonably require and a copy of the medical report shall be forwarded to such person if requested. If the person unreasonably refuses to submit to an examination the company will not be liable for subsequent personal injury protection benefits. Whenever a person making claim is charged with committing a felony the company shall withhold benefits until at the trial level the prosecution makes a formal entry on the record that it will not prosecute the case against the person, the charge is dismissed or the person is acquitted.

**4. Reimbursement and Subrogation.** Unless prohibited by the Florida Motor Vehicle No-Fault Law and in the event of payment to or for the benefit of any injured person under this insurance:

- (a) the company shall be reimbursed to the extent of such payment, exclusive of reasonable attorney's fees and other reasonable expenses, out of the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of such person against any person or organization legally responsible for the **bodily injury** because of which such payment is made and the Company shall have a lien on such proceeds to such extent;
- (b) the Company is subrogated to the rights of the person to whom or for whose benefit such payments were made to the extent of such payments. Such person shall execute and deliver the instruments and papers and do whatever else is necessary to secure such rights. Such person shall do nothing after loss to prejudice such rights.
- (c) the company providing personal injury protection benefits on a private passenger motor vehicle, as defined in the Florida Motor Vehicle No-Fault Law shall be entitled to reimbursement to the extent of the payment of personal injury protection benefits from the owner or insurer of the owner of a commercial motor vehicle, as defined in the Florida Motor Vehicle No-Fault Law, if such injured person sustained the injury while **occupying**, or while a pedestrian through being struck by, such commercial motor vehicle.

**5. Special Provision for Rented or Leased Vehicles.** Notwithstanding any provision of this coverage to the contrary, if a person is injured while **occupying**, or through being struck by, a motor vehicle rented or leased under a rental or lease agreement which does not specify otherwise in bold type on the face of such agreement, the personal injury protection coverage afforded under the lessor's policy shall be primary.

## SECTION II

### MODIFICATION OF POLICY COVERAGES

Any automobile medical payments insurance and any uninsured motorists insurance afforded by the policy shall be

Form No FACT 32 (4/89)

excess over any personal injury protection benefits paid or payable.

Regardless of whether the full amount of personal injury protection benefits have been exhausted, any medical payments insurance afforded by the policy shall pay the portion of any claim for personal injury protection medical expenses which are otherwise covered but not payable due to the limitation of 80% of medical expenses benefits contained in Section I, but shall not be payable for the amount of the deductible selected.

## SECTION III

### PROVISIONAL PREMIUM

It is agreed that in the event of any change in the rules, rates, rating plan, premiums or minimum premiums applicable to the insurance afforded, because of an adverse judicial finding as to the constitutionality of any provision of the Florida Motor Vehicle No-Fault Law providing for the exemption of persons from tort liability, the premium stated in the declarations for any Liability, Medical Payments and Uninsured Motorists insurance shall be deemed provisional and subject to recomputation. If this policy is a renewal policy, such recomputation shall also include a determination of the amount of any return premium previously credited or refunded to the named insured pursuant to Section 12 (2) (e) of the Florida Motor Vehicle No-Fault Law with respect to insurance afforded under a previous policy.

If the final premium thus recomputed exceeds the premium stated in the declarations, the named insured shall pay to the Company the excess as well as the amount of any return premium previously credited or refunded.

# FACT FORMS MANUAL

# Series: 01 to 99

Revision:

04/89

Use: General Liability Forms

Replaces: 02/89

Form #	Form Title/Use	Edition	Status
1	FAC Declarations Page	d (4/89)	x
2	FAC Coverage Document	d (4/89)	x
3	Manuscript (Blank) Endorsement	.....(4/89)	?
4	Exclusion of Coverage - Sheriff's Premises & Operations	a (2/89)	x
5	Coordination of coverages applicable to sheriffs department	b (10/88)	x
6	Exclusion of certain premises or operations	(9/88)	x
7	Hospital endorsement - extension of coverage for certain claims	(9/88)	x
8	Property in custody of sheriff or police department	(9/88)	?
9	Prior Acts Endorsement	(3/89)	?
10	Prior Act Application & Warranty	(3/89)	?
11	Additional Insured - Members premises or Operations	a (3/89)	?
12	Additional Insured - Leased Premises	a (3/89)	?
13	Additional Insured - Volunteer Workers	(3/89)	?
14			
15			
16			
17			
18			
19			
25	Certificate of Coverage	a (3/89)	?
30	Auto Liability Coverage Agreement	(4/89)	?
31	Auto Liability Coverage - Declarations	(4/89)	?
32	Personal Injury Protection Endorsement	(4/89)	?
33			
34			

[X=Filed for use O=Discontinued - = Not applicable]

**APPENDIX C**

**GENERAL RATING CRITERIA**



## Overview of Florida County General Liability Rating System

In order to equitably share the costs of loss and internal expense between member counties, a rating system for General Liability Premiums has been developed using enough rating elements to adequately differentiate between counties with individual characteristics while combining as many rating elements as possible into composites for simplicity of data collection.

The system consists of three parts:

a) The first part is a set of composites (population and payroll) to measure the general activity level of the county. Exposure to loss from ordinary premises and operations exposures are fairly well measured by these composites.

b) The second part consists of loadings for specialty liability coverages where exposure to loss is highly dependent on individual county characteristics. Composite rates do not distribute these loadings fairly.

c) Part three makes adjustments for Unique premises or operations that are not common to all counties (ie beach front). Charges are added here for exposures that are common, but not universal or even appearing in the majority of counties.

Unmentioned, but inherent in the program, are the extremely unusual and hazardous exposures that appear in only one or two (usually larger) counties. These should be singled out for individual rating. The following list is illustrative in nature and is not a complete list of all exposures.

- Airports
- Natural Gas Distribution
- Hospitals or Inpatient Clinics
- Stadiums with seating capacity in excess of 10,000
- Amusement Parks
- Mechanical Amusement Devices
- Aircraft (owned, leased or used)
- Race Tracks

Limits and Rates by Type of Entity

LPE type: County

12/18/87

Eff. Date:

Page 2 of 2

**Base Premises & Operations - Composite Rate(s)**

Exposure BASE Description	Exposure UNIT Description	COMPOSITE Premium Description	Chargable UNIT (size)	RATE @ \$25M Base Limits	INCR LIMITS Factor*
Population	Per Person	County Population Composite Prem	1	\$0.250	1
Payroll	Per \$100 Payroll	Payroll Composite Premium	100	\$0.500	2

\* ISO Increased Limits Factor Codes: (1) OLT; (2) M&C; and (3) Professional.

**Supplemental Base Rates**

<b>Public Beaches</b> (per mile or part thereof)	1000.000	<b>Sports Programs</b> (per participant)	1.000
<b>Arenas</b> (per \$100 receipts)	2.000	<b>Stadium, Bleacher &amp; Stands</b> (per seat)	1.000
<b>Lakes and Dams</b> (flat charge each)	2500.00	<b>Streets and Roads</b> (per mile)	25.000
<b>Swim Pools &amp; Slides</b> (per \$100 receipts)	5.000	<b>Landfills</b> (per Acre)	50.000
<b>Housing Projects</b> (per unit)	5.000	<b>Electric Utility</b> (per \$100 payroll)	2.000
<b>Medical Care facilities</b> (per square foot)	2.500	<b>Water or Sewer Utility</b> (per \$100 payroll)	1.000
<b>Penal Institutions</b> (Per Max # Inmates)	50.00	<b>Wharves and Marinas</b> (flat charge each)	1000.00
<b>Special Events</b> (per day)	200.000	<b>Zoos</b> (flat charge each)	2500.00

Limits and Rates by Type of Entity

LPE type: County

Eff. Date: 12/18/87

Page 1 of 2

**Exposure Limits Mix**

<b>OLT BI and PD mix</b>	
OLT % BI	80.00
OLT % PD	20.00
<b>M&amp;C BI and PD mix</b>	
M&C % BI	80.00
M&C % PD	20.00
<b>Overall Liability Mix by Type</b>	
% OLT	40.00
% M&C	40.00
% Professional	20.00

**RATING PROCEEDURE SUMMARY** (EDP documentation only. See Rating manual for full detail)

**Speciality Coverages - Factors & Rates**

OCP per \$1000, 1st Million	0.06	Contractual flat charge	30.00
OCP per \$1000, 2nd Million	0.03	Contractual per capita	0.01
OCP per \$1000, over 2 Million	0.01	Prod/Comp Oprns flat charge	50.00
E&O per capita	0.040	Prod/Comp Oprns per gallon	0.20
E&O per attorney	200.00	Personal Injury per capita	0.100
E&O per Arch.or Eng.	200.00	Civil Rights flat charge	200.00
E&O Med per ambulance run	1.00	Civil Rights per capita	0.05
E&O Med per nurse	50.00	Civil Rights per officer	50.00
E&O Med per EMT	50.00		
E&O Med per bed	100.00		
E&O Med per Doctor	500.00		
E&O public officials	0.01		

**F.A.C.T. CLASSIFICATION & RATE SCHEDULE**

Effective Date 03/01/89

Class Code #	Classification Description	Exposure Base Description	Exposure Unit Description	Chargeable Unit size	Rate Base Limits	Incr limit	Min. Prem
101	Independent Contractors Lia	Construction or contract cost	Dollars of cost	\$1,000	\$ .06	1	none
110	Contractual Liability	population	per capita	1 person	\$ .01	1	\$30.00
120	Product/ Comp. Oper. Lia.	Waterworks	gallage	1,000,000 gal.	\$ .20	1	\$50.00
201	Errors & Omissions - general	population	per capita	1 person	\$ .04	3	none
202	E&O - attorney	# employed attorney's	per attorney	1 attorney	\$ 200.	3	
203	E&O - Architect or Engineer	# employed Arch. or Eng.	per Arch or Eng.	1 Arch or Eng	\$ 200.	3	
204	E&O - ambulance	# ambulance runs	per ambulance run	1 run	\$ 100.	3	
205	E&O - nurse	# employed nurse's	per nurse	1 nurse	\$ 50.	3	
206	E&O - EMT	# employed EMT's	per EMT	1 EMT	\$ 50.	3	
207	E&O - bed	# beds	per bed	1 bed	\$ 100.	3	
208	E&O - Doctor	# employed Doctor's	per Doctor	1 Doctor	\$ 500.	3	
209	E&O - Public Official's	# Public Official's	per Public Official	1 Public Official	\$ .01	3	
301	Personal Injury Liability	population	per capita	1 person	\$ .10	1	
401	BI/PD - Public Beaches	Length of beach	# of miles	1 mile	\$ 1000.	1	
402	BI/PD - Arena	Arena Operations	receipts	per \$100	\$ 2.	1	
403	BI/PD - lakes or dams	# lakes or dams	# of lake or dams	1 lake or dam	\$ 2500.	1	
404	BI/PD - Swim pools or slides	swim pools or water slides	receipts	per \$100	\$ 5.	1	
405	BI/PD - Housing Project	Size of Housing Projects	# of dwelling unit	1 dwell unit	\$ 5.	1	
406	BI/PD - Medical care facilities	area	# of square feet	1 sq. ft.	\$ 2.5	3	
407	BI/PD - Penal Institutions	maximum design capacity	# of inmate	1 inmate	\$ 50.	3	
408	BI/PD - Special Events	length of event	# of day	1 day	\$ 200.	1	
409	BI/PD - Sports Programs	# participants	# of participants	1 participant	\$ 1.	1	
410	BI/PD - Stadium, bleacher or grandstands	Size of stadium, etc	# of seats	1 seat	\$ 1.	1	
411	BI/PD - Streets or roads	length	# of mile of roads	1 mile	\$ 25.	1	
413	BI/PD - Landfills	area	# of acres	1 acre	\$ 50.	1	
414	BI/PD - Electric Utility	Utility Operations	dollars of payroll	\$100	\$ 2.	1	
415	BI/PD - Water or Sewer Utility	Utility Operations	dollars of payroll	\$100	\$ 1.	1	
416	BI/PD - Wharves or Marinas	# wharves or marina's	# of wharves or marinas	1 wharf/marina	\$ 1000.	1	
417	BI/PD - Zoos	# zoos	# of zoos	1 zoo	\$ 2500.	1	
501	Composite - population	population (current FSU est.)	per capita	1 person	\$ .25	1	
502	Composite - payroll	Operations (excl. clerical)	dollars of payroll	\$100	\$ .50	2	
602	Civil Rights - general	population (current FSU est.)	per capita	1 person	\$ .05	3	\$200.
603	Civil Rights - Police	# duputized police officers	per officer	1 officer	\$ 50.	3	

\* Increased Limit Factors: (1) = O.L. & T.; (2) = M. & C.; (3) = Professional Liability

# F.A.C.T. DEDUCTIBLE CREDITS

Based on 80% loss & ALAE and 20% fixed expense.

Deductible amount per claim	Premises/ * Operations	Product * Comp. op.	C.R. or * E&O	Hospital ** Professional
0	0	0	0	0
1,000	10%	10%	10%	3%
5,000	20%	20%	20%	8%
10,000	30%	30%	30%	12%
25,000	40%	40%	40%	22%
50,000	50%	50%	50%	32%
100,000	60%	60%	60%	45%

**Note:**

\* based on overall experience of Illinois and Indiana local governments for similar lines of insurance.

\*\* based on St Paul filed rates 4/84 - Table II all other states (pg HPL-17)

**APPENDIX D**

**EXPERIENCE AND SCHEDULE RATING MODIFICATION CRITERIA**

GENERAL LIABILITY EXPERIENCE AND SCHEDULE RATING PLAN

1. ELIGIBILITY

The term "risk" as used in this Plan means the exposures of any one Local Government which are to be rated. Allied or subsidiary interests shall not be included unless (1) the Local Government is legally responsible for the actions of the Allied interests or subsidiary interests, or (2) the Local Government has agreed under contract to assume liability for Exposures of others.

Any risk that develops an annual basic limits manual premium of \$5,000 or more for the General Liability exposures to be rated shall be eligible for the application of the Experience Rating provisions of this Plan.

Any risk that develops an annual basic limits manual premium of \$1,000 or more for General Liability exposures to be rated shall be eligible for the application of the Schedule Rating provisions of this Plan.

This plan does not apply to Hospital Professional Liability Insurance.

2. RATING PROCEDURE

The experience modification for the risk shall be determined in accordance with the experience rating procedure described herein.

In addition to any experience modification, a rate modification reflecting specified characteristics of the risk may be applied to the manual rates in accordance with the schedule rating table which is a part of this plan to the extent that such characteristics are not reflected in the experience of the risk.

The rate modification contemplates the standard allowance for expenses. If the expenses are less than standard, such modification if a credit shall be increased, or if a debit shall be decreased, by the amount of reduction in expenses.

3. EXPERIENCE USED

For the forms of General Liability insurance to be rated, the experience modification shall be determined from the latest available three years experience incurred by Florida Association of Counties Trust. In the event the experience for the full experience period is not available, at least one completed policy year shall be used. The experience period shall end at least six months prior to the rating date.

Experience incurred by companies other than FACT may be used, subject to the periods specified above. If the risk has been self-insured or insured with a company from which the experience is not obtainable, the experience may be used if submitted to the company in the form of a statement signed by the insured. Experience in such form shall be given credence in accordance with its apparent credibility. Premiums used in the experience formula should be calculated at current FACT rates and rating methods but should be factored to reflect:

- A) any growth or decline in the exposure base including, but not limited to changes in population,
- B) inflation (In the absence of more accurate data, the following factors may be used):
  - 1st prior year - use .95 of FACT Premium;
  - 2nd prior year - use .90 of FACT Premium;
  - 3rd prior year - use .86 of FACT Premium;
  - 4th prior year - use .82 of FACT Premium.

#### 4. DETERMINATION OF EXPERIENCE MODIFICATION

The terms "basic limits" shall mean \$25,000 for all damages, including damages on account of each claim or suit, sustained by one or more persons or organizations, as the result of any one occurrence.

"Basic limits" shall also mean the policy limits for those policies that were written during the experience period at limits less than those mentioned above.

##### A. Basic Limits Premium Subject to Experience Rating

The basic limits premium shall be collected premium for the experience period converted to a basic limits basis and adjusted to eliminate the effect of any experience or other rate modification or discount.

##### B. Basic Limits Losses Subject to Experience Rating

The losses to be included in the rating shall be the total of the following:

- (i) Paid and Outstanding Losses (including allocated claim expense) for each year in the experience period with the amount of indemnity and allocated claim expense resulting from any single occurrence limited by the maximum single loss



(MSL) value specified in Table B based on the basic limits premium subject to experience rating.

- (ii) Adjustment to Reflect Ultimate Level of Losses for each year in the experience period, calculated by multiplying the premium (P) for that year by the adjusted expected loss ratio (AELR) and by the appropriate basic limits loss development factor (LDF), where
- (a) P is the adjusted basic limits premium for the particular type of coverage for each year in the experience period;
  - (b) AELR is the adjusted expected loss ratio specified in TABLE B based on the total basic limits subject premium;
  - (c) LDF is the appropriate basic limit loss development factor applicable to expected losses (Premium X AELR). Table A displays LDFs by type of coverage and maturity.

C. Actual Loss Ratio

Determine the actual loss ratio by dividing the basic limits losses subject to experience rating by the basic limits premium subject to experience rating.

D. Credibility

The credibility for the risk is obtained from TABLE B, based on the total basic limits premium subject to experience rating.

E. Experience Modification

The manual rates for the risk may be modified in accordance with experience modification factors as determined by the formulas below, subject to a maximum modification of 25%.

- A. If the actual loss ratio is less than the adjusted expected loss ratio, the experience modification is a credit which shall be determined as follows:

$$\frac{(\text{ADJUSTED EXPECTED LOSS RATIO}) \text{ minus } (\text{ACTUAL LOSS RATIO})}{(\text{ADJUSTED EXPECTED LOSS RATIO})} \text{ times } (\text{CREDIBILITY}) = \text{EXPERIENCE MODIFICATION.}$$

- B. If the actual loss ratio is greater than the adjusted expected loss ratio the experience modification is a debit which shall be determined as follows:

$$\frac{(\text{ACTUAL LOSS RATIO}) \text{ minus } (\text{ADJUSTED EXPECTED LOSS RATIO})}{(\text{ADJUSTED EXPECTED LOSS RATIO})} \text{ times } (\text{CREDIBILITY}) = \text{EXPERIENCE MODIFICATION}$$

- C. The adjusted expected loss ratio for any risk may be altered to reflect any risk characteristics which are not otherwise reflected.

5. SCHEDULE RATING TABLE

The manual rates for the risk may also be modified in accordance with the following schedule rating table, subject to a maximum modification of 25%, to reflect such characteristics of the risk as are not reflected in its experience:

		<u>Range of Modifications</u>		
		<u>Credit</u>		<u>Debit</u>
A.	Location:			
	i. Exposure inside premises	5%	to	5%
	ii. Exposure outside premises	5	to	5
B.	Premises - condition, care	10	to	10
C.	Equipment - type, condition, care	10	to	10
D.	Classification peculiarities	10	to	10
E.	Employees - Selection, training, supervision or experience	5	to	5
F.	Cooperation:			
	i. Risk Management Staff	5	to	5
	ii. Risk Mgmt. Programs - (internal)	5	to	5
	iii. Risk Mgmt. Programs - (conducted by FACT)	2	to	2

**TABLE A - General Liability  
BASIC LIMITS LOSS DEVELOPMENTS FACTORS**

<b>Year of Exp. Period (1)</b>	<b>Coverage Type (2)</b>	<b>Loss Development Factor (3)</b>
<b>Current Year</b>	<b>(All types)</b>	<b>(See note (4) below)</b>
<b>1st Prior yr.</b>	<b>COVERAGE PER FACT POLICY</b>	<b>.325</b>
	<b>OTHER BI, PD or PERSONAL INJURY POLICY</b>	<b>.343</b>
	<b>OTHER E&amp;O or POLICE PROFES- SIONAL POLICY</b>	<b>.429</b>
<b>2nd Prior yr.</b>	<b>COVERAGE PER FACT POLICY</b>	<b>.157</b>
	<b>OTHER BI, PD or PERSONAL INJURY POLICY</b>	<b>.194</b>
	<b>OTHER E&amp;O or POLICE PROFES- SIONAL POLICY</b>	<b>.243</b>
<b>3rd Prior yr.</b>	<b>COVERAGE PER FACT POLICY</b>	<b>.085</b>
	<b>OTHER BI, PD or PERSONAL INJURY POLICY</b>	<b>.113</b>
	<b>OTHER E&amp;O or POLICE PROFES- SIONAL POLICY</b>	<b>.141</b>

(1) means experience of full 12 month period valued within 180 days of the date of promulgation of the experience modification

(2) The type of coverage & carrier providing the coverage

(3) Loss development factors used to estimate IBNR and development

(4) If no prior data is available, current year data may be used. Multiply 1st prior year factors by 2.00 .

TABLE B

GENERAL LIABILITY  
EXPERIENCE RATING PLAN  
CREDIBILITY AND MAXIMUM SINGLE LOSS TABLE

LOSS FREE			CREDIBILITY AND MAXIMUM SINGLE LOSS TABLE			CREDIBILITY AND MAXIMUM SINGLE LOSS TABLE									
SUBJECT	PREMIUM	MOD	CRED	AELR	MSL	SUBJECT	PREMIUM	CRED	AELR	MSL	SUBJECT	PREMIUM	CRED	AELR	MSL
1	1523	0.992	0.01	0.327	9900	55040	57480	0.36	0.402	10850	230984	250877	0.71	0.477	49350
1524	2564	0.985	0.02	0.329	10100	57481	60000	0.37	0.404	19250	250878	263636	0.72	0.479	51300
2565	3627	0.977	0.03	0.331	10250	60001	62602	0.38	0.406	19650	263637	277358	0.73	0.481	53650
3628	4712	0.969	0.04	0.334	10400	62603	65289	0.39	0.408	20100	277359	292157	0.74	0.483	55750
4713	5020	0.961	0.05	0.336	10600	65290	68067	0.40	0.411	20550	292158	308163	0.75	0.485	58250
5821	6952	0.954	0.06	0.338	10800	68068	70940	0.41	0.413	21000	308164	325532	0.76	0.488	60950
6953	8108	0.946	0.07	0.340	10950	70941	73913	0.42	0.415	21450	325533	344444	0.77	0.490	63850
8109	9290	0.938	0.08	0.342	11150	73914	76991	0.43	0.417	21950	344445	365116	0.78	0.492	67050
9291	10497	0.930	0.09	0.344	11350	76992	80180	0.44	0.419	22450	365117	387805	0.79	0.494	70550
10498	11732	0.923	0.10	0.346	11550	80181	83486	0.45	0.421	23000	387806	412820	0.80	0.496	74400
11733	12994	0.915	0.11	0.349	11750	83487	86916	0.46	0.423	23500	412821	440540	0.81	0.498	78650
12995	14286	0.907	0.12	0.351	11950	86917	90476	0.47	0.426	24100	440541	471429	0.82	0.500	83400
14287	15607	0.899	0.13	0.353	12150	90477	94175	0.48	0.428	24650	471430	505206	0.83	0.503	88650
15608	16959	0.892	0.14	0.355	12400	94176	98020	0.49	0.430	25300	505209	539236	0.84	0.504	94100
16960	18343	0.884	0.15	0.357	12600	98021	102020	0.50	0.432	25900	539237	573264	0.85	0.506	99400
18344	19760	0.876	0.16	0.359	12850	102021	106186	0.51	0.434	26600	573265	607292	0.86	0.508	104550
19761	21212	0.869	0.17	0.361	13050	106187	110526	0.52	0.436	27250	607293	641319	0.87	0.509	109600
21213	22699	0.861	0.18	0.363	13300	110527	115054	0.53	0.438	28000	641320	675347	0.88	0.510	114500
22700	24224	0.853	0.19	0.366	13550	115055	119780	0.54	0.440	28750	675348	709375	0.89	0.511	119350
24225	25786	0.845	0.20	0.368	13800	119781	124719	0.55	0.443	29500	709376	743403	0.90	0.512	124050
25787	27389	0.838	0.21	0.370	14050	124720	129885	0.56	0.445	30300	743404	777431	0.91	0.513	128650
27390	29032	0.830	0.22	0.372	14300	129886	135294	0.57	0.447	31200	777432	811456	0.92	0.514	133150
29033	30719	0.822	0.23	0.374	14600	135295	140964	0.58	0.449	32050	811459	845486	0.93	0.514	137350
30720	32450	0.814	0.24	0.376	14950	140965	146914	0.59	0.451	33000	845487	879514	0.94	0.514	141500
32451	34228	0.807	0.25	0.378	15150	146915	153165	0.60	0.453	34000	879515	913542	0.95	0.514	145500
34229	36054	0.800	0.26	0.381	15450	153166	159740	0.61	0.455	35050	913543	947570	0.96	0.514	149450
36055	37931	0.793	0.27	0.383	15750	159741	166667	0.62	0.458	36150	947571	981597	0.97	0.514	153350
37932	39960	0.786	0.28	0.385	16050	166668	173973	0.63	0.460	37300	981598	1015625	0.98	0.514	157150
39961	41844	0.780	0.29	0.387	16350	173974	181690	0.64	0.462	38500	1015626	1049653	0.99	0.514	160850
41845	43805	0.774	0.30	0.389	16700	181691	189855	0.65	0.464	39750	1049654	AID OVER	1.00	0.514	164500
43806	45985	0.768	0.31	0.391	17000	189856	198507	0.66	0.466	41150					
45986	48148	0.762	0.32	0.393	17350	198508	207692	0.67	0.468	42550					
48149	50376	0.756	0.33	0.396	17700	207693	217460	0.68	0.470	44100					
50377	52672	0.750	0.34	0.398	18100	217461	227869	0.69	0.473	45750					
52673	55039	0.744	0.35	0.400	18450	227870	238981	0.70	0.475	47650					

**FLORIDA ASSOCIATION OF COUNTIES TRUST  
EXPERIENCE RATING WORKSHEET  
(GENERAL LIABILITY)**

Name of Member: \_\_\_\_\_

Eff. Date of Modification \_\_\_\_\_ Experience Period Used \_\_\_\_\_ to \_\_\_\_\_

1) Adjusted Basic Limits Losses \$ \_\_\_\_\_

2) Basic Limit Premium \$ \_\_\_\_\_

3) Actual Loss Ratio \_\_\_\_\_ . \_\_\_\_\_

4) Expected Loss Ratio \_\_\_\_\_ . \_\_\_\_\_

5) Credibility Factor \_\_\_\_\_ . \_\_\_\_\_

6) (A) If Actual Loss Ratio is less than Expected Loss Ratio:

$$\frac{\text{Exp. L/R ( )} - \text{Act. L/R ( )}}{\text{Exp. L/R ( )}} \times \text{CR. ( . )} = [ \text{ } \% ]$$

Credit

(B) If Actual Loss Ratio is greater than Expected Loss Ratio:

$$\frac{\text{Act. L/R ( )} - \text{Exp. L/R ( )}}{\text{Exp. L/R ( )}} \times \text{CR. ( . )} = [ \text{ } \% ]$$

Debit

**Prior Year Premium Data:**

Carrier/Policy Type	Policy Period From To	Issued Premium	Conversion Factor*	Premium at Base/Manual
		\$		\$
		\$		\$
		\$		\$
		\$		\$
		\$		\$
		\$		\$
*Conversion Factor = Increased Limit Factor x Modification Factor				\$

**NOTES:**

**FLORIDA ASSOCIATION OF COUNTIES TRUST  
EXPERIENCE RATING WORKSHEET**

**List of Single Large Losses: [GL > \$10,000 ; AL > \$8,000]**

Date	Total Loss & ALAE	Excess Amt	Date	Total Loss & ALAE	Excess Amt

**Adjusted Basic Limits Loss Calculation:** (Col.4 = Col.1 + Col.2 + Col.3)

Policy Period From To		(1) Total Incurred Loss & ALAE	(2) M.S.L. Excess Amt.	(3) Adj. to Ultimate	(4) Adjusted Basic Limit Loss&Exp
Maximum Single Loss Amount = [ \$                    ]				TOTAL = \$	

**Ultimate Loss Calculation:**

Policy Inception (mm/yy)	#Months L.D.F. note (a)	Basic Limit Premium	Expected Loss Ratio	Loss Development Factor	Adjustment to Ultimate Loss

note (a) ie current yr, 1st previous, 2nd previous, etc.

**APPENDIX E**

**SCHEDULE OF FINANCIAL RECORDS**



ASSETS	1 Current Year	2 Previous Year
1. Bonds (less RE liability for asset transfers with put options)	T	E
2. Stocks		
2.1 Preferred stocks	T	E
2.2 Common stocks	T	E
3. Mortgage loans on real estate	T	E
4. Real estate:		
4.1 Properties occupied by the company (less RE encumbrances)	T	E
4.2 Other properties (less RE encumbrances)	T	E
5. Collateral loans	T	E
6.1 Cash on hand and on deposit	T	E
6.2 Short-term investments	T	E
7. Other invested assets	T	E
8. Aggregate write-ins for invested assets	P	P
8A. Subtotals, cash and invested assets (Items 1 to 8)	P	P
9. Agents' balances or uncollected premiums:		
9.1 Premiums and agents' balances in course of collection	T	E
9.2 Premiums, agents' balances and installments booked but deferred and not yet due	T	E
9.3 Accrued retrospective premiums	T	E
10. Funds held by or deposited with reinsured companies	T	E
11. Bills receivable, taken for premiums	T	E
12. Reinsurance recoverable on loss payments	T	E
13. Federal income tax recoverable	T	E
14. Electronic data processing equipment	T	E
15. Interest, dividends and real estate income due and accrued	T	E
16. Receivable from parent, subsidiaries and affiliates	T	E
17. Equities and deposits in pools and associations	T	E
18. Amounts receivable relating to uninsured accident and health plans	T	E
20. Aggregate write-ins for other than invested assets	P	P
21. TOTALS (Items 8a through 20)	P	P
DETAILS OF WRITE-INS AGGREGATED AT ITEM 8 FOR INVESTED ASSETS		
0801	T	E
0802	T	E
0803	T	E
0804	T	E
0805	T	E
0806	T	E
0898. Summary of remaining write-ins for Item 8 from overflow page	P	P
0899. TOTALS (Items 0801 thru 0806 plus 0898) (Page 2, Item 8)	P	P
DETAILS OF WRITE-INS AGGREGATED AT ITEM 20 FOR ASSETS OTHER THAN INVESTED ASSETS		
2001. Accounts Receivable for Claim Deductible	T	E
2002	T	E
2003	T	E
2004	T	E
2005	T	E
2098. Summary of remaining write-ins for Item 20 from overflow page	P	P
2099. TOTALS (Items 2001 thru 2005 plus 2098) (Page 2, Item 20)	P	P

NOTE: The items on this page to agree with Exhibit 1, Col. 4.  
The Notes to Financial Statements are an integral part of this statement.

	1	2
	Current Year	Previous Year
<b>LIABILITIES, SURPLUS AND OTHER FUNDS</b>		
1. Losses (Part 3A, Column 5, Item 32) (Claim Reserve Subaccount - Loss)	T	T
1A Reinsurance payable on paid losses (Schedule F, Part 1A, Section 2, Column 1)	T	T
2 Loss adjustment expenses (Part 3A, Column 5, Item 32) (Claim Reserve Subaccount - ALAE)	T	T
3 Contingent commissions and other similar charges	E	E
4 Other expenses (excluding taxes, licenses and fees)	E	E
5 Taxes, licenses and fees (excluding federal and foreign income taxes)	E	E
6 Federal and foreign income taxes (excluding deferred taxes)	E	E
7 Borrowed money	E	E
8 Interest, including CE on borrowed money	E	E
9 Unearned premiums (Part 2A, Column 5, Item 34)	I	T
10 Dividends declared and unpaid		
(A) Stockholders	E	E
(B) Policyholders	E	E
11 Funds held by company under reinsurance treaties	E	E
12 Amounts withheld or retained by company for account of others	E	E
13A Unearned premiums on reinsurance in unauthorized companies CE		
13B Reinsurance on paid losses SE and on unpaid reported losses SE and on incurred but not reported losses SE recoverable from unauthorized companies SE		
13C Paid and unpaid allocated loss adjustment expenses recoverable from unauthorized companies SE		
13D Loss funds held or retained by company for account of such unauthorized companies as per Schedule F, Part 2, Column 6 SE		
14 Provision for unauthorized reinsurance (Items 13a + 13b + 13c - 13d)	P	E
15 Excess of statutory reserves over statement reserves (Schedule F, Parts 1A, 1B, 1C, 1D and Schedule I)	E	E
16 Net adjustments in assets and liabilities due to foreign exchange rates	E	E
17 Drafts outstanding	E	E
18 Payable to parent, subsidiaries and affiliates	E	E
19 Payable for securities	E	E
20 Liability for amounts held under insured accident and health plans	E	E
21 Aggregate write-ins for liabilities	P	P
22 Total liabilities (Items 1 through 21)	P	P
23 Aggregate write-ins for special surplus funds	P	P
24A Common capital stock	E	E
24B Preferred capital stock	E	E
24C Aggregate write-ins for other than special surplus funds	P	P
25A Gross paid in and contributed surplus (Extraordinary Loss Reserve Account)	E	E
25B Unassigned funds (surplus) (Reserve Account)	E	E
25C Less treasury stock, at cost:		
(1) E shares common (value included in Item 24A SE)	E	E
(2) E shares preferred (value included in Item 24B SE)	E	E
26 Surplus as regards policyholders (Items 23 to 25B, less 25C) (Page 4, Item 33)	P	P
27 TOTALS (Page 2, Item 31)	P	P
<b>DETAILS OF WRITE-INS AGGREGATED AT ITEM 21 FOR LIABILITIES</b>		
2101	E	E
2102	E	E
2103	E	E
2104	E	E
2106	E	E
2108 Summary of remaining write-ins for Item 21 from overflow page	P	P
2109 TOTALS (Items 2101 thru 2106 plus 2108) (Page 3, Item 31)	P	P
<b>DETAILS OF WRITE-INS AGGREGATED AT ITEM 23 FOR SPECIAL SURPLUS FUNDS</b>		
2301	E	E
2302	E	E
2303	E	E
2304	E	E
2306	E	E
2308 Summary of remaining write-ins for Item 23 from overflow page	P	P
2309 TOTALS (Items 2301 thru 2306 plus 2308) (Page 3, Item 23)	P	P
<b>DETAILS OF WRITE-INS AGGREGATED AT ITEM 24C FOR OTHER THAN SPECIAL SURPLUS FUNDS</b>		
24C01	E	E
24C02	E	E
24C03	E	E
24C04	E	E
24C05	E	E
24C08 Summary of remaining write-ins for Item 24C from overflow page	P	P
24C09 TOTALS (Items 24C01 thru 24C05 plus 24C08) (Page 3, Item 24C)	P	P

UNDERWRITING AND INVESTMENT EXHIBIT STATEMENT OF INCOME		1	2
UNDERWRITING INCOME		Current Year	Previous Year
1. Premiums earned (Part 2, Column 4, Item 32)		T	E
DEDUCTIONS			
2. Losses incurred (Part 3, Column 7, Item 32)		T	E
3. Loss expenses incurred (Part 4, Column 1, Item 22)		T	E
4. Other underwriting expenses incurred (Part 4, Column 2, Item 22)		T	E
5. Aggregate write-ins for underwriting deductions		P	P
6. Total underwriting deductions (Items 2 through 5)		P	P
7. Net underwriting gain or (loss) (Item 1 minus 6)		P	P
INVESTMENT INCOME			
8. Net investment income earned (Part 1, Item 15)		T	E
9. Net realized capital gains or (losses) (Part 1A, Item 11)		T	E
9A. Net investment gain or (loss) (Items 8 + 9)		P	P
OTHER INCOME			
10. Net gain or (loss) from agents' or premium balances charged off (amount recovered less amount charged off SE)		E	E
11. Finance and service charges not included in premiums (Schedule T, Column 8 total)		E	E
12. Aggregate write-ins for miscellaneous income		P	P
13. Total other income (Items 10 through 12)		E	E
14. Net income before dividends to policyholders and before federal & foreign income taxes (Items 7 + 9A + 13)		P	P
14A. Dividends to policyholders		E	E
14B. Net income, after dividends to policyholders but before federal and foreign income taxes (Item 14 minus 14A)		P	P
15. Federal and foreign income taxes incurred		E	E
16. Net income (Item 14B minus 15) (to Item 18)		P	P
CAPITAL AND SURPLUS ACCOUNT			
17. Surplus as regards policyholders, December 31 previous year (Page 4, Column 2, Item 32)		P	E
GAINS AND (LOSSES) IN SURPLUS			
18. Net income (from Item 16)		P	P
19. Net unrealized capital gains or losses (Part 1A, Item 12)		T	E
20. Change in non-admitted assets (Exhibit 2, Item 31, Col. 3)		T	E
21. Change in liability for unauthorized reinsurance (Page 3, Item 14, Column 2 minus 1)		T	E
22. Change in foreign exchange adjustment		E	E
23. Change in excess of statutory reserves over statement reserves (Page 3, Item 15, Column 2 minus 1)		T	E
24. Capital changes:			
(A) Paid in		E	E
(B) Transferred from surplus (Stock Divd.)		E	E
(C) Transferred to surplus		E	E
25. Surplus adjustments:			
(A) Paid in		E	E
(B) Transferred to capital (Stock Divd.)		E	E
(C) Transferred from capital		E	E
26. Net remittances from or (to) Home Office		E	E
27. Dividends to stockholders (cash)		E	E
28. Change in treasury stock (Page 3, Item 25C (1) and (2), Column 2 minus 1)		T	E
29. Extraordinary amounts of taxes for prior years		E	E
30. Aggregate write-ins for gains and losses in surplus		P	P
31. Change in surplus as regards policyholders for the year (Items 18 through 30)		P	P
32. Surplus as regards policyholders, December 31 current year (Items 17 plus 31) (Page 3, Item 20)		P	P
DETAILS OF WRITE-INS AGGREGATED AT ITEM 5 FOR UNDERWRITING DEDUCTIONS			
0501		E	E
0502		E	E
0503		E	E
0504		E	E
0505		E	E
0598	Summary of remaining write-ins for Item 5 from overflow page	P	P
0599	TOTALS (Items 0501 thru 0505 plus 0598) (Page 4, Item 5)	P	P
DETAILS OF WRITE-INS AGGREGATED AT ITEM 12 FOR MISCELLANEOUS INCOME			
1201		E	E
1202		E	E
1203		E	E
1204		E	E
1205		E	E
1298	Summary of remaining write-ins for Item 12 from overflow page	P	P
1299	TOTALS (Items 1201 thru 1205 plus 1298) (Page 4, Item 12)	P	P
DETAILS OF WRITE-INS AGGREGATED AT ITEM 30 FOR GAINS AND LOSSES IN SURPLUS			
3001		E	E
3002		E	E
3003		E	E
3004		E	E
3005		E	E
3098	Summary of remaining write-ins for Item 30 from overflow page	P	P
3099	TOTALS (Items 3001 thru 3005 plus 3098) (Page 4, Item 30)	P	P

UNDERWRITING AND INVESTMENT EXHIBIT  
PART 1 - INTEREST, DIVIDENDS AND REAL ESTATE INCOME

1	2	3	Paid in Advance		Due and accrued--		8
			4	5	6	7	
	Sched	Collected During Year Less Paid For Accrued on Purchase	Current Year	Previous Year	Current Year	Previous Year	Earned During Year 4-7
1							
1.1							
1.2							
1.3							
2.1							
2.2							
2.21							
3							
4							
5							
6.1							
6.2							
7							
8							
9							
10							

DEDUCTIONS

11. Total investment expenses incurred (Part 4, Col. 8, Item 22)	
12. Depreciation on real estate (for companies which depreciate annually on a formula basis)	
13. Aggregate write-ins for deductions from investment income	
14. Total deductions (Items 11 to 13)	
15. Net Investment Income Earned (Item 10 minus Item 14 -- to Page 4, Item 9)	

-Includes RE accrual of discount less RE amortization of premium  
 -Includes RE accrual of discount less RE amortization of premium  
 -Includes RE for company's occupancy of its own buildings  
 -Includes RE accrual of discount less RE amortization of premium  
 -Includes items only. State basis of exclusions  
 -Includes for asset transfers with put options accounted for as financing arrangements. RE Col. 3 RE Co.

DETAILS OF WRITE-INS AGGREGATED AT ITEM 9 OF PART 1

1	2	3	Paid in Advance		Due and accrued--		8
			4	5	6	7	
	Sched	Collected During Year Less Paid For Accrued on Purchase	Current Year	Previous Year	Current Year	Previous Year	Earned During Year 4-7
Summary of remaining write-ins for Item 9 from overflow page							
0999 Totals (0901 thru 0906-0908) (Part 1, Item 9)							

DETAILS OF WRITE-INS AGGREGATED AT ITEM 13 OF PART 1

1	2	3	Paid in Advance		Due and accrued--		8
			4	5	6	7	
	Sched	Collected During Year Less Paid For Accrued on Purchase	Current Year	Previous Year	Current Year	Previous Year	Earned During Year 4-7
Summary of remaining write-ins for Item 13 from overflow page							
1399 Totals (Items 1301 thru 1308 plus 1309) (Part 1, Item 13)							

PART 1A - CAPITAL GAINS AND (LOSSES) ON INVESTMENTS

1	2	3	4	5	6	7
1						
1.1						
1.2						
1.3						
2.1						
2.2						
2.21						
3						
4						
5						
6.1						
6.2						
7						
8						
9						
10						

(Distribution of Item 10, Col. 7)

11. Net realized capital gains or (losses) (Page 4, Item 9) (Col. 2 - 3, Item 10)	
12. Net unrealized capital gains or (losses) (Page 4, Item 10) (Col. 4 - 5 - 6, Item 10)	

-attach statement or memorandum explaining basis of division  
 -Excluding RE depreciation on real estate included in Part 1, Item 12.

DETAILS OF WRITE-INS AGGREGATED AT ITEM 9 OF PART 1A

1	2	3	4	5	6	7
Summary of remaining write-ins for Item 9 from overflow page						
0999 Totals (0901 thru 0906-0908) (Part 1, Item 9)						

UNDERWRITING AND INVESTMENT EXHIBIT

PART 2 - PREMIUMS EARNED

Line of Business	1	2	3	4
	Net Premiums Written Per Column 4, Part 2B	Unearned Premiums Dec 31 (Previous Year - Current Year) per Col 3, Last Year's Part 2	Unearned Premiums Dec 31 (Current Year - ) per Col. 5, Part 2A	Premiums Earned During Year (Cols 1 - 2 - 3)
1. fire	Y	E	Y	P
2. Allied lines	Y	E	Y	P
3. Farmowners multiple peril	Y	E	Y	P
4. Homeowners multiple peril	Y	E	Y	P
5. Commercial multiple peril	Y	E	Y	P
8. Ocean marine	Y	E	Y	P
9. Inland marine	Y	E	Y	P
10. Financial guaranty	Y	E	Y	P
11. Medical malpractice	Y	E	Y	P
12. Earthquake	Y	E	Y	P
13. Group accident and health	Y	E	Y	P
14. Credit accident and health (group and individual)	Y	E	Y	P
15. Other accident and health	Y	E	Y	P
16. Workers' compensation	Y	E	Y	P
17. Other liability	Y	E	Y	P
18. Auto liability	Y	E	Y	P
21. Auto phys. damage	Y	E	Y	P
22. Aircraft (all perils)	Y	E	Y	P
23. Fidelity	Y	E	Y	P
24. Surety	Y	E	Y	P
25. Glass	Y	E	Y	P
26. Burglary and theft	Y	E	Y	P
27. Boiler and machinery	Y	E	Y	P
28. Credit	Y	E	Y	P
29. International	Y	E	Y	P
30A. Reinsurance*	Y	E	Y	P
30B. Reinsurance*	Y	E	Y	P
30C. Reinsurance*	Y	E	Y	P
30D. Reinsurance*	Y	E	Y	P
31. Aggregate write-ins for other lines of business	P	P	P	P
32. TOTALS	P	P	P	P
DETAILS OF WRITE-INS AGGREGATED AT ITEM 31				
3101	Y	E	Y	P
3102	Y	E	Y	P
3103	Y	E	Y	P
3104	Y	E	Y	P
3105	Y	E	Y	P
3198. Summary of remaining write-ins for Item 31 from overflow page	P	P	P	P
3199. Totals (Items 3101 thru 3105 plus 3198) (Item 31)	P	P	P	P

\*See Item 30 Instructions.



Part 3 - Annual Statement for the Year of the Florida Association of Counties Trust  
 UNDERWRITING AND INVESTMENT EXHIBIT  
 PART 3 - LOSSES PAID AND INCURRED

Line of Business	Losses Paid, Loss Balance			Net Payments 1 - 2 - 3	6 Net Losses Current Year (Part 31 Col. 5)	7 Losses Incurred Current Year 3 - 2 - 5	8 Percentage of Losses Incurred (Col 7, 6) to Premiums Earned (Col 5, Part 3)
	1 Direct Business	2 Reinsurance Assumed	3 Reinsurance Recovered				
1. Fire	E	E	E	F	F	F	F
2. Allied lines	E	E	E	F	F	F	F
3. Farmowners multiple peril	E	E	E	F	F	F	F
4. Homeowners multiple peril	E	E	E	F	F	F	F
5. Commercial multiple peril	E	E	E	F	F	F	F
6. Commercial multiple peril	E	E	E	F	F	F	F
7. Ocean marine	E	E	E	F	F	F	F
8. Inland marine	E	E	E	F	F	F	F
9. Financial guaranty	E	E	E	F	F	F	F
10. Medical malpractice	E	E	E	F	F	F	F
11. Medical malpractice	E	E	E	F	F	F	F
12. Earthquake	E	E	E	F	F	F	F
13. Group accident and health	E	E	E	F	F	F	F
14. Credit accident and health (group and individual)	E	E	E	F	F	F	F
15. Other accident and health	E	E	E	F	F	F	F
16. Workers' compensation	E	E	E	F	F	F	F
17. Other liability	E	E	E	F	F	F	F
18. Auto liability	E	E	E	F	F	F	F
19. Auto phys. damage	E	E	E	F	F	F	F
20. Aircraft (all perils)	E	E	E	F	F	F	F
21. Fidelity	E	E	E	F	F	F	F
22. Surety	E	E	E	F	F	F	F
23. Other	E	E	E	F	F	F	F
24. Burglary and theft	E	E	E	F	F	F	F
25. Vandalism and mischief	E	E	E	F	F	F	F
26. Credit	E	E	E	F	F	F	F
27. International	E	E	E	F	F	F	F
28. Reinsurance**	E	E	E	F	F	F	F
29. Reinsurance**	E	E	E	F	F	F	F
30. Reinsurance**	E	E	E	F	F	F	F
31. Aggregate write-ins for other lines of business	E	E	E	F	F	F	F
32. TOTALS	F	F	F	F	F	F	F
33. DETAILS OF WRITE-INS ACCUMULATED AT ITEM 31	E	E	E	F	F	F	F
34. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
35. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
36. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
37. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
38. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
39. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
40. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
41. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
42. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
43. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
44. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
45. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
46. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
47. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
48. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
49. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
50. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
51. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
52. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
53. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
54. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
55. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
56. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
57. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
58. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
59. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
60. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
61. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
62. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
63. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
64. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
65. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
66. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
67. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
68. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
69. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
70. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
71. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
72. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
73. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
74. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
75. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
76. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
77. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
78. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
79. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
80. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
81. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
82. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
83. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
84. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
85. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
86. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
87. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
88. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
89. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
90. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
91. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
92. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
93. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
94. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
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96. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
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98. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
99. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F
100. Security of financing write-ins for item 31 from startline page	E	E	E	F	F	F	F

Form 1 ANNUAL STATEMENT FOR THE YEAR OF THE FLORIDA ASSOCIATION OF COURTESY TRUST  
 UNDERWRITING AND INVESTMENT EXHIBIT  
 PART 9A - UNPAID LOSSES AND LOSS ADJUSTMENT EXPENSES

Line of Business	1. Unpaid Losses		2. Loss Adjustment Expenses		3. Total		4. Unpaid Losses and Loss Adjustment Expenses	5. Total
	6. Balance Forward	7. Incurred But Not Reported	8. Balance Forward	9. Incurred But Not Reported	10. Balance Forward	11. Incurred But Not Reported		
1. Fire								
2. Allied lines								
3. Automobile multiple parts								
4. Commercial multiple parts								
5. General multiple parts								
6. Marine								
7. Motor marine								
8. Aircraft								
9. Fraternal property								
10. Medical malpractice								
11. Professional liability								
12. Products								
13. Credit accident and health (group and individual)								
14. Other accident and health								
15. Workers' compensation								
16. Other liability								
17. Auto paper damage								
18. Aircraft (all parts)								
19. Fire								
20. Marine								
21. Motor								
22. Other								
23. Total								
24. Total								
25. Total								
26. Total								
27. Total								
28. Total								
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TOTALS  
 Details of remaining reserves for items 61 from schedule page 1  
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 Details of remaining reserves for items 95 from schedule page 1  
 Details of remaining reserves for items 96 from schedule page 1  
 Details of remaining reserves for items 97 from schedule page 1  
 Details of remaining reserves for items 98 from schedule page 1  
 Details of remaining reserves for items 99 from schedule page 1  
 Details of remaining reserves for items 100 from schedule page 1



UNDERWRITING AND INVESTMENT EXHIBIT  
PART 4 - EXPENSES

	1 Loss Adjustment Expenses	2 Other Underwriting Expenses	3 Investment Expenses	4 Total
1. Claim adjustment services:				
(A) Direct	E	E	E	P
(B) Reinsurance assumed	E	E	E	P
(C) Reinsurance ceded	E	E	E	P
(D) Net claim adjustment services (a + b - c)	P	P	P	P
2. Commission and brokerage				
(A) Direct	E	E	E	P
(B) Reinsurance assumed	E	E	E	P
(C) Reinsurance ceded	E	E	E	P
(D) Contingent - net	E	E	E	P
(E) Policy and membership fees	E	E	E	P
(F) Net commission and brokerage (a + b - c - d - e)	P	P	P	P
3. Allowances to managers and agents	E	E	E	P
4. Advertising	E	E	E	P
5. Boards, bureaus and associations	E	E	E	P
6. Surveys and underwriting reports	E	E	E	P
7. Audit of insureds' records	E	E	E	P
8. Salaries	E	E	E	P
9. Employee relations and welfare	E	E	E	P
10. Insurance	E	E	E	P
11. Directors' fees	E	E	E	P
12. Travel and travel items	E	E	E	P
13. Rent and rent items	E	E	E	P
14. Equipment	E	E	E	P
15. Printing and stationery	E	E	E	P
16. Postage, telephone and telegraph, exchange and express	E	E	E	P
17. Legal and auditing	E	E	E	P
(A) Totals (Items 3 to 17)	P	P	P	P
18. Taxes, licenses and fees:				
(A) State and local insurance taxes	E	E	E	P
(B) Insurance department licenses and fees	E	E	E	P
(C) Payroll taxes	E	E	E	P
(D) All other (excluding federal and foreign income and real estate)	E	E	E	P
(E) Total taxes, licenses and fees (a + b + c + d)	P	P	P	P
19. Real estate expenses	E	E	E	P
20. Real estate taxes	E	E	E	P
(A) Reimbursements by uninsured accident and health plans	E	E	E	P
21. Aggregate write-ins for miscellaneous expenses	P	P	P	P
22. Total expenses incurred	P	P	P	P
23. Loss unpaid expenses - current year	E	E	E	P
24. Aid unpaid expenses - previous year	E	E	E	P
25. Total Expenses Paid (Items 22 - 23 - 24)	P	P	P	P
DETAILS OF WRITE-INS AGGREGATED AT ITEM 21 FOR MISCELLANEOUS EXPENSES				
2101. Risk Management Expenses	E	E	E	P
2102. ....	E	E	E	P
2103. ....	E	E	E	P
2104. ....	E	E	E	P
2105. ....	E	E	E	P
2106. Summary of write-ins remaining for Item 21 from overflow page	E	E	E	P
2107. Totals (Items 2101 thru 2106 plus 2106) (Part 4, Item 21)	P	P	P	P

**ATTACHMENT B**

**FORM OF FIRST AMENDMENT TO  
AGREEMENT AND DECLARATION OF TRUST**

**FIRST AMENDMENT TO  
AGREEMENT AND DECLARATION OF TRUST**

**THIS FIRST AMENDMENT TO AGREEMENT AND DECLARATION OF TRUST** is made and entered into as of October 1, 1989, by and among Lee Draper, Robert Fernandez, Ernie Padgett, Bill Peebles, Sue Schmitt, Richard Seltzer, and Lee Vause (the "Trustees"), as trustees of the Florida Association of Counties Trust (the "Insurance Trust") and Bay County, Brevard County, Jackson County, Leon County, Okaloosa County, and Polk County (the "Charter Members"), as charter members of the Insurance Trust.

**WHEREAS**, as of March 1, 1989, the Trustees and the Charter Members entered into an Agreement and Declaration of Trust (the "Original Agreement") creating the Insurance Trust; and

**WHEREAS**, the admission of new Members (as defined in the Original Agreement) to the Insurance Trust is of benefit to the Charter Members and the Insurance Trust; and

**WHEREAS**, the Original Agreement included certain terms and provisions which have been found to impede the orderly admission of new Members to the Insurance Trust;

**NOW THEREFORE**, for and in consideration of the mutual covenants and agreements herein contained, the Trustees and the Charter Members agree as follows:

**SECTION 1. PAYMENT OF EXTRAORDINARY LOSS RESERVE CONTRIBUTIONS.** Section 3.06(A) of the Original Agreement relating to the payment of Extraordinary Loss Reserve Contributions is amended to read:

**Section 3.06. Extraordinary Loss Reserve Contributions.**

(A) The Board shall, upon consideration of the Service Company's recommendation, determine the Extraordinary Loss Reserve Contribution and the amount of the initial Premium for each new applicant to provide actuarially sound Liability Coverage to such applicant; provided however, that the Extraordinary Loss Reserve Contribution for each new applicant shall not be less than such applicant's population (based upon the most recent population estimates for such applicant published by the University of Florida, Bureau of Economic and Business Research) multiplied by the sum of (1) the amount on deposit in the Extraordinary Loss Reserve Account as of the last day of the immediate prior calendar month and (2) the amount required to pay costs associated with the initial formation of the Insurance Trust, divided by the aggregate population of the existing Members (as of the date of their

admission to membership). The Board shall require the applicant to contribute an amount equal to such applicant's Extraordinary Loss Reserve Fund Contribution, in addition to its initial Premium, as a condition to accepting such applicant as a Member. The Extraordinary Loss Reserve Contribution shall be paid to the Insurance Trust either (i) in cash on the date the first Coverage Agreement is issued to the new Member or (ii) pursuant to written agreement between the Insurance Trust and such new Member, on such other date or dates as shall be determined by the Board. After determining the portion, if any, of the Extraordinary Loss Reserve Contribution to be paid on the date the new applicant becomes a Member and initial Premium for the new applicant and confirming the new applicant's desire to become a Member, the Board shall compute the Percentage Shares of all Members and the new applicant, of an amount equal to the sum of (1) the amount on deposit in the Extraordinary Loss Reserve Account as of the last day of the immediate prior calendar month and (2) the amount of the new applicant's Extraordinary Loss Reserve Contribution. The Board shall also determine, upon consideration of the Service Company's recommendation, if upon payment of the new applicant's Extraordinary Loss Reserve Contribution, there will be amounts on deposit in the Extraordinary Loss Reserve Account in excess of the Extraordinary Loss Reserve Requirement.

**SECTION 2. EXCESS RESERVE AMOUNTS RESULTING FROM ADMISSION OF NEW MEMBERS.** Section 3.06(B) of the Original Agreement relating to Excess Reserve Amounts resulting from the admission of new Members is amended to read:

**Section 3.06. Extraordinary Loss Reserve Contributions.**

(B) If the Board determines, upon consideration of the Service Company's recommendation, that an Excess Reserve Amount will exist, it shall reduce the new applicant's Extraordinary Loss Reserve Contribution by the amount of its Percentage Share of such Excess Reserve Amount.

(1) If the new applicant's Extraordinary Loss Reserve Contribution is to be provided by the existing Members from outstanding Loan amounts, the Board shall provide a Notice of Admission, in substantially the form attached hereto as Exhibit A, to the Commission and each existing Member of the amount of each existing Member's Percentage Share of such Excess Reserve Amount. The Board shall request that the Commission notify the Board of the outstanding principal amount of the Loan for each Member by completing and returning the Notice of Admission. The Commission and the Board shall determine the amount of Loan financing available to such new Member by completing a Notice of Reallocation, in substantially the form attached hereto as Exhibit B. The Board shall send the completed Notice of Reallocation to the Commission and each Member and provide (a) a credit against such Member's unpaid Extraordinary Loss Reserve Contribution, if

any, and (b) arrange for a Reserve Contribution Refund to be made to each existing Member, either as a credit against such Member's Loan or a credit against such Member's next Premium; provided that the aggregate amounts provided in the manner described in clauses (a) and (b), above, shall be equal to the amount shown in the Notice of Reallocation. Any such Reserve Contribution Refund will be subject to any restrictions set forth in the Loan Agreements.

(2) If the new applicant's Extraordinary Loss Reserve Contribution is to be provided by a new Loan directly from the Commission or from other funds of the new applicant, the Board shall complete a Notice of Payment and Redemption, in substantially the form attached hereto as Exhibit C, and provide the Notice of Payment and Redemption to the Commission and each Member and provide (a) a credit against such Member's unpaid Extraordinary Loss Reserve Contribution, if any, and (b) arrange for a Reserve Contribution Refund to be made to each existing Member, either as a credit against such Member's Loan, a cash payment, or a credit against such Member's next Premium; provided that the aggregate amounts provided in the manner described in clauses (a) and (b), above, shall be equal to the amount shown in the Notice of Payment and Redemption.

**SECTION 3. EXCESS RESERVE AMOUNTS RESULTING FROM ANNUAL REVIEW OF SUFFICIENCY.** Section 3.06(C) of the Original Agreement relating to Excess Reserve Amounts resulting from the annual review of the sufficiency of the Extraordinary Loss Reserve Account is amended to read:

**Section 3.06. Extraordinary Loss Reserve Contributions.**

(C) At its first meeting of each Fiscal Year, the Board shall determine, upon consideration of the Service Company's recommendation, if (1) the Extraordinary Loss Reserve Account Requirement is sufficient and (2) whether there is an Excess Reserve Amount. If there is an Excess Reserve Amount, the Board shall give notice to the Commission and each Member and either provide a credit against such Member's unpaid Extraordinary Loss Reserve Contribution in the amount of such Member's Percentage Share of such Excess Reserve Amount or arrange for a Reserve Contribution Refund to be made to each Member, either as a credit against such Member's Loan, as a cash payment, or a credit against such Member's next Premium in amounts equal to each Member's Percentage Share of such Excess Reserve Amount. Any such Reserve Contribution Refund will be subject to any restrictions set forth in the Loan Agreements.

**SECTION 4. QUALIFICATIONS FOR NEW MEMBERS.** Section 3.03 of the Original Agreement relating to qualifications for new Members is amended to read:

**Section 3.03. Qualifications for New Members.** An applicant for membership in the Insurance Trust shall demonstrate to the satisfaction of the Board that it: (A) is a Public Agency located in the State; (B) qualifies for participation in the Insurance Trust under the Act; (C) qualifies for participation in the Insurance Trust under the eligibility requirements set forth in the Operations Manual; (D) submits an application for participation in the Insurance Trust in the form approved by the Board; (E) deposits, prior to the effective date of any Liability Coverage, an Extraordinary Loss Reserve Contribution pursuant to Section 3.06(A); and (F) purchases Liability Coverage and pays its initial Premium. The Board may require each new Member to reimburse the Insurance Trust for the cost of processing its membership application and for any costs incurred in connection with the reduction in Loan principal for existing Members by the amounts shown in the Notice of Payment and Redemption issued by the Board upon the approval of such new Member (including any premium payment required or negative arbitrage incurred in connection with the redemption of indebtedness issued by the Commission to provide funds for such Loans). Such costs may be paid separately or as part of the initial Premium.

**SECTION 5. DEFINITION OF "MEMBER."** The portion of Section 1.01 of the Original Agreement defining the term "Member" is amended to read:

"Member" shall mean and include each Charter Member and any other Public Agency located in the State of Florida which is accepted for membership in the Insurance Trust pursuant to Article III of this Agreement; provided however, that any Public Agency that has received Reserve Contribution Refunds equal to its Extraordinary Loss Reserve Contribution previously paid to the Insurance Trust shall no longer be deemed a "Member".

**SECTION 6. DEFINITION OF "PERCENTAGE SHARE."** The portion of Section 1.01 of the Original Agreement defining the term "Percentage Share" is amended to read:

"Percentage Share" shall mean, with respect to each Member, at any time of calculation, the percentage derived by dividing (i) the portion of such Member's Extraordinary Loss Reserve Contribution previously paid to the Insurance Trust less the sum of all Reserve Contribution Refunds to such Member, by (ii) the aggregate amount of Extraordinary Loss Reserve Contributions made by all Members less the sum of all Reserve Contribution Refunds to all Members.

**SECTION 7. NOTICE OF ADMISSION OF NEW MEMBER(S) AND EXCESS RESERVE AMOUNT.** A new Exhibit C is added to the Original Agreement to read:

**EXHIBIT C**

**NOTICE OF PAYMENT AND REDEMPTION  
UPON ADMISSION OF NEW MEMBER(S)**

Florida Association of Counties Trust

To: Existing Members of the Florida Association of Counties Trust  
and the Florida Liability Insurance Commission

The Board of Trustees (the "Board") of the Florida Association of Counties Trust (the "Insurance Trust") hereby gives notice pursuant to Section 3.06(B) of the Agreement and Declaration of Trust dated as of March 1, 1989, pursuant to which the Insurance Trust was created (the "Agreement"), that the Board has approved the following Public Agencies as Member(s) of the Insurance Trust effective \_\_\_\_\_ (date) (the "Admission Date") and that the Extraordinary Loss Reserve Contribution for such Member(s) has been determined to be the amount shown below:

<u>New Member</u>	<u>Amount of Extraordinary Loss Reserve Contribution</u>
-------------------	--

You are further advised that as a result of the Extraordinary Loss Reserve Contribution to be made by such new Member(s), the Board has determined that there will exist on the Admission Date of such new Member(s) an Excess Reserve Amount in the Extraordinary Loss Reserve Account in the total amount of \$\_\_\_\_\_. Such Excess Reserve Amount has been allocated to each of the existing Members, based on their Percentage Share of the Insurance Trust Fund, in the amounts shown in Column A below.

The Board shall cause a cash refund to be made to each of the existing Members in the amount (indicated in Column C below) equal to such Member's Percentage Share of the Excess Reserve Amount (indicated in Column A below) minus the amount, if any, indicated in Column B given as a principal reduction in such Member's Loan.

	(A) Excess Reserve Amount	(B) Reduction in Loan Principal	(C) Cash/Premium Refund/Credit
<u>Existing Member</u>	<u>\$</u>	<u>\$</u>	<u>\$</u>
Total	\$ _____ =====	\$ _____ =====	\$ _____ =====

Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Agreement and Declaration of Trust dated as of March 1, 1989 pursuant to which the Insurance Trust was created.

BOARD OF TRUSTEES  
FLORIDA ASSOCIATION OF COUNTIES TRUST

cc: New Members of Florida Association of Counties Trust

[The foregoing form for the Notice of Payment and Redemption assumes that the entire Extraordinary Loss Reserve Contribution is paid in cash on the date the first Coverage Agreement is issued to the new Member and may require revision if the Extraordinary Loss Reserve Contribution is paid on any other date or dates.]

**SECTION 8. TERMINATION OF LIABILITY COVERAGE.** Section 3.12 of the Original Agreement relating to Members whose right to purchase Liability Coverage has been terminated is amended to read:

**Section 3.12. Termination of Liability Coverage.**

(D) The Extraordinary Loss Reserve Contribution of such Member shall be retained by the Insurance Trust subject to the provisions of Section 3.06(D) or (G) of this Agreement. Prior to the date such Member has received Reserve Contribution Refunds equal to its Extraordinary Loss Reserve Contribution previously paid to the Insurance Trust, it shall, unless otherwise provided herein, be entitled to all rights granted to Members pursuant to this Agreement other than the right to purchase Liability Coverage.

**SECTION 9. ENFORCEMENT OF AGREEMENT.** Section 5.04 of the Original Agreement is amended to read:

**Section 5.04. Enforcement of Agreement.** The Board shall have the right to enforce the performance of all obligations in this Agreement and the other Program Documents and to institute proceedings of any nature whatsoever to enforce the same. Except as expressly set forth herein and in the Operations Manual, neither the Board, the Service Company nor the Administrator shall be authorized to extend credit to any Member.

**SECTION 10. RATIFICATION OF ORIGINAL AGREEMENT.** The Original Agreement is hereby ratified and shall remain in full force and effect, except as expressly modified by the terms of this First Amendment.

**SECTION 11. COUNTERPARTS.** This First Amendment may be signed in one or more counterparts, all of which taken together shall constitute one instrument. The signatures of parties appearing on one or more counterparts shall bind them as fully as though all such parties had signed the same counterpart.



[Signature pages to be added]

**ATTACHMENT C**

**FORM OF JOINDER AGREEMENT**

**JOINDER TO  
AGREEMENT AND DECLARATION OF TRUST**

**THIS JOINDER TO AGREEMENT AND DECLARATION OF TRUST** is made and entered into as of \_\_\_\_\_ 1, 1989, by and between [Insert Name] County and the Florida Association of Counties Trust ("FACT").

**WHEREAS**, pursuant to applicable law, certain public agencies of the State of Florida have established a local government liability pool known as FACT, the Florida Association of Counties Trust, for the purpose of pooling certain resources to provide liability insurance coverage for themselves and for other public agencies of the State; and

**WHEREAS**, the County desires to participate in the FACT liability coverage program by becoming a party to the Agreement and Declaration of Trust creating and establishing the Florida Association of Counties Trust, dated as of March 1, 1989, including, if it becomes effective, the First Amendment to Agreement and Declaration of Trust in substantially the form previously provided to the County (collectively, the "FACT Trust Agreement");

**NOW THEREFORE**, for and in consideration of the mutual covenants and agreements herein contained, the County and FACT hereby agree as follows:

**Section 1. Joinder in FACT Trust Agreement.** Upon execution and delivery of this Joinder Agreement, the County shall become a full party to the FACT Trust Agreement (except to the extent that the terms thereof may be modified by the provisions of this Joinder Agreement) pursuant to Section 3.04 thereof. Capitalized terms not otherwise defined herein shall have the meaning set forth in the FACT Trust Agreement. It is expressly understood and agreed that the County shall be bound by the terms of the Program Documents.

**Section 2. Extraordinary Loss Reserve Contribution.** The County hereby agrees to make its Extraordinary Loss Reserve Contribution and to reimburse FACT for the cost of processing its application for membership and for any costs incurred in connection with the reduction in Loan principal for existing Members, as required by the FACT Trust Agreement. The total amount payable to FACT by the County for these purposes shall not exceed \$\_\_\_\_\_.

**Section 3. Failure to Make Extraordinary Loss Reserve Contribution.** Notwithstanding any provision of this Joinder

Agreement or the FACT Trust Agreement to the contrary, if the County fails to pay its Extraordinary Loss Reserve Contribution and reimburse FACT for the cost of processing its application for membership and for any costs incurred in connection with the reduction in Loan principal for existing Members, as required by the FACT Trust Agreement and Section 2 hereof, on or prior to January 1, 1990, this Joinder Agreement and any Coverage Agreement issued to the County pursuant to the FACT Trust Agreement shall become void ab initio and neither the County nor FACT shall have any further rights or obligations hereunder or thereunder. In such event, FACT shall, within a reasonable time and after a review by FACT of the accounts of the County, which FACT may require to be reviewed or audited by an independent certified public accountant, return to the County that portion of the premium paid to FACT which equals such premium less actual payments of claims under the Coverage Agreement, all claims expenses incurred under the Coverage Agreement and other expenses directly incurred by FACT in respect of the account of the County.

**Section 4. Counterparts.** This Joinder Agreement may be simultaneously executed in two or more counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. The signatures of parties appearing on one or more counterparts shall bind them as fully as though all such parties had signed the same counterpart.

**IN WITNESS WHEREOF**, the Florida Association of Counties Trust and the Board of County Commissioners of [Insert Name] County, Florida, have caused this Joinder Agreement to be executed and attested by its duly authorized officers, all as of the date first above written.

**FLORIDA ASSOCIATION OF COUNTIES  
TRUST**

By: \_\_\_\_\_  
Chairman of the Board of Trustees

ATTEST:

\_\_\_\_\_  
Secretary

(SEAL)

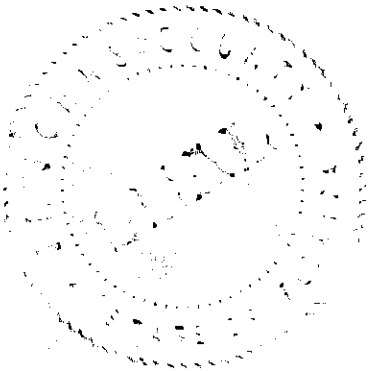
[INSERT NAME] COUNTY, FLORIDA

*Cary A. Maguire*  
Chairman, Board of County  
Commissioners

ATTEST:

*Carl "Bud" Martel*  
Clerk to the Board

(SEAL)



**ATTACHMENT D**

**FORM OF LOAN AGREEMENT**

LOAN AGREEMENT

BETWEEN

FLORIDA LIABILITY INSURANCE COMMISSION

AND

[INSERT NAME]

Dated as of \_\_\_\_\_ 1, 1989

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FLORIDA LIABILITY INSURANCE COMMISSION POOLED  
LIABILITY INSURANCE PROGRAM REVENUE BONDS  
SERIES 1989A

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## LOAN AGREEMENT

This Loan Agreement, dated as of \_\_\_\_\_ 1, 1989, and entered into between the FLORIDA LIABILITY INSURANCE COMMISSION (the "Commission"), a legal entity and a public body corporate and politic created pursuant to Part I of Chapter 163, Florida Statutes (the "Interlocal Act"), and [INSERT NAME] COUNTY, ("the Public Agency"), a duly constituted political subdivision of the State of Florida (the "State").

**WHEREAS**, the Commission was created for the benefit of duly constituted municipalities, counties and other public agencies as described in the Interlocal Act (collectively, the "Public Agencies"), desiring to participate in a liability pool in order to obtain liability coverage not otherwise obtainable and/or lowering the cost of obtaining such coverage; and

**WHEREAS**, the Commission has determined that there is substantial need within the State for a financing program (the "Program") which will provide funds to Public Agencies in the State to enable them to procure needed liability coverage through a local government liability pool; and

**WHEREAS**, the Commission is authorized under the Interlocal Act to issue its revenue bonds to provide funds for such purpose; and

**WHEREAS**, the Commission has determined that the public interest will best be served and that the purposes of the Interlocal Act can be satisfied by the Commission's issuance of revenue bonds in order to provide funds to loan to Public Agencies desiring to finance a portion of the cost of acquiring a liability coverage agreement or agreements from a local government liability pool; and

**WHEREAS**, in furtherance of the foregoing, the Commission has issued certain revenue bonds known as "Florida Liability Insurance Commission Pooled Liability Insurance Program Revenue Bonds, Series 1989A", pursuant to the terms of a certain Trust Indenture, dated as of \_\_\_\_\_ 1, 1989, between the Commission and the Trustee (as defined herein), such Trust Indenture as amended and supplemented being herein collectively referred to as the "Indenture"; and

**WHEREAS**, pursuant to the authority of the Interlocal Act, the Commission desires to loan to the Public Agency the amount necessary to enable the Public Agency to finance a portion of the cost of acquiring a liability coverage agreement or agreements from a local government liability pool and to pay a pro rata share of the costs of issuing the aforementioned Bonds, and the Public Agency desires to borrow such amount from the Commission subject to the terms and conditions of and for the purposes set forth in this Loan Agreement; and

**WHEREAS**, the Public Agency is authorized under and pursuant to Part I of Chapter 125, Florida Statutes, and the Interlocal Act to enter into this Loan Agreement for the purposes set forth herein; and

**WHEREAS**, the Commission and the Public Agency have determined that the provision of funds by the Commission to the Public Agency pursuant to the terms of this Loan Agreement and the Indenture, will assist in the development and maintenance of the public welfare of the residents of the State and the areas served by the Public Agency, and shall serve a public purpose by aiding the Public Agency in acquiring adequate liability coverage and by lowering the cost to the Public Agency of acquiring such coverage;

**NOW, THEREFORE**, for and in consideration of the premises hereinafter contained, the parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS

**SECTION 1.01. DEFINITIONS.** Unless the context of use indicates another meaning or intent, the following words and terms as used in this Loan Agreement shall have the following meanings (or the meaning specified in the Section hereof or in the document herein referenced), and any other words and terms not otherwise defined herein which are defined in the Indenture shall have the meanings as therein defined.

**"Accountant" or "Accountants"** means an independent certified public accountant or a firm of independent certified public accountants as to whom the Trustee makes no reasonable objection.

**"Accounts"** has the meaning given such term in the Indenture.

**"Act"** means, collectively, the Interlocal Act, Part I of Chapter 125, Florida Statutes, and all other applicable provisions of law.

**"Additional Bonds"** means Bonds issued pursuant to Section 2.13 of the Indenture.

**"Additional Parity Indebtedness"** means the indebtedness incurred at any time under the provisions of Section 6.05 hereof on a parity with the Public Agency's obligation to repay the Loan.

**"Additional Payments"** means the payments required to be made by the Public Agency pursuant to Section 5.02 of this Loan Agreement.

**"Authorized Officer"** means, when used with respect to the Commission, the Chairman of the Board of Directors thereof and such other designated member, agent or representative as may hereafter be selected by Commission resolution and, when used with reference to a Public Agency, means the person or persons designated in the resolution or ordinance delivered pursuant to Section 4.03(a) hereof or otherwise designated by the Public Agency in writing to the Commission and the Trustee and, when used with reference to an act or document, also means any other person authorized by resolution to perform such act or sign such document.

**"Board"** means the governing body of the Public Agency.

**"Bond Counsel"** means Nabors, Giblin & Nickerson, P.A., Tampa, Florida, or any other nationally recognized bond counsel reasonably acceptable to the Commission and the Trustee.

**"Bondholder"** means the registered owner of any Bond.

**"Bonds"** means the Outstanding Series 1989A Bonds and any Outstanding Additional Bonds issued pursuant to the Indenture.

**"Business Day"** means any day excluding Saturday, Sunday and any day on which banks in New York City or the City in which the principal corporate trust office of the Trustee is located are authorized by law or other governmental action to close.

**"Closing"** means the closing of a Loan pursuant to the Indenture and this Loan Agreement.

**"Commencement Date"** means \_\_\_\_\_ 1, 1989, which is the date when the term of this Loan Agreement begins and the obligation of the Public Agency hereunder to make Repayments commences.

**"Commission"** means the Florida Liability Insurance Commission, and any assigns or successors in function thereto.

**"Counsel"** means an attorney or firm of attorneys duly admitted to practice law before the highest court of any state and, without limitation, may include legal counsel for the Commission, the Public Agency or the Trustee.

**"Default"** has the meaning given such term in Section 8.01 of this Loan Agreement.

**"Default Date"** has the meaning given such term in Section 5.01(c) of this Loan Agreement.

**"Default Rate"** means a rate per annum equal to the maximum rate then allowed by law.

**"Earnings Fund"** means the Earnings Fund established pursuant to Article IV of the Indenture.

**"Event of Default"** has the meaning given such term in Section 8.01 of this Loan Agreement.

**"FACT"** means the Florida Association of Counties Trust created pursuant to the Trust Agreement for the purpose of providing liability coverage to its members.

**"Funds"** has the meaning given such term in the Indenture.

**"Guaranteed Entitlement Account"** means the Second Guaranteed Entitlement Revenue Account established pursuant to Section 6.08 hereof.

**"Indenture"** means the Trust Indenture, dated as of \_\_\_\_\_ 1, 1989, between the Commission and the Trustee, as the same may be amended and supplemented from time to time.

**"Interest Payment Date"** has the meaning given such term in the Indenture.

**"Interlocal Act"** means Part I of Chapter 163, Florida Statutes.

**"Interlocal Agreement"** means that certain Interlocal Agreement, dated as of July 1, 1988, by and among Brevard County, Florida, Polk County, Florida, and Seminole County, Florida, pursuant to which the Commission was created and the Liability Coverage Program authorized, as the same may be amended and supplemented from time to time.

**"Issuance Date"** means the date on which interest begins to accrue on the Series 1989A Bonds, that date being \_\_\_\_\_ 1, 1989.

**"Liability Coverage Program" or "Program"** means the pooled liability coverage program of the Commission authorized by the Interlocal Agreement and a resolution of the Commission pursuant to which the cost of purchasing a liability coverage agreement or agreements by Public Agencies from a local government liability pool will be financed from the proceeds of the Bonds.

**"Loan"** means the loan by the Commission to the Public Agency pursuant to Section 3.01 hereof, which is an amount equal to the Public Agency's Proportionate Share of the aggregate principal amount of Bonds Outstanding.

**"Loan Fund"** means the Loan Fund established pursuant to Article IV of the Indenture.

**"Loan Payment Period"** means the period from and including an Interest Payment Date to and including the day preceding the following Interest Payment Date.

**"Loan Rate"** means the rate of interest the Loan shall bear, which shall be \_\_\_ percent per annum. The Loan Rate is the same as the interest rate on the Outstanding Series 1989A Bonds.

**"Loan Term"** means the term provided for in Article IV of this Loan Agreement.

**"Municipality"** means a municipality duly established pursuant to the laws of the State.

**"Outstanding"** has the meaning given such term in the Indenture.

**"Person"** means an individual, a corporation, a partnership, an association, a trust or any other entity or organization

including a government or political subdivision or an agency or instrumentality thereof.

**"Pledged Revenues"** means, for any State fiscal year, the amount of revenue received by the Public Agency from the Revenue Sharing Trust Fund for Counties pursuant to the provisions of Chapter 218, Part II, Florida Statutes, equal to (a) the aggregate amount received by the Public Agency in State fiscal year 1981-1982 under the provisions of the then existing (i) Section 210.20(2)(a), Florida Statutes, tax on cigarettes and (ii) Section 199.292(4), Florida Statutes, tax on intangible personal property; less (b) the aggregate amount received by the Public Agency in State fiscal year 1971-1972 under the provisions of the then existing (i) Section 210.20(2)(c), Florida Statutes, tax on cigarettes, (ii) Section 323.16(4), Florida Statutes, road tax and (iii) Section 199.292(4), Florida Statutes, tax on intangible personal property.

**"Prepayment"** means the prepayment by the Public Agency of all or a portion of the Loan in accordance with Article X hereof and Section 4.06(d) of the Indenture.

**"Prepayment Amount"** means, the amount determined by the Trustee which the Public Agency may, in its discretion, pay the Trustee in order to prepay all or a portion of its Loan, which amount shall be not less than the sum of (a) the amount of any past due Repayments together with interest on such past due Repayments to the date of such Prepayment at the Default Rate; plus (b) the unpaid interest on the Loan at the Loan Rate which has accrued on the Loan during the then applicable Loan Payment Period; plus (c) interest on the Loan, or portion thereof being repaid, at the Loan Rate which shall accrue from the date of Prepayment until the date on which the entire portion of such Prepayment representing principal will be used to redeem Bonds in accordance with Section 3.01 of the Indenture; plus (d) the unmatured principal of the Loan or portion thereof being prepaid; plus (e) any Additional Payments and other amounts due or to become due to the Commission or the Trustee pursuant to Section 5.02 hereof through the date of application of the Prepayment to redeem Bonds as aforesaid; plus (f) any additional amounts not otherwise included above and required to be paid pursuant to Section 10.01 hereof; plus (g) the redemption premium, if any, due on any Bonds to be redeemed from the proceeds of such Prepayment.

**"Proportionate Share"** means, at any time of calculation, a fraction the numerator of which is the outstanding unpaid principal balance of the Loan to the Public Agency under this Loan Agreement and the denominator of which is the sum of the outstanding unpaid principal balance of all loans to all public agencies under the loan agreements funded with the proceeds of the Series 1989A Bonds (whether such balances are unpaid because they are not then due or because they are past-due but in default).



**"Public Agency"** means the signatory to this Loan Agreement which is a duly constituted political subdivision of the State, which Public Agency is using the Loan proceeds to finance the purchase of a liability coverage agreement or agreements from a local government liability pool.

**"Repayment Schedule"** means the Repayment Schedule, attached hereto as Exhibit A, setting forth the obligation of the Public Agency to pay its Proportionate Share of principal on the Bonds and interest at the Loan Rate, as the same may be amended from time to time in accordance with the terms hereof and of the Indenture.

**"Repayments"** means all required payments of principal of and interest at the Loan Rate on the Loan.

**"Revenue Fund"** means the Revenue Fund established pursuant to Article IV of the Indenture.

**"Series 1989A Bonds"** means the Commission's Pooled Liability Insurance Program Revenue Bonds, Series 1989A, issued under the Indenture for the purpose of funding loans to public agencies.

**"State"** means the State of Florida.

**"Trustee"** means First Florida Bank, N.A., acting in its capacity as Trustee under the Indenture, or any successor trustee or co-trustee.

**"Trust Agreement"** means that certain Declaration and Agreement of Trust, dated as of March 1, 1989, by and between the trustees and charter members of FACT.

**"Trust Estate"** has the meaning given such term in the Indenture.

**"Written"** or **"in writing"** shall mean any form of written communication or a communication by means of telex, facsimile transmission device, telegraph or cable.

## ARTICLE II

### REPRESENTATIONS AND WARRANTIES OF PUBLIC AGENCY

**SECTION 2.01. REPRESENTATIONS AND WARRANTIES.** The Public Agency represents and warrants for the benefit of the Commission, the Trustee and the Bondholders as follows:

(a) Organization and Authority. The Public Agency is located in the State and is duly organized and validly existing as a political subdivision of the State has all requisite power and authority to carry out the transactions contemplated hereby.

(b) Full Disclosure. There is no fact that the Public Agency has not specifically disclosed in writing to the Commission prior to the date of its execution hereof, that materially and adversely affects or, so far as the Public Agency can now foresee, that will materially adversely affect the financial condition of the Public Agency, the Pledged Revenues or the ability of the Public Agency to perform its obligations under this Loan Agreement.

To the best knowledge of the Public Agency, the financial statements, and any other written statement furnished by the Public Agency to the Commission do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein or herein not misleading.

(c) Pending Litigation. Except as specifically described in writing by the Public Agency to the Commission prior to the date of its execution of this Loan Agreement, there are no proceedings pending, or to the best knowledge of the Public Agency threatened, against or affecting the Public Agency, in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would materially and adversely affect the financial condition of the Public Agency, or the amount or the availability of the Pledged Revenues, or existence or powers or ability of the Public Agency to enter into and perform its obligations under this Loan Agreement.

(d) Borrowing Legal and Authorized. The execution and delivery of this Loan Agreement, the consummation of the transactions provided for in this Loan Agreement, the pledge of the Pledged Revenues provided for herein, and compliance by the Public Agency with the provisions of this Loan Agreement:

(i) are within the powers of the Public Agency and have been duly and effectively authorized by all necessary action on the part of the Public Agency;

(ii) do not require approval by referendum of the qualified electors of the Public Agency; and

(iii) do not and will not (A) conflict with or result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Public Agency pursuant to any indenture, loan agreement or other agreement or instrument (other than this Loan Agreement) to which the Public Agency is a party or by which the Public Agency, its properties or operations may be bound, or (B) with the giving of notice or the passage of time or both, constitute a breach or default of any such loan agreement, indenture or other agreement or instrument or so result in the creation or imposition of any lien, charge, or encumbrance, or (C) result in any violation of the provisions of the Act, or any laws, ordinances, governmental rules or regulations or court orders to which the Public Agency, its properties or operations may be bound.

(e) No Defaults. No event has occurred and no condition exists that constitutes an Event of Default, or which, upon the execution and delivery of this Loan Agreement or the passage of time or giving of notice, or both, would constitute an Event of Default.

(f) Governmental Consent. The Public Agency has obtained all permits, approvals and findings of non-reviewability required by any governmental body or otherwise for its participation in the Liability Coverage Program. The Public Agency has complied with all applicable provisions of law requiring any notification, declaration, filing or registration with any court, agency or other governmental body or officer in connection with its participation in the Liability Coverage Program. The Public Agency's participation in the Liability Coverage Program and the execution and delivery of this Loan Agreement is consistent with, and does not violate or conflict with, the terms of any such court, agency or other governmental consent, order or other action which is applicable thereto.

(g) Binding Obligation. This Loan Agreement is a legal, valid and binding obligation and agreement of the Public Agency, enforceable against the Public Agency in accordance with its terms except that the enforceability hereof may be limited by laws relating to the bankruptcy or insolvency of the Public Agency or other similar laws affecting creditors' rights generally or by general principles of equity.

(h) Compliance with Act. All agreements and transactions provided for herein or contemplated hereby are in full compliance with the terms of the Act.

## ARTICLE III

### THE LOAN

**SECTION 3.01. THE LOAN.** The Commission hereby agrees to loan to the Public Agency and the Public Agency hereby agrees to borrow from the Commission the sum of \$\_\_\_\_\_. The proceeds of the Loan (less that portion representing accrued interest and costs associated with issuing the Series 1989A Bonds) shall forthwith be used to acquire a liability coverage agreement from FACT, a local governmental liability pool. The Loan shall be repaid in accordance with the provisions of Article V and VI hereof.

## ARTICLE IV

### LOAN TERM AND LOAN CLOSING REQUIREMENTS

**SECTION 4.01. COMMENCEMENT OF LOAN TERM.** The Public Agency's obligations under this Loan Agreement shall commence on the Commencement Date.

**SECTION 4.02. TERMINATION OF LOAN TERM.** The Public Agency's obligations under this Loan Agreement shall terminate after payment in full of all Repayments, Additional Payments and other payments due hereunder; provided, however, that all covenants and all obligations provided hereunder specified to so survive shall survive the termination of this Loan Agreement and the payment in full of such amounts.

Upon payment in full of all amounts owing hereunder, the Commission and the Trustee shall deliver, or cause to be delivered, to the Public Agency an acknowledgement thereof.

**SECTION 4.03. LOAN CLOSING SUBMISSIONS.** Concurrently with the execution and delivery of this Loan Agreement, the Public Agency is providing to the Trustee the following documents each dated the date of such execution and delivery unless otherwise provided:

(a) A certified resolution or ordinance of the Public Agency, authorizing the purchase of a liability coverage agreement and participation of the Public Agency in the Liability Coverage Program, the execution and delivery of this Loan Agreement and the execution and delivery of such certificates and instruments as may be necessary to evidence the Public Agency's obligations hereunder and under the Program;

(b) An opinion of the Public Agency's Counsel in form and substance substantially identical to Exhibit B to this Loan Agreement;

(c) A certificate of the officials of the Public Agency signing this Loan Agreement in form and substance substantially identical to Exhibit C to this Loan Agreement;

(d) Audited financial statements of the Public Agency with respect to its most recently completed fiscal year for which an independent audit is available;

(e) This executed Loan Agreement;

(f) Such other certificates, documents, opinions and information as the Commission, the Trustee or Bond Counsel may require.

All opinions and certificates shall be dated the Commencement Date.

## ARTICLE V

### LOAN REPAYMENTS

**SECTION 5.01. PAYMENT OF LOAN REPAYMENTS.** (a) The Public Agency shall make all Repayments, Additional Payments and other payments due hereunder in lawful money of the United States of America. Such Repayments, Additional Payments and other payments shall be made in funds which are, or shall become, immediately available not later than 12:00 Noon, Tampa, Florida time on the date when due.

The Loan shall be repaid in accordance with the Repayment Schedule, as the same may be revised from time to time in accordance with the terms hereof and of the Indenture. Amounts provided in the Repayment Schedule represent the Public Agency's Proportionate Share of the aggregate Outstanding principal of the Bonds and interest thereon at the Loan Rate. Within thirty (30) days of a change in the Public Agency's Proportionate Share, the Trustee shall prepare and deliver to the Public Agency, and attach hereto, a new Repayment Schedule in accordance with Section 5.01 of the Indenture. The principal amount of the Loan shall be payable in the amounts described in the Repayment Schedule annually on January 1 of each year, commencing January 1, \_\_\_\_.

The Loan shall bear interest at a rate equal to the Loan Rate. Such interest shall be payable semi-annually on January 1 and July 1 of each year, commencing \_\_\_\_\_. Interest shall be calculated based on a 360-day year of twelve (12) thirty (30) day months.

(b) On the thirtieth day preceding each Interest Payment Date the Trustee shall bill the Public Agency for the total amount of each Repayment due on such Interest Payment Date, any Additional Payments due under Section 5.02, and any other payments which shall be payable by the Public Agency on such Interest Payment Date. The Public Agency hereby acknowledges and agrees that the transmittal of such bill by the Trustee shall not be a condition precedent to the obligation of the Public Agency to make all payments hereunder when due and failure to receive such bill shall not constitute a defense for failure to timely make all such payments.

It is understood that the Trustee in making such calculation may be required to estimate the amount of Repayments and Additional Payments to accrue or become payable during the balance of the Loan Payment Period during which such calculation is made. Accordingly, it is hereby agreed that the Trustee, in the event it determines that the Public Agency has paid too little or too much with respect to any Loan Payment Period, shall either decrease or increase as the case may be, the amount payable for the next succeeding Loan Payment Period to fully compensate for such discrepancy; provided that if no further payments are due hereunder such adjustment shall

be made by a payment by, or a refund to, the Public Agency within 10 days of the final Interest Payment Date.

(c) Overdue principal and, to the extent permitted by law, overdue interest on the Loan shall bear interest, payable on demand, from the date such payment is due (the "Default Date") until paid at the Default Rate.

(d) The Public Agency shall receive as a credit, first, to Additional Payments and, second, to Repayments, of its share of investment earnings transferred from the Earnings Fund to the Interest Account of the Revenue Fund in accordance with Section 4.08(b) of the Indenture.

(e) The Public Agency agrees to pay all Additional Payments owing pursuant to Section 5.02 hereof.

(f) Any payment made by the Public Agency pursuant to this Section 5.01 shall be credited against the Public Agency's obligations under this Section 5.01 on the date of deposit with the Trustee if such deposit is made prior to 12:00 Noon, Tampa, Florida time, and if after 12:00 Noon, shall be so credited on the next succeeding Business Day.

**SECTION 5.02. PAYMENT OF ADDITIONAL PAYMENTS.** (a) In addition to, but not in duplication of, the payments due under Section 5.01 hereof, the Public Agency agrees to pay to the Trustee on the dates when Repayments are due pursuant to Section 5.01 hereof the following Additional Payments:

(i) One-half (1/2) of the Public Agency's Proportionate Share of the annual fees and expenses of the Trustee owed to it under the Indenture;

(ii) One-half (1/2) of the Public Agency's Proportionate Share of the annual fees of the Commission, if any; and

(iii) The Public Agency's Proportionate Share of such other reasonable fees and expenses in connection with the Bonds and the Program as the Trustee shall determine.

(b) The Public Agency agrees to pay interest at the Default Rate on any Additional Payments under this Section 5.02 not received by the Commission or the Trustee within five (5) days of the date such amounts are due and payable.

**SECTION 5.03. REPAYMENTS.** The obligation of the Public Agency to make Repayments, Additional Payments and any other payments required hereunder and to perform and observe the other covenants and agreements contained herein shall be absolute and unconditional in all events except as otherwise expressly provided in this Loan Agreement; provided, however, such obligation shall



be payable solely from the Pledged Revenues. Notwithstanding any dispute between the Public Agency and the Commission, the Trustee or any Bondholder, the Public Agency shall make Repayments, Additional Payments and such other payments when due and shall not withhold any Repayments, Additional Payments or any other payments payable hereunder pending final resolution of such dispute nor shall the Public Agency assert any right of set off or counterclaim against its obligation to make Repayments, Additional Payments and such other payments required under this Loan Agreement, except as otherwise provided hereunder. The Public Agency's obligation to make Repayments, Additional Payments or any other payments due shall not be abated through accident or unforeseen circumstances or for any other reason. Notwithstanding the foregoing, this Section 5.03 shall not limit the rights of the Public Agency to recover amounts owing to it, except as specifically set forth herein.

**SECTION 5.04. REFUNDING BONDS.** All or a portion of the Bonds may be refunded from time to time in accordance with the terms of the Indenture without the consent of the Public Agency, provided the Repayments of the Public Agency decrease as a result of such refunding. In the event any or all Bonds are refunded, this Loan Agreement shall remain in full force and effect, as amended to allow for a revised Repayment Schedule.

## ARTICLE VI

### SECURITY FOR LOAN AND PUBLIC AGENCY COVENANTS

**SECTION 6.01. STATUS OF LOAN OBLIGATIONS.** Anything in this Loan Agreement to the contrary notwithstanding, it is understood and agreed that the ad valorem taxing power and the full faith and credit of the Public Agency has not been pledged to secure the obligations of the Public Agency hereunder. Neither the Commission, the Trustee nor the owners of the Bonds shall have any right to compel the exercise of any ad valorem taxing power of the Public Agency to pay the obligations owing hereunder. The obligations of the Public Agency under this Loan Agreement, including all Repayments, Additional Payments and all other payments, shall be payable solely from Pledged Revenues in accordance with the terms hereof. The provisions of this Section 6.01 shall survive the termination and/or assignment of this Loan Agreement.

**SECTION 6.02. SECURITY FOR LOAN.** The Public Agency's obligation to repay the Loan shall be secured forthwith by a pledge of and lien upon the Pledged Revenues. The Public Agency does hereby irrevocably pledge the Second Guaranteed Entitlement Revenues to the Repayment of the Loan in accordance with the provisions hereof.

The Pledged Revenues shall immediately be subject to the lien of this pledge without any physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Public Agency.

The Public Agency will not issue any other obligations, except under the conditions and in the manner provided herein, payable from the Pledged Revenues or voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge having priority to or being on a parity with the lien thereon in favor of the Loan and the interest thereon.

**SECTION 6.03. NO IMPAIRMENT.** The pledge of the Pledged Revenues in the manner provided herein shall not be subject to repeal, modification or impairment by any subsequent ordinance, resolution or other proceedings of the governing body of the Public Agency. The Public Agency will not take any action to impair the pledge of the Trust Estate to secure the Bonds.

**SECTION 6.04. ENTITLEMENT TO PAYMENTS.** The Public Agency will diligently enforce its right to receive the Pledged Revenues and will not take any action to impair or adversely affect its right to receive the Pledged Revenues. During the entire term of the Bonds, the Public Agency will take all lawful action necessary

or required to continue to entitle such Public Agency to receive the Pledged Revenues in the amount currently provided by law.

**SECTION 6.05. ADDITIONAL PARITY INDEBTEDNESS.** No Additional Parity Indebtedness, payable on a parity with the Loan shall be incurred except upon the conditions and in the manner herein provided. The Public Agency may incur Additional Parity Indebtedness for any lawful purpose.

No such Additional Parity Indebtedness shall be incurred unless the following conditions are complied with:

(a) There shall have been obtained and filed with the Public Agency a statement of an independent certified public accountant of reasonable experience and responsibility: (i) stating that the books and records of the Public Agency relating to the Pledged Revenues have been examined by him; (ii) setting forth the amount of the Pledged Revenues which has been received by the Public Agency during its immediate prior fiscal year; and (iii) stating that the amount of the Pledged Revenues received during such fiscal year equals at least 1.10 times the maximum annual principal or sinking fund requirements, as the case may be, and interest requirements of the Loan, all Additional Parity Indebtedness then outstanding and the Additional Parity Indebtedness with respect to which such statement is made.

(b) Additional Parity Indebtedness shall rank equally with the Public Agency's obligation to repay the Loan in respect of the lien on the Pledged Revenues without preference or priority.

(c) No Additional Parity Indebtedness shall be incurred if any Event of Default shall have occurred and be continuing hereunder.

**SECTION 6.06. BOOKS AND RECORDS.** The Public Agency will keep books and records of the receipt of the Pledged Revenues in accordance with generally accepted accounting principles, and the Trustee shall have the right at all reasonable times to inspect the records, accounts and data of the Public Agency relating thereto.

The Public Agency covenants that within one hundred eighty (180) days of the close of each of its fiscal years it will cause to be prepared and filed with the its chief financial officer and mailed to the Trustee a statement setting forth the amount of the Pledged Revenues received in such preceding fiscal year.

**SECTION 6.07. ANNUAL AUDIT.** The Public Agency shall, within 180 days after the close of each of its fiscal years, cause the financial statements of the Public Agency to be properly audited by a recognized independent certified public accountant or recognized independent firm of certified public accountants, and shall require such accountants to complete their report on the

annual financial statements in accordance with applicable law. Such annual financial statements shall contain, but not be limited to, a balance sheet, a statement of revenues, expenditures and changes in fund balance, and any other statements as required by law or accounting convention, and a report by such accountants disclosing any material default on the part of the Public Agency of any covenant or agreement herein which is disclosed by the audit of the financial statements. The annual financial statement shall be prepared in conformity with generally accepted accounting principles. A copy of the audited financial statements for each fiscal year shall be furnished to the Trustee.

**SECTION 6.08. GUARANTEED ENTITLEMENT ACCOUNT.** The Public Agency covenants and agrees to establish an account within its general fund to be known as the "Second Guaranteed Entitlement Revenue Account". Pledged Revenues on deposit in the Guaranteed Entitlement Account, until applied in accordance with the provisions hereof, shall be subject to a lien and charge in favor of the Trustee and the holders of any Additional Parity Indebtedness. Upon receipt, the Public Agency shall deposit the Pledged Revenues into the Guaranteed Entitlement Account. Funds on deposit in the Guaranteed Entitlement Account shall be applied to Repayment of the Loan in accordance with Sections 5.01 and 5.02 of this Loan Agreement and to the payment of Additional Parity Indebtedness in accordance with the instrument or instruments pursuant to which such Additional Parity Indebtedness was incurred. The Public Agency covenants and agrees that until all amounts due hereunder have been paid in full, it will retain an amount of Pledged Revenues in the Guaranteed Entitlement Account at least equal to the accrued and unpaid Repayments. Upon issuance of any Additional Parity Indebtedness which requires creation of a debt service account and transfer of Pledged Revenues to such account on a monthly basis, the Public Agency shall establish a debt service account for the Loan and transfer thereto the amount of then accrued and unpaid Repayments (assuming that the principal components of such Repayments are deemed to accrue monthly) on the same dates that Pledged Revenues are transferred to the debt service account for such Additional Parity Indebtedness. All amounts on deposit in the Guaranteed Entitlement Account in excess of the then accrued and unpaid Repayments may be used for lawful purpose.

**SECTION 6.09. ADDITIONAL COVENANTS.** The Public Agency makes the following additional covenants and representations as of the date first above written and such covenants shall continue in full force and effect until all amounts due hereunder have been paid in full:

(a) Liens. The Public Agency will not create, incur or suffer to exist any lien, charge or encumbrance on the Pledged Revenues other than to secure Additional Parity Indebtedness as provided in Section 6.05 hereof.

(b) Right of Inspection. The Commission, the Trustee, and their designated agents shall have the right at all reasonable times during normal business hours to enter into and upon the property of the Public Agency for the purpose of inspecting books and records of the Public Agency relating to this Loan Agreement, the Pledged Revenues and the transactions contemplated hereby and by the Indenture.

(c) Information. The Public Agency's chief financial officer shall, at the reasonable request of the Trustee, discuss the Public Agency's financial matters with the Trustee.

(d) Expenses. In addition to the payment obligations otherwise provided for in this Loan Agreement, the Public Agency agrees to pay a pro rata share of the costs of issuing the Series 1989A Bonds and the costs of establishing the Liability Coverage Program. The provisions of this Section 6.09(d) shall survive the termination of this Loan Agreement.

(e) Agreement to Reimburse Certain Amounts. To the extent allowed by law, the Public Agency will pay to or reimburse the Commission, the Trustee, each member, officer, commissioner, employee and agent of the Commission, the Trustee and each other Person, if any, who has the power, directly or indirectly, to direct or cause the direction of the management and policies of the Commission, for any and all liabilities, losses, damages, costs, expenses (including reasonable attorneys' fees), suits, claims and judgments of whatsoever kind and nature in any manner directly or indirectly through the agents, contractors, employees, licensees or otherwise of the Public Agency or its successor and assigns, arising or resulting from, or in connection with, this Loan Agreement or the breach or violation of any agreement, covenant, representations or warranty of the Public Agency set forth in this Loan Agreement or any document delivered pursuant hereto or in connection herewith.

In addition, to the extent allowed by law, the Public Agency will reimburse all other Public Agencies participating in the Liability Coverage Program to the extent the Public Agency has committed any act or failed to commit an act and the result of such action or failure to act is that the cost of participating in the Liability Coverage Program of such Public Agencies is increased. Such reimbursement includes, without limitation, any increased costs incurred by other participating Public Agencies as a result of the Public Agency failing to make a Repayment, Additional Payment or any other payment hereunder when due.

The provisions of this Section 6.09(e) shall survive the termination of this Loan Agreement.

(f) Further Assurance. The Public Agency shall execute and deliver to the Commission or the Trustee, as the case may be, all such documents and instruments and do all such other acts and things as may be necessary or reasonably required by the Trustee or the Commission to enable the Trustee or the Commission to exercise and enforce their rights under this Loan Agreement, and to validate, preserve and protect the position of the Trustee and the Commission under this Loan Agreement.

## ARTICLE VII

### ASSIGNMENT AND PAYMENT BY THIRD PARTIES

**SECTION 7.01. ASSIGNMENT BY COMMISSION.** This Loan Agreement and the obligations of the Public Agency to make payments hereunder may be assigned and reassigned by the Commission in whole or in part to one or more assignees or subassignees at any time subsequent to its execution without the necessity of obtaining the consent of the Public Agency. The Public Agency expressly acknowledges that this Loan Agreement and the obligations of the Public Agency to make payments hereunder (with the exception of certain of the Commission's rights to reimbursement for certain costs under Section 6.09(e) hereof), have been pledged and assigned to the Trustee under the Indenture as security for the Bonds and that the Trustee shall be entitled to act hereunder in the place and stead of the Commission whether or not any of the Bonds or this Loan Agreement are in default. The Public Agency's obligation to pay or reimburse Persons for certain costs as described in Section 6.09(e) hereof shall be subordinated to the prior payment in full of the Loan and interest thereon pursuant to Section 5.01 hereof.

**SECTION 7.02. ASSIGNMENT BY PUBLIC AGENCY.** This Loan Agreement may not be assigned by the Public Agency for any reason without the express prior written consent of the Commission and the Trustee.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES

**SECTION 8.01. EVENTS OF DEFAULT DEFINED.** The following shall be "Events of Default" under this Loan Agreement and the terms "Event of Default" and "Default" shall mean (except where the context clearly indicates otherwise), whenever they are used in this Loan Agreement, any one or more of the following events:

(a) Failure by the Public Agency to timely pay any Repayment (as calculated pursuant to Section 5.01 hereof) on the date in which it is due and payable, or Additional Payments (as calculated pursuant to Section 5.02 hereof) within five (5) days of the date on which such are due and payable;

(b) Failure by the Public Agency to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in Section 8.01(a) hereof, for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to the Public Agency by the Commission or the Trustee, unless the Commission and the Trustee shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice can be wholly cured within a period of time not materially detrimental to the rights of the Commission, the Bondholders or the Trustee, but cannot be cured within the applicable 30-day period, the Commission and the Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Public Agency within the applicable period and diligently pursued until the failure is corrected;

(c) Any warranty, representation or other statement by the Public Agency or by an officer or agent of the Public Agency contained in this Loan Agreement or in any instrument furnished in compliance with or in reference to this Loan Agreement is false or misleading in any material respect;

(d) A petition is filed against the Public Agency under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect, and an order for relief is entered or such petition is not dismissed within 60 days of such filing;

(e) The Public Agency files a petition in voluntary bankruptcy or seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, whether now or



hereafter in effect, or consents to the filing of any petition against it under such law;

(f) The Public Agency admits insolvency or bankruptcy or its inability to pay its debts as they become due or is generally not paying its debts as such debts become due, or becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a custodian (including without limitation a receiver, liquidator or trustee) of the Public Agency or any of its property is appointed by court order or takes possession thereof and such order remains in effect or such possession continues for more than sixty (60) days; or

(g) Any material provision of this Loan Agreement shall at any time for any reason cease to be valid and binding on the Public Agency, or shall be declared to be null and void, or the Public Agency shall deny the validity or enforceability of any such provision or any further liability or obligation under this Loan Agreement.

**SECTION 8.02. NOTICE OF DEFAULT.** The Public Agency agrees to give the Trustee and the Commission prompt written notice if any petition, assignment, appointment or possession referred to in Sections 8.01(d), 8.01(e) and 8.01(f) hereof is filed by or against the Public Agency or of the occurrence of any other event or condition which constitutes an Event of Default, or an event or condition which, with the passage of time or the giving of notice or both, would constitute an Event of Default, immediately upon becoming aware of the existence thereof.

**SECTION 8.03. REMEDIES ON DEFAULT.** Whenever any Event of Default referred to in Section 8.01 hereof shall have happened and be continuing, the Commission or the Trustee shall, in addition to any other remedies herein or by law provided, have the right, at its or their option without any further demand or notice, to take such steps and exercise such remedies as provided in Article IX of the Indenture, and take whatever other action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce any other of its or their rights hereunder.

**SECTION 8.04. ATTORNEY'S FEES AND OTHER EXPENSES.** The Public Agency shall on demand pay to the Commission and the Trustee the reasonable fees and expenses of attorneys and other reasonable expenses incurred by any of them in collection of Repayments or any other sums due hereunder or in the enforcement of performance of any other obligations of the Public Agency hereunder upon an Event of Default. The provisions of this Section 8.04 shall survive the termination and/or assignment of this Loan Agreement and the payment in full of the Public Agency's obligations hereunder.

**SECTION 8.05. APPLICATION OF MONEYS.** Any moneys collected by the Commission or the Trustee pursuant to Section 8.03 hereof shall be applied (a) first, to pay any attorneys' fees or other expenses owed by the Public Agency to the Commission and the Trustee pursuant to Section 8.04 hereof, pro rata based on the amount of such expenses owed, (b) second, to pay any additional interest assessments and any interest due on the Loan, (c) third, to pay principal due on the Loan, (d) fourth, to pay any other amounts due hereunder, and (e) fifth, to pay interest and principal on the Loan and other amounts payable hereunder but which are not due, as they become due (in the same order, as to amounts which come due simultaneously, as in clauses (a) through (d) in this Section 8.05).

**SECTION 8.06. NO REMEDY EXCLUSIVE; WAIVER, NOTICE.** No remedy herein conferred upon or reserved to the Commission or the Trustee is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right, remedy or power accruing upon any Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Commission or the Trustee to exercise any remedy reserved to it in this Article VIII, it shall not be necessary to give any notice other than such notice as may be required this Article VIII.

**ARTICLE IX**

**EXCESS FUNDS**

**SECTION 9.01. EXCESS FUNDS.** Any amounts remaining in the Trust Estate after (a) full payment of the Bonds Outstanding under the Indenture, and (b) all fees, charges and expenses hereunder and under the Indenture have been paid, shall be distributed as provided in Section 4.08 of the Indenture.

## ARTICLE X

### PREPAYMENTS AND CREDITS

**SECTION 10.01. OPTIONAL PREPAYMENT OF LOAN.** At the option of the Public Agency and after giving at least thirty (30) days' written notice by certified or registered mail to the Trustee, the Public Agency may prepay the Loan in full or in part, on any Business Day, by paying to the Trustee for deposit in the appropriate subaccount of the Prepayment Account the then applicable Prepayment Amount plus all necessary and proper fees, compensation and expenses of the Trustee, the Commission and any Paying Agent, pertaining to the Loan or the Bonds to be redeemed from the Prepayment Amount.

If following a Prepayment, and prior to the date such Prepayment is used to redeem Bonds, the investment earnings on the Borrower's prepaid principal during any Loan Payment Period are insufficient to pay what would have been the Borrower's Proportionate Share of the interest on the Bonds and of the fees and expenses related to the Bonds and Loans as provided in Section 5.02 hereof if the Loan had not been prepaid, the Trustee shall at the end of such Loan Payment Period notify the Public Agency by registered or certified mail of the deficiency, and the Public Agency shall pay such amount to the Trustee within ten (10) days of receipt of such notice.

If, during any Loan Payment Period prior to the date when the entire portion of the Prepayment representing Loan principal is used to redeem Bonds, the other public agencies' repayments are larger, because of the Public Agency's Prepayment, then they would have been otherwise, the Public Agency shall pay such difference to the Trustee on demand and such payment will be credited against the other public agencies' loan interest payment obligations.

Upon application of the entire portion of the Prepayment Amount representing Loan principal to redeem Bonds, the balance remaining on deposit in the appropriate subaccount of the Prepayment Account shall be paid to the Public Body.

In addition to the foregoing, the Public Agency may, in its sole discretion, prepay its Loan by purchasing Bonds in the open market and delivering the same to the Trustee for cancellation and a credit against future Repayments in accordance with Section 5.01 of the Indenture.

It is expressly understood and agreed upon by the Public Agency that any partial Prepayment of the Loan pursuant to this Section 10.01 shall be applied as a credit against future Repayments in the inverse order of their due date.

**SECTION 10.02. CREDITS FOR LIABILITY COVERAGE PROGRAM.** The Public Agency shall receive a credit against its obligation to pay amounts due under this Loan Agreement in an amount equal to the amount of "Loan Financing Provided to New Members" by such Public Agency indicated in any "Notice of Reallocation of Loan Proceeds Upon Admission of New Member(s)" delivered to the Trustee by the Board of FACT pursuant to the Trust Agreement. The amount of such credit shall be applied to the principal amount of the Loan then outstanding. The Public Agency and the Trustee understand and agree that any such credit is subject to the execution of a new loan agreement with another public agency in the State, pursuant to which such public agency agrees to repay a loan at least equal to the amount of such credit to the Public Agency plus all other credits made to all other public agencies in respect of such loan.

**SECTION 10.03. SURVIVAL OF CERTAIN COVENANTS.** Upon Prepayment in full of the Loan as provided for in this Article X, this Loan Agreement shall terminate, except for the obligations and covenants provided in Sections 6.09(e), 8.04 and 11.09 of this Loan Agreement and any obligation under this Article X to make further payments. The Loan may not be prepaid in whole or in part and no credit shall be given against the obligation of the Public Agency to repay the Loan except as provided in this Article X.

**ARTICLE XI**

**MISCELLANEOUS**

**SECTION 11.01. NOTICES.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the parties at the following addresses:

Commission: Florida Liability Insurance Commission  
c/o George H. Nickerson, Jr.  
Suite 800, Barnett Bank Building  
315 South Calhoun Street  
Tallahassee, Florida 32301

Trustee: First Florida Bank, N.A.  
111 Madison Street  
Tampa, Florida 33601  
Attn: Corporate Trust Department

Public Agency: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any of the above parties may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**SECTION 11.02. BINDING EFFECT.** To the extent provided herein, this Loan Agreement shall be binding upon the Public Agency and the Commission and shall inure to the benefit of the Public Agency, the Commission and the Trustee and their respective successors and assigns.

**SECTION 11.03. SEVERABILITY.** In the event any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**SECTION 11.04. AMENDMENTS, CHANGES AND MODIFICATIONS.** This Loan Agreement may be amended by the Commission and the Public Agency as provided in Article XII of the Indenture.

**SECTION 11.05. EXECUTION IN COUNTERPARTS.** This Loan Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 11.06. APPLICABLE LAW.** This Loan Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

**SECTION 11.07. BENEFIT OF BONDHOLDERS; COMPLIANCE WITH INDENTURE.** This Loan Agreement is executed in part to induce the purchase of the Bonds. Accordingly, all covenants, agreements and representations on the part of the Public Agency and the Commission, as set forth in this Loan Agreement, are hereby declared to be for the benefit of the holders, from time to time, of the Bonds.

**SECTION 11.08. CONSENTS AND APPROVALS.** Whenever the written consent or approval of the Commission shall be required under the provisions of this Loan Agreement, such consent or approval may be given by an Authorized Officer of the Commission or such other additional person provided by rules, regulations or resolutions of the Commission.

**SECTION 11.09. IMMUNITY OF OFFICERS, EMPLOYEES AND MEMBERS OF COMMISSION.** No recourse shall be had for any representation, obligation, covenant or agreement in this Loan Agreement against any past, present or future officer, member, employee, director or agent of the Commission, as such, and all such liability of any such officers, members, employees, directors or agents, as such, is hereby expressly waived and released as a condition of and consideration for the execution of this Loan Agreement.

**SECTION 11.10. CAPTIONS.** The captions or headings in this Loan Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Loan Agreement.

**SECTION 11.11. NO PECUNIARY LIABILITY OF COMMISSION.** No provision, covenant or agreement contained in this Loan Agreement on behalf of the Commission, or any obligation herein imposed upon the Commission, or the breach thereof, shall constitute an indebtedness or liability of the State or any political subdivision of the State (excluding the participating public agencies to the extent of their obligations under their respective loan agreements) or any public corporation or governmental agency existing under the laws thereof other than the Commission. In making the agreements, provisions and covenants set forth in this Loan Agreement, the Commission has not obligated itself except with respect to the Trust Estate.

**SECTION 11.12. PAYMENTS DUE ON SATURDAYS, SUNDAYS AND HOLIDAYS.** In any case where the date for making any payment or the last date for performance of any act or the exercise of any right, as provided in this Loan Agreement, shall be other than a Business Day, then such payment or performance shall be made on the

succeeding Business Day with the same force and effect as if done on the nominal date provided in this Loan Agreement.

**SECTION 11.13. RIGHT OF OTHERS TO PERFORM PUBLIC AGENCY'S COVENANTS.** If the Public Agency shall fail to make any payment or perform any act required to be performed hereunder, then and in each such case the Commission or the Trustee or any of them, may (but shall not be obligated to) remedy such default for the account of the Public Agency and make advances for that purpose. No such performance or advance shall operate to release the Public Agency from any such default and any sums so advanced by the Commission or the Trustee shall bear interest at the Default Rate from the date of the advance until repaid as provided herein.



IN WITNESS WHEREOF, the Commission has caused this Loan Agreement to be executed in its corporate name with its corporate seal hereunto affixed and attested by its duly authorized officers as of the date first above written.

FLORIDA LIABILITY INSURANCE  
COMMISSION

By: \_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Secretary

[SEAL]

IN WITNESS WHEREOF, the Public Agency has caused this Loan Agreement to be executed in its name with its seal hereunto affixed and attached by its duly authorized officers as of the date first above written.

[PUBLIC AGENCY]

By: \_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Clerk

[SEAL]

**EXHIBIT A**

**Repayment Schedule**

<u>Due Date</u>	<u>Proportionate Share of Principal</u>	<u>Interest at Loan Rate</u>	<u>Total Repayment</u>
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EXHIBIT B

OPINION OF PUBLIC AGENCY'S COUNSEL  
IN CONNECTION WITH LOAN

[Letterhead of Counsel to Public Agency]

[Date of the Closing]

Florida Liability Insurance Commission  
\_\_\_\_\_, Florida

Gentlemen:

We are counsel to [name of Public Agency] of the State of Florida (the "Public Agency"), and have been requested by the Public Agency to give this opinion in connection with a loan by the Florida Liability Insurance Commission (the "Commission") to the Public Agency of funds to finance the cost of acquiring a liability coverage agreement or agreements from the Florida Association of Counties Trust ("FACT") pursuant to the terms and conditions of the Loan Agreement, dated as of \_\_\_\_\_ 1, 1989 (the "Loan Agreement"), by and between the Commission and the Public Agency. The Public Agency has also entered into a Liability Coverage Agreement, dated as of \_\_\_\_\_ 1, 1989 (the "Liability Coverage Agreement"), with FACT.

In this connection we have reviewed such records, certificates and other documents as we have considered necessary or appropriate for the purposes of this opinion, including Chapter 163, Part I, Florida Statutes, Chapter 125, Part I, Florida Statutes, and other applicable provisions of law, and the relevant resolutions adopted by the Board of County Commissioners of the Public Agency, the Agreement of Trust and the Liability Coverage Agreement. Based on such review and such investigation as we have deemed necessary and such other consideration of law and fact as we believe to be relevant, we are of the opinion that:

1. The Public Agency is a duly constituted political subdivision of the State of Florida ("State"), validly existing and in good standing under the laws of the State, is not in violation of any provision of law material to the transactions contemplated by the Agreement of Trust, and has all requisite power and authority to execute and deliver the Agreement of Trust.

2. No approval, authorization, consent or other order of any governmental entity or of any court, public board or body (other

than those already obtained), and no approving referendum of the qualified electors of the Public Agency, is legally required for the Public Agency to enter into and perform its obligations under the Agreement of Trust.

3. The Public Agency has the requisite power to enter into the Agreement of Trust and to participate in the Liability Coverage Program and has duly authorized the execution and delivery of the Agreement of Trust.

4. Neither the execution and delivery of the Agreement of Trust and the consummation of the transactions contemplated thereby, nor the fulfillment of and compliance with the terms and conditions of the Agreement of Trust conflicts with or results in a breach of any of the terms, conditions or provisions of the Constitution or laws of the State (including any limit on indebtedness), or any restriction or any agreement, instrument or governmental or court order to which the Public Agency is now a party or by which it is bound or constitutes a default under any of the foregoing.

5. The Public Agency has obtained all permits and approvals required by any court, governmental body or officer for its participation in the Liability Coverage Program and the execution and delivery of the Agreement of Trust; the Public Agency has complied with any applicable provisions of law requiring any notification, declaration, filing or registration with any court, governmental body or officer in connection with the execution, delivery and performance of its obligations under the Agreement of Trust or for its participation in the Liability Coverage Program; and its participation in the Liability Coverage Program, as contemplated in the Agreement of Trust, is consistent with, and does not violate or conflict with, the terms of any such judicial, agency or other governmental consent, order or other action which is applicable thereto.

6. The Agreement of Trust has been duly and validly authorized, executed and delivered, is in full force and effect, and is a valid and legally binding obligation of the Public Agency, enforceable in accordance with its terms, except to the extent that the enforceability thereof may be limited by laws relating to the bankruptcy or insolvency of the Public Agency or other similar laws affecting creditors' rights generally or by general principles of equity.

7. To the best of my knowledge (based upon due inquiry and investigation), there is no litigation or legal or governmental action, proceeding, inquiry or investigation pending or threatened by judicial or governmental authorities to which the Public Agency is a party or any property of the Public Agency is subject, which, if determined adversely to the Public Agency, would individually or in the aggregate (a) materially and adversely affect the

if determined adversely to the Public Agency, would individually or in the aggregate (a) materially and adversely affect the validity or the enforceability of the Agreement of Trust, or (b) otherwise materially or adversely affect the ability of the Public Agency to comply with its obligations under the Agreement of Trust.

8. The Public Agency is subject to suit in a court of competent jurisdiction by the Trustee or the Commission for the failure to pay any amounts due and owing by the Public Agency under, or the failure to perform any obligation required by, the Agreement of Trust and the Public Agency is not entitled to the defense of sovereign immunity or any other comparable defense in any such suit.

All capitalized terms used in this opinion but not defined herein shall have the meanings ascribed to such terms in the Agreement of Trust.

Nabors, Giblin & Nickerson, P.A., Tampa, Florida, Counsel to the Commission, may rely upon this opinion, as if the same were addressed to such firm.

Very truly yours,

[COUNSEL TO THE PUBLIC AGENCY]

EXHIBIT C

CERTIFICATE OF PUBLIC AGENCY IN  
CONNECTION WITH LOAN TO FINANCE PROJECT

The undersigned, \_\_\_\_\_ and \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_ ("Public Agency"), acting for and on behalf  
of the Public Agency, hereby certify as of the date hereof that the  
representations and warranties of the Public Agency set forth in  
the Loan Agreement, dated as of \_\_\_\_\_ 198\_\_, between the Public  
Agency and the Florida Liability Insurance Commission (the "Loan  
Agreement"), are true and correct in all material respects on the  
date hereof; the Public Agency is in compliance with all terms,  
covenants and conditions of the Loan Agreement on the date hereof;  
and no Event of Default (as defined in the Loan Agreement) or  
condition, event or act which with notice or lapse of time or both  
would become an Event of Default exists on the date hereof.

IN WITNESS WHEREOF, the undersigned have hereunto set their  
hands and affixed the official seal of the Public Agency duly  
attested as of this \_\_\_\_\_ day of \_\_\_\_\_, 198\_.

[SEAL]

Attest:

By: \_\_\_\_\_

By: \_\_\_\_\_

**ATTACHMENT E**

**FORM OF COVERAGE AGREEMENT**



# FLORIDA ASSOCIATION OF COUNTIES TRUST

TALLAHASSEE, FLORIDA  
hereinafter called the "Trust"

## GENERAL LIABILITY COVERAGE AGREEMENT

DECLARATIONS NUMBER: FAC 1009

Prior Number: NEW

1. The Member & its Address

: County of St. Johns  
: P.O. Box Drawer 349  
: St. Augustine, FL 32085

# SPECIMEN

2. Coverage Agreement Period: (Mo., Day, Yr.)

From: October 1, 1989

To: October 1, 1990

12:01 A.M. standard time at the address of the Member as stated above.

3. The coverage afforded is only with respect to the coverages described in this coverage agreement. The limit of the Trust's liability against all such coverage, for which the insured is not otherwise immune, shall be:

- (a) \$100,000.00 per person with respect to covered liability of the insured arising out of Florida Law or Statutes,
- (b) \$200,000.00 per occurrence with respect to covered liability of the insured arising out of Florida Law or Statutes,
- (c) \$1,000,000.00 per occurrence with respect to covered liability of the insured arising out of the law of a jurisdiction other than that of the State of Florida (including, but not limited to, Federal Law), if the law of such other jurisdiction governs the claim or loss (but this per occurrence limit of liability shall not exceed the statutory limit of liability, if any, in such other jurisdiction, of the insured for the bodily injury, property damage, personal injury or error or omission giving rise to such claim or loss)
- (d) \$3,000,000.00 coverage agreement aggregate,

subject to all the terms of this coverage agreement having reference hereto.

Form numbers of forms and endorsements forming a part of this coverage agreement at its inception:

FACT 2d (4/89); FACT 6 (9/88); FACT 15 (9/89); FACT 4a (2/89)

Deductible:

\$ 1,000.00

Premium:

\$ 104,695.00

This Declaration Page (sometimes referred to in the coverage agreement as the "Declarations") with Coverage Agreement Provisions, Endorsements(s) and Schedule(s) complete the above numbered coverage agreement, but this Coverage Agreement shall not be effective unless signed by an authorized representative of the Trust.

Countersigned by: Florida Association of Counties

Attest: Bliss-McKnight Management Corp. of Florida.

by: \_\_\_\_\_

Authorized Representative

by: \_\_\_\_\_

Service Contractor

Form # FACT 1d (4/89)

# FLORIDA ASSOCIATION OF COUNTIES TRUST

## EXCLUSION OF SHERIFF AND SHERIFF'S OPERATIONS - ENDORSEMENT

In consideration of the reduced premium charged, it is agreed that:

1) The "WHO IS AN INSURED" provision shall not include the Sheriff of the *member* county, the sheriff's department of the *member* county, any Sheriff's Deputy of the *member* county or any other official or employee of the Sheriff's Department of the *member* county

2) The coverage agreement shall not apply to any claim or suit arising out of:

a) operations performed by or under the control of the Sheriff of the *member* county, or

b) except with respect to premises owned by the named insured and used by the sheriff as a jail, premises owned, leased or under the care, custody or control of the Sheriff of the *member* county, or

c) any act, error or omission of the Sheriff of the *member* county or of any official or employee of the Sheriff's Department of the *member* county.

**SPECIMEN**

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the coverage agreement, other than as is above stated.

# FIRE DAMAGE LEGAL LIABILITY ENDORSEMENT

This endorsement forms a part of and modifies coverage agreement number \_\_\_\_\_  
between The Florida Association of Counties Trust and

\_\_\_\_\_, effective \_\_\_\_\_  
[complete this section only if endorsement is issued subsequent to issuance of the coverage agreement]

In consideration of the premium charged, it is agreed that the following is added to exclusion (e) of Coverages A & B, *Bodily Injury* and *Property Damage Liability* Coverages:

Part (1) of this exclusion (e) does not apply to *property damage* to structures or portions thereof rented to or occupied by the *member*, including fixtures permanently attached thereto, arising out of fire or smoke and soot resulting from such fire.

The extension of coverage provided by this endorsement does not apply to liability for *damages* assumed by the *member* under any contract or agreement.

**SPECIMEN**

# FLORIDA ASSOCIATION OF COUNTIES TRUST

## EXCLUSION OF CERTAIN PREMISES OR OPERATIONS - ENDORSEMENT

This endorsement modifies the COVERAGE AGREEMENT to which it is attached. Attachment may be by reference to the Form Number of this endorsement or by completing the following attaching clause. Unless a different date is stated below, the effective date of this endorsement is the same as the effective date of the COVERAGE AGREEMENT to which it is attached.

Members Name	Coverage Agreement No.	Effective Date
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It is agreed that this COVERAGE AGREEMENT shall not apply any claim or suit caused by or arising out of any condition of the following premises or operations while owned, operated, leased or under the care, custody or control of the *Member*:

**SPECIMEN**

- Airports, Runways or Aircraft
- Gas or Electric Utilities
- Hospitals or Inpatient Clinics
- Stadiums with seating capacity in excess of 10,000
- Amusement Parks
- Mechanical Amusement Devices
- Race Tracks - Horse, Automobile or Motorcycle

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the coverage agreement, other than as is above stated.

**FLORIDA ASSOCIATION OF COUNTIES TRUST**  
**SPECIAL CANCELLATION ENDORSEMENT**  
**FAILURE TO MAKE EXTRAORDINARY LOSS RESERVE CONTRIBUTION**

This endorsement forms a part of and modifies COVERAGE AGREEMENT Number FAC 1009

between The Florida Association of Counties Trust and

County of St. Johns

, effective 10/1/89

[complete this section only if endorsement is issued subsequent to issuance of the Coverage Agreement]

**SPECIMEN**

It is agreed that this Coverage Agreement is issued upon the express reliance by the Trust that the *Member* will timely fulfill its obligations, under and in accordance with the Agreement and Declaration of Trust and any Joinder Agreement thereto, by and between the *Member* and the Trust, to pay *Member's* Extraordinary Loss Reserve Contribution and reimburse the Trust for the cost of processing its application for membership.

In the event that *Member* fails to timely pay its Extraordinary Loss Reserve Contribution and reimburse the Trust for the cost of processing its application for membership, as required by the Agreement and Declaration of Trust and any Joinder Agreement thereto, then, upon written notice from the Trust to the *Member*.

(a) this Coverage Agreement shall become void ab initio and neither the *Member* nor the Trust shall have any further rights or obligations under this Coverage Agreement, except as are expressly set forth in this Special Cancellation Endorsement;

(b) the Trust shall, within a reasonable time after such notice and after a review by the Trust of the accounts of the *Member*, which the Trust may require to be reviewed or audited by an independent Certified Public Accountant, return to the *Member* that portion of the Premium paid to the Trust by the *Member* which equals such Premium less actual payments of claims Under the Coverage Agreement, all claims expenses incurred under the Coverage Agreement and other expenses directly incurred by the Trust with respect to the account of the *Member* and

(c) the Trust shall provide to the *Member*, within a reasonable time after the date of notice of cancellation hereunder, a copy of the Trust's paper claims files on any claims which have been reported to the Trust prior to the notice of cancellation hereunder.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of the coverage agreement, other than as is above stated.

# SPECIMEN

## Florida Association of Counties Trust

### GENERAL LIABILITY COVERAGE AGREEMENT

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(REFER TO DECLARATIONS PAGE FOR COVERAGES APPLICABLE UNDER THIS COVERAGE AGREEMENT)

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#### COVERAGE AGREEMENT PROVISIONS

In consideration of the payment of the premium and the covenants and agreements set forth in the COVERAGE AGREEMENT, in reliance upon the statements of the APPLICATION and the DECLARATIONS which are made a part hereof, in reliance upon all terms, conditions, limits and other provisions of the COVERAGE AGREEMENT and subject to all the provisions of this COVERAGE AGREEMENT, the Trust agrees with the *Member* as follows:

**BODILY INJURY AND PROPERTY  
DAMAGE LIABILITY COVERAGE  
(COVERAGES A & B)**

(UNLESS OTHERWISE PROVIDED THEREIN, THE COVERAGE AGREEMENT PROVISIONS ENTITLED "THE TRUST'S LIMIT OF LIABILITY", "SUPPLEMENTARY PAYMENTS", "DEFINITIONS", "CONDITIONS" AND "GENERAL COVERAGE AGREEMENT EXCLUSIONS" ARE ALL APPLICABLE TO COVERAGES A & B.)

**I. WHO IS AN INSURED**

Each of the following is an *insured* under this *bodily injury* and *property damage* liability coverage to the extent set forth below:

(a) the *Member*,

(b) while acting within the scope of his or her duties as such:

Any member of the governing body of the *Member*,

Any elected or appointed official of the *Member*,

Any member of boards or commissions of the *Member*,

Any employee of the *Member*.

**II. WHAT IS COVERED**

**COVERAGE A - BODILY INJURY  
LIABILITY**

**COVERAGE B - PROPERTY DAMAGE  
LIABILITY**

The Trust will pay those sums which the *insured* shall become legally obligated to pay as *damages* because of

A. *Bodily Injury*, or

B. *Property Damage*,

to which this *bodily injury* and *property damage* liability coverage applies, caused by an *occurrence* which occurs within the *coverage territory* and the Trust shall have the right and duty to defend any suit against the *insured* seeking *damages* on account of *bodily injury* or *property damage* to which this *bodily injury* and *property damage* liability coverage applies, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the Trust shall not be obligated to pay any claim or judgement or to defend any suit after the applicable limit of the Trust's liability has been exhausted by payment or tender of payment, in whole or in part, of judgements or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under the SUPPLEMENTARY PAYMENTS provision of this coverage agreement.

**Exclusions:**

This *bodily injury* and *property damage* liability coverage does not apply:

(a) to *bodily injury* or *property damage* arising out of the ownership, maintenance, operation, use, loading or unloading of

(1) an *automobile* or aircraft owned or operated by or rented or loaned to any *insured*, or

(2) any other *automobile* or aircraft operated by any person in the course of his employment by any *insured*;

but this exclusion does not apply to the parking of an *automobile* on premises owned by, rented to or controlled by the *Member* or the ways immediately adjoining, if such *automobile* is not owned by or rented to or loaned to any *insured*;

(b) to *bodily injury* or *property damage* arising out of and in the course of the transportation of *mobile equipment* by an *automobile* owned or operated by or rented or

loaned to any *insured*;

(c) to any obligation for which the *insured* or any carrier as his insurer may be held liable under any workers' compensation, occupational disease, unemployment compensation or medical, death or disability benefits law or under any similar law.

(d) to *bodily injury* to any employee or official of the *insured* arising out of and in the course of his or her employment by the *insured* or to any obligation of the *insured* to indemnify another because of damages arising out of such injury;

(e) to *property damage* to

(1) property owned or occupied by or rented to the *insured*,

(2) property used by the *insured*,

(3) property in the care, custody or control of the *insured* or as to which the *insured* is for any purpose exercising physical control;

but parts (2) and (3) of this exclusion do not apply with respect to liability under a written sidetrack agreement and part (3) of this exclusion does not apply with respect to *property damage* (other than to *elevators*) arising out of the use of an *elevator* at premises owned, rented or controlled by the *Member*;

(f) to *property damage* to premises alienated by the *Member*, arising out of such premises or any part thereof;

(g) to loss of use of tangible property which has not been physically injured or destroyed resulting from

(1) a delay in or lack of performance, by or on behalf of the *Member*, of any contract or agreement, or

(2) the failure of the *member's products* or work performed by or on behalf of the *Member* to meet the level of performance, quality, fitness or durability warranted or represented by

or on behalf of the *Member*;

(h) to *property damage* to work performed by or on behalf of the *Member* arising out of the work or any portion thereof, or out of materials, parts or equipment furnished in connection therewith;

(i) to *bodily injury* or *property damage* arising out of the ownership, maintenance, operation, use, loading or unloading of any *mobile equipment* while being used in any prearranged or organized racing, speed or demolition contest or in any stunting activity or in practice or preparation for any such contest or activity;

(j) to *damages* claimed for the withdrawal, inspection, repair, replacement, or loss of use of the *Member's products* or work completed by or for the *Member* or of any property of which such products or work form a part, if such products, work or property are withdrawn from the market or from use because of any known or suspected defect or deficiency therein;

(k) to *bodily injury* or *property damage* for which the *insured* or his indemnitee may be held liable

(1) as a person or organization engaged in the business of manufacturing, distributing, selling, or serving alcoholic beverages, or

(2) if not so engaged, as an owner or lessor of premises used for such purposes

if such liability is imposed

(i) by or because of the violation of any statute, ordinance or regulation pertaining to the sale, gift, distribution, serving or giving of any alcoholic beverage, or

(ii) by reason of the selling, serving or giving of any alcoholic beverage to a minor or to a person under the influence of alcohol or which causes or contributes to the intoxication of any person,



but part (ii) of this exclusion does not apply with respect to liability of the *insured* or his or her indemnitees as an owner or lessor described in part (2) of this exclusion, above;

### III. TIME OF *BODILY INJURY* AND *PROPERTY DAMAGE*

This insurance applies only to *bodily injury* and *property damage* which occurs during the coverage period. *Property damage* that is loss of use of tangible property that is not physically injured shall be deemed to occur at the time of the *occurrence* that caused it.

### IV. ADDITIONAL DEFINITIONS

When used in reference to this *bodily injury* and *property damage* coverage, "*damages*" means only those *damages* at law which are payable because of *bodily injury* and *property damage* arising out of an *occurrence* to which this *bodily injury* and *property damage* coverage applies.

## **PERSONAL INJURY LIABILITY COVERAGE (COVERAGE C)**

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(UNLESS OTHERWISE PROVIDED THEREIN, THE COVERAGE AGREEMENT PROVISIONS ENTITLED "THE TRUST'S LIMIT OF LIABILITY", "SUPPLEMENTARY PAYMENTS", "DEFINITIONS", "CONDITIONS" AND "GENERAL COVERAGE AGREEMENT EXCLUSIONS" ARE ALL APPLICABLE TO COVERAGE C.)

### I. WHO IS AN *INSURED*

Under this *personal injury* liability coverage, the *insured* shall be the same as indicated in parts (a) and (b) of the "WHO IS AN *INSURED*" provisions applicable to *BODILY INJURY AND PROPERTY DAMAGE LIABILITY COVERAGE* (COVERAGES A & B).

### II. WHAT IS COVERED

#### COVERAGE C - *PERSONAL INJURY LIABILITY*

The Trust will pay those sums which the *insured* shall become legally obligated to pay as *damages* because of injury (herein called "*personal injury*"), sustained by any one or more of the following offenses (herein called "*offenses*") committed in the conduct of the *Member's* operations:

(A) False arrest, false detention or false imprisonment, or malicious prosecution;

(B) The publication or utterance of a libel or slander or of other defamatory or disparaging material or a publication or utterance in violation of an individual's right of privacy, except publications or utterances in the course of or related to advertising, broadcasting or telecasting activities conducted by or on behalf of the *Member*;

(C) Wrongful entry or eviction or other invasion of the right of private occupancy,

(D) Any violation of the Civil or Constitutional Rights of any person which creates a cause of action for *damages* by or on behalf of any such person under any one or more of the following Civil Rights Statutes:

United States Code, Title 42, Section 1981  
United States Code, Title 42, Section 1982  
United States Code, Title 42, Section 1983  
United States Code, Title 42, Section 1985  
United States Code, Title 42, Section 1986

(E) Any injury sustained by any person and arising out of Assault and Battery:

if such *offense* is committed within the territory described in paragraph (1) of the definition of the *coverage territory*, and the Trust shall have the right and duty to defend any suit against the *insured* seeking *damages* on account of *personal injury* to which this *personal injury* liability coverage applies, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the Trust shall not be obligated to pay any claim or judgement or to defend any suit after the applicable limit of the Trust's liability has been exhausted by payment or tender of payment, in whole or in part, of judgements or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under the SUPPLEMENTARY PAYMENTS provision of this coverage agreement.

#### Exclusions:

This *personal injury* liability coverage does not apply :

(a) to *personal injury* arising out of the willful violation of a penal statute or ordinance committed by or with the knowledge or consent of any *insured*;

(b) to *personal injury* arising out of a publication or utterance described in subsection (B) of this *personal injury* liability

coverage, if the first injurious publication or utterance of the same or similar material by or on behalf of the *insured* was made prior to the coverage period.

(c) to *personal injury* arising out of the publication or utterance described in subsection (B) of this *personal injury* liability coverage concerning any person, organization or business enterprise, or its products or services, made by or at the direction of any *insured* with knowledge of the falsity thereof;

(d) to fraudulent, criminal or, except with respect to malicious prosecution, malicious acts;

(e) to salary, wages or other compensation or benefits, back salary, back wages, back other compensation or benefits, or interest or penalties thereon payable to any person by the *insured*;

(f) to *personal injury* arising out of

(1) any violation or abrogation of voting rights or the elective franchise, including, without implied limitation, any unlawful discrimination, and

(2) any discrimination or other unlawful acts or omissions in legislating, organizing, administering or regulating elections, apportionment, election districts or district boundaries.

### III. TIME OF *PERSONAL INJURY*

This *personal injury* liability coverage applies only to *personal injury* arising out of an *offense* which occurs during the coverage period.

### IV. ADDITIONAL DEFINITION

When used in reference to this *personal injury* liability coverage, "*damages*" means only those *damages* at law which are payable because of *personal injury* arising out of an *offense* to which this *personal injury* coverage applies.

### V. ADDITIONAL PROVISION

No coverage agreement provision, other than this Coverage C, shall apply to any claim made or suit brought against any *insured* claiming damages for any and all violation of civil, constitutional or human rights and/or for any and all assault or battery, whether or not covered under this Coverage C.

**ERRORS OR OMISSIONS  
LIABILITY COVERAGE  
(COVERAGE F)**

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(UNLESS OTHERWISE PROVIDED THEREIN, THE COVERAGE AGREEMENT PROVISIONS ENTITLED "THE TRUST'S LIMIT OF LIABILITY", "SUPPLEMENTARY PAYMENTS", "DEFINITIONS", "CONDITIONS" AND "GENERAL COVERAGE AGREEMENT EXCLUSIONS" ARE ALL APPLICABLE TO COVERAGE F.)

**I. WHO IS AN *INSURED***

Under this *errors or omissions* liability coverage, the *insured* shall be the same as indicated in parts (a) and (b) of the "WHO IS AN *INSURED*" provisions applicable to *BODILY INJURY AND PROPERTY DAMAGE LIABILITY COVERAGE* (COVERAGES A & B).

**II. WHAT IS COVERED**

**COVERAGE F - *ERRORS OR OMISSIONS*  
LIABILITY**

The Trust will pay those sums which the *insured* shall become legally obligated to pay as *damages* on account of any claim for breach of duty made against the *insured* by reason of any negligent act, error or omission, including misfeasance, malfeasance and nonfeasance, (herein called "*error or omission*") of the *insured* which occurs within the territory described in paragraph (1) of the definition of the *coverage territory*, and the Trust shall have the right and duty to defend any suit against the *insured* seeking *damages* on account of *errors or omissions* to which this *errors or omissions* liability coverage applies, even if any of the allegations of the suit are groundless, false or fraudulent, and may make such investigation and settlement of any claim or suit as it deems expedient, but the Trust shall not be obligated to pay any claim or judgement or to defend any suit after the applicable limit of the Trust's liability has been exhausted by payment or tender of payment, in whole or in part, of judgements

or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under the SUPPLEMENTARY PAYMENTS provision of this coverage agreement.

#### Exclusions:

This *errors or omissions* liability coverage does not apply:

(a) to any fraudulent, criminal or malicious *error or omission*;

(b) to injury to, destruction or disappearance of money, securities or any tangible property or the loss of use thereof;

(c) to *bodily injury or personal injury*;

(d) to claims arising out of failure to effect or maintain proper insurance, liability coverage or bonds or to comply with the provisions of insurance contracts, policies or bonds;

(e) to failure to extend, levy, bill for, collect, return or distribute taxes or tax assessments, rents, fees or other monies or funds or to improper or incorrect extension, levy, collection, distribution, return or administration of tax assessments, taxes, rents, fees or other monies or funds;

(f) to liability for any loss to the *insured* or for any loss caused intentionally by or at the direction of the *insured*;

### III. TIME OF ERROR OR OMISSION

This *errors or omissions* liability coverage applies only to *errors or omissions* which occur during the coverage period.

### IV. ADDITIONAL DEFINITION

When used in reference to this *errors or omissions* liability coverage, "*damages*" means only those *damages* at law, other than *damages* payable to any *insured*, which are payable because of *errors or omissions* to which this *errors or omissions* liability coverage applies.

**UNLESS OTHERWISE PROVIDED THEREIN, THE FOLLOWING PROVISIONS ARE ALL APPLICABLE TO ALL COVERAGES**

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### THE TRUST'S LIMITS OF LIABILITY, DEDUCTIBLE

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Regardless of the number of (1) *insureds* under this coverage agreement, (2) persons or organizations who sustain or are subject to *bodily injury, property damage, personal injury, errors or omissions* or any other loss, damage or injury,

(a) the total limit of the Trust's liability under this coverage agreement for coverages with respect to which the limit of liability is set forth in paragraph 3 (a) of the Declarations, for all *damages* to any one person or organization and arising out of any one *occurrence, offense, error or omission* or any related series of *occurrences, offenses, errors or omissions*, shall not exceed the limit of liability stated in the Declarations as "per person";

(b) and the total limit of the Trust's liability under this coverage agreement for coverages with respect to which the limit of liability is set forth in paragraph 3 (b) of the Declarations, for all *damages* arising out of any one *occurrence, offense, error or omission* or any related series of *occurrences, offenses, errors or omissions*, shall not exceed the limit of liability stated in the Declarations as "per occurrence."

(c) and the total limit of the Trust's liability under this coverage agreement for coverages with respect to which the limit of liability is set forth in paragraph 3 (c) of the Declarations, for all *damages* and for payments under the SUPPLEMENTARY PAYMENTS provision of this coverage agreement (which payments can be identified or allocated by the Trust to claims against the *insured*), arising out of any one *occurrence, offense, error or*

*omission or any related series of occurrences, offenses, errors or omissions, shall not exceed the limit of liability stated in the Declaration as "per occurrence."*

Subject to the preceding sentence, regardless of the number of (1) *insureds* under this coverage agreement, (2) persons or organizations who sustain or are subject to *bodily injury, property damage, personal injury, errors or omissions* or any other loss, damage or injury, the total limit of the Trust's liability under this coverage agreement for all *damages* and for payments under the SUPPLEMENTARY PAYMENTS provision of this coverage agreement (which payments can be identified or allocated by the Trust to claims against the *insured*) shall not exceed the limit of liability stated in the Declarations as "coverage agreement aggregate."

In the event that persons or organizations, other than persons and organizations described in parts (a) and (b) of the "WHO IS INSURED" provisions applicable to BODILY INJURY AND PROPERTY DAMAGE LIABILITY COVERAGE (COVERAGES A & B), are covered (whether solely or with other *insureds*), in whole or in part, directly or indirectly, by this coverage agreement, whether by the terms of this coverage agreement, including, without implied limitation, by contractual assumption of liability by contract or agreement, or by the terms of any endorsement hereto, including, without implied limitation, any additional insured endorsement, or otherwise:

the total limit of the Trust's liability under this coverage agreement for all *damages* to any one person or organization and arising out of any one *occurrence, offense, error or omission or any related series of occurrences, offenses, errors or omissions*, shall not exceed that limit of liability which is applicable under this Coverage Agreement to the Member, with respect to such occurrences, offenses, errors or omissions,

and the total limit of the Trust's liability under this coverage agreement for all *damages* arising out of any one *occurrence, offense, error or omission or*

*any related series of occurrences, offenses, errors or omissions*, shall not exceed that limit of liability which is applicable under this Coverage Agreement to the Member, with respect to such occurrences, offense, error or omission or any related series of occurrences, offenses, errors or omissions.

The amount stated in the Declarations as "Deductible" shall, for coverages with respect to which the limit of liability is set forth in paragraphs 3 (a) or 3 (b) of the Declarations, first be deducted from each claim or suit which results in payment for *damages*. The Trust may pay any part or all of the Deductible amount to effect settlement of such claim or suit and, upon notification of the action taken the *Member* shall promptly reimburse the Trust for such Deductible amount as has been paid by the Trust. No more than one Deductible amount shall be deducted from any one *occurrence, offense or error or omission*.

The amount stated in the Declarations as "Deductible" shall, for coverages with respect to which the limit of liability is set forth in paragraph 3 (c) of the Declarations, first be deducted from each claim or suit which results in payment for *damages* or payments under the SUPPLEMENTARY PAYMENTS provision of this coverage agreement (which payments can be identified or allocated by the Trust to claims against the *insured*). The Trust may pay any part or all of the Deductible amount to effect settlement of such claim or suit and, upon notification of the action taken the *Member* shall promptly reimburse the Trust for such Deductible amount as has been paid by the Trust.

## SUPPLEMENTARY PAYMENTS

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Subject to any applicable deductible and to the Trust's limit of liability (in consideration of the unused portion of the limit of liability), the Trust will pay:

- (a) (1) all expenses incurred by the Trust,

(2) all costs taxed against the *insured* in any suit defended by the Trust and

(3) all interest on the entire amount of any judgement therein which accrued after entry of the judgement and before the Trust has paid or tendered or deposited in court that part of the judgement which does not (in consideration of any applicable deductible and in consideration of the unused portion of the limit of liability stated in the Declarations as "coverage agreement aggregate") exceed the limit of the Trust's liability thereon;

(b) premiums on appeal bonds required in any such suit, premiums on bonds to release attachments in any such suit for an amount not in excess of the Trust's limit of liability (in consideration of the unused portion of the limit of liability stated in the Declarations as "coverage agreement aggregate"), and the cost of bail bonds required of the *insured* because of accident or traffic law violation arising out of the use of any vehicle to which this coverage agreement applies, not to exceed \$1,000.00 per bail bond, but the Trust shall have no obligation to apply for or furnish any such bonds;

(c) expenses incurred by the *insured* for first aid to others at the time of an *occurrence* for *bodily injury* to which this coverage agreement applies;

(d) reasonable expenses incurred by the *insured* at the Trust's request in assisting the Trust in the investigation or defense of any claim or suit, including actual loss of earnings not to exceed \$100.00 per day.

## DEFINITIONS

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When used in this coverage agreement (including, without implied limitation, schedules and endorsements forming a part of this coverage agreement):

"*automobile*" means a land motor vehicle, trailer or semitrailer designed for travel on

public roads (including any machinery or apparatus attached thereto), but does not include *mobile equipment*;

"*bodily injury*" means bodily injury, sickness, disease or disability sustained by any person, including mental anguish, mental injury, shock or death at any time resulting therefrom;

"*defined contract*" means an agreement under which the "*Member*" assumes the liability of others for *damages* because of *bodily injury, property damage, personal injury or errors or omissions* which would have otherwise been covered under this coverage agreement if the indemnitee was an *insured* under this coverage agreement and if such *bodily injury, property damage, personal injury or errors or omissions* occurred after the execution of the *defined contract*;

"*elevator*" means any hoisting or lowering device to connect floors or landings, whether or not in service, and all appliances thereof including any car, platform, shaft, hoistway, stairway, runway, power equipment and machinery, but does not include

an *automobile* servicing hoist,

a hoist without a platform outside a building if without mechanical power or if not attached to building walls,

a hod or material hoist used in alteration, construction or demolition operations,

an inclined conveyor used exclusively for carrying property, or

a dumbwaiter used exclusively for carrying property and having a compartment height not exceeding four feet;

"*insured*" means any person or organization qualifying as an "*insured*" in the "WHO IS INSURED" provision of the applicable coverage under this coverage agreement;

"*mobile equipment*" means

any of the following types of land vehicles, including any attached machinery or equipment:

(a) Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

(b) Vehicles maintained for use solely on or next to premises the *insured* owns or rents:

(c) Vehicles that travel on crawler treads;

(d) Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

(1) power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

(e) Vehicles not described in subparagraphs (a), (b),(c),or (d) above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding and building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

(f) Vehicles not described in subparagraphs (a), (b), (c),or (d) above maintained primarily for purposes other than the transportation of persons or cargo.

However, self propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "*automobiles*:"

(1) Equipment designed primarily for :

- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing;
- (c) Street cleaning;

(2) Cherry picker and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

"*Member*" means the Florida Public Agency which is named in Item 1 of the Declarations of this coverage agreement;

"*Member's products*" means goods or products manufactured, sold, handled or distributed by the *Member* or by others on its behalf or under its name, including any container thereof (other than a vehicle), but *Members products* shall not include a vending machine or any property other than such container, rented to or located for use by others but not sold;

"*occurrence*" means an accident, including continuous or repeated exposure to conditions, which results in *bodily injury* or *property damage* neither expected or intended from the standpoint of the *insured*;

"*coverage territory*" means

(1) the United States of America, its territories, Commonwealths and possessions, or Canada,

(2) international waters or air space, or

(3) anywhere in the world with respect to "*damages*" because of *bodily injury* or *property damage* arising out of a product which was sold for use or consumption within the territory described in subparagraph (1) of this definition, above, provided the original suit for such *damages* is brought within the

territory described in such subparagraph (1);

"*property damage*" means

(1) physical injury to or destruction of tangible property, including the loss of use thereof at any time resulting therefrom, or

(2) loss of use of tangible property which has not been physically injured or destroyed, provided such loss of use is caused by an *occurrence*.

"*temporary takings*" means those regulatory takings of real property or interests therein which are ultimately invalidated by the courts.

## CONDITIONS

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1. **PREMIUMS:** All premiums for this coverage agreement shall be computed in accordance with the Trust's manuals, rates, rating plans, premiums and minimum premiums applicable to the coverage afforded herein.

The *Member* shall maintain records of such information as is necessary for premium computation and shall send copies of such records to the Trust at the end of the coverage period and at such times during the coverage period as the Trust may direct.

### 2. INSPECTION - NO WARRANTY OR REPRESENTATION - NO LIABILITY OF THE TRUST, ITS AGENTS OR CONTRACTORS

The Trust, its agents or contractors, shall be permitted but not obligated to inspect the *Member's* property and operations at any time. It is understood that the Trust, its agents or contractors, though not obligated to make inspections or provide information, advice, documentation, report, recommendations, materials, equipment, or other property or services, (hereafter collectively referred to as "*products and services*") would not provide such *products and services* except on express reliance on the provisions of this condition 2 of the coverage agreement. Neither the Trust's, its agents' or contractors', right to make inspections nor the making thereof nor the provision of any *products or services*, whether or not resulting therefrom, shall constitute an undertaking, to, for or on behalf of the *insured* or others, to determine or warrant that such property or operations are safe or healthful, or are in compliance with any standard, law, rule or regulation.

THE TRUST AND ITS AGENTS AND CONTRACTORS MAKE NO WARRANTY OR REPRESENTATION WITH RESPECT TO ANY PRODUCTS OR SERVICES. THERE IS NO WARRANTY OF ANY KIND, INCLUDING, WITHOUT IMPLIED



LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE.

THE MEMBER HEREBY WAIVES ANY AND ALL LIABILITY OF THE TRUST, ITS OFFICERS, EMPLOYEES, CONTRACTORS AND AGENTS (AND THEIR OFFICERS, EMPLOYEES AND AGENTS) FOR OR WITH RESPECT TO ANY AND ALL LOSS, INJURY (INCLUDING, WITHOUT IMPLIED LIMITATION, DEATH RESULTING THEREFROM) OR DAMAGE, CAUSED BY OR ARISING OUT OF THE PRODUCTS AND SERVICES, WHETHER OR NOT CAUSED BY THE SOLE OR PARTIAL NEGLIGENCE OF ANY OF SUCH PERSONS OR ORGANIZATIONS.

The Trust and its agents and contractors may examine and audit the Member's books and records at any time during the coverage period and extensions thereof and within three years after the final termination of this coverage agreement, as far as they relate to the subject matter of this coverage agreement.

3. SETTLEMENTS AND SUITS: The Trust and the *insured* recognize that settlement or compromise of claims may involve payment of monies and/or the taking of or forbearing to take action by one or more *insureds*. In the event that

(a) the Trust recommends in writing to the *insured* a settlement or compromise of any claim or suit involving either of the following: (i) payment of monies by the Trust or (ii) taking or forbearing to take action by one or more *insureds*, and

(b) all such *insureds* do not affirmatively accept such recommendation within 30 days of actual notice of such recommendation to the *insured* or within any earlier period requested by any court having jurisdiction of the claim or suit and specified in the notice to the *insured* (referred to herein as the "*response date*"),

the Trust's liability

for the claim or suit (and for the *occurrence, offense, error or omission*, or claim out of which they arose) and

for payments under the SUPPLEMENTARY PAYMENTS provision (including, without implied limitation, any liability for payment for the costs and expenses of defense of the *insured*) with respect to such claim or suit (and for the *occurrence, offense, error or omission*, or claim out of which they arose)

shall not exceed the sum of

(1) the amount of payment of monies by the Trust for which the claim or suit could have been settled, as set forth in the Trust's recommendation to the *insured*, and

(2) the costs and expenses incurred by the Trust, up to the *response date*, under the SUPPLEMENTARY PAYMENTS provision of the coverage agreement (including, without implied limitation, any costs and expenses incurred for the defense of the *insured*) with respect to the claim or suit.

Such sum shall not exceed the applicable Trust's limit of liability (in consideration of the unused portion of the limit of liability stated in the Declarations) and shall be reduced by any applicable deductible.

Neither this condition 3 nor any other provision of this coverage agreement shall impose on the Trust any obligation to notify the *insured* of any proposed settlement of any claim or suit.

4. *INSURED'S DUTIES IN THE EVENT OF OCCURRENCE, CLAIM OR SUIT (IN ADDITION TO ANY OTHER DUTIES WHICH MAY BE SET FORTH IN THE COVERAGE AGREEMENT):*

Subject to other coverage agreement provisions with respect to the subject matter of this condition 4 and in addition to any other duties which may be set forth in the coverage agreement:

(a) In the event of an *occurrence*, an *offense*, an *error or omission* or any other happening to which this coverage agreement may apply, written notice containing particulars sufficient to identify the *insured* and also reasonably obtainable information with respect to the time, place and circumstances thereof, the names and addresses of those injured or who suffered other loss or damage and the names and addresses of witnesses shall be given by or for the *insured* to the Trust or to any of its authorized agents or contractors as soon as practicable.

(b) If claim is made or suit brought against the *insured*, the *insured* shall immediately forward to the Trust every demand, notice, summons or other document or process received by the *insured* or by the *insured's* representative.

(c) The *insured* shall cooperate with the Trust and, upon the Trust's request, assist in making settlements, in the conduct of suits and arbitrations and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the *insured* because of any act, error or omission which, directly or indirectly, results in or contributes to *bodily injury, property damage, personal injury or errors or omissions* with respect to which coverage is afforded under this coverage agreement, and the *insured* shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The *insured* shall not, except at the *insured's* own cost and expense, voluntarily make any payment, assume any obligations or incur any expense.

**5. ACTION AGAINST THE TRUST:** No action shall lie against the Trust, unless, as a condition precedent thereto, there shall have been full compliance with all the terms and conditions of this coverage agreement, nor until the amount of the *insured's* obligation to pay shall have been finally determined either by judgement against the *insured* after trial (and any subsequent appeals therefrom) or by written agreement of the *insured*, the claimant and the Trust.

Any person or organization or the legal representative thereof who has secured such judgement shall thereafter be entitled to recover under this coverage agreement to the extent of the coverage afforded by this coverage agreement. No person or organization shall have any right under this coverage agreement to join the Trust as a party to any action against the *insured* to determine the *insured's* liability, nor shall the Trust be impleaded by the *insured* or the *insured's* legal representative. Bankruptcy or insolvency of the *insured* or of the *insured's* estate shall not relieve the Trust of any of its obligations hereunder.

**6. SUBROGATION:** In the event of any payment under this coverage agreement, the Trust shall be subrogated to all the *insured's* rights of recovery therefor against any person or organization and the *insured* shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The *insured* shall do nothing after loss to prejudice such rights.

**7. CHANGES:** Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this coverage agreement or estop the Trust from asserting any right under the terms of this coverage agreement, nor shall the terms of this coverage agreement be waived or changed, except by endorsement issued to form a part of this coverage agreement. It is provided, however, that a notice given by an *insured* to an authorized representative of the Trust shall constitute notice to the Trust.

**8. ASSIGNMENT:** Assignment of interest under this coverage agreement shall not bind the Trust until its consent is endorsed on this coverage agreement.

**9. EXTENSION OF COVERAGE TERM:** If the Trust shall agree to an extension of the term of this coverage agreement, such extension shall not operate to increase the limit of the Trust's liability stated in this coverage agreement.

**10. CANCELLATION:** This cancellation condition is subject to (i) the provisions of

any Operations Manual or (ii) the provisions of the Agreement and Declaration of Trust by and between the *Member* and the Trust

If the *Member* cancels, earned premium shall be computed in accordance with the customary short rate table and procedure. If the Trust cancels, earned premium shall be computed pro rata. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

11. DECLARATIONS: By acceptance of this coverage agreement, the *Member* agrees that the statements in the declarations and in any application for the coverage agreement (a copy of which is attached hereto and made a part hereof) are its agreements and representations, that this coverage agreement is issued in reliance upon the truth of such representations and that this coverage agreement embodies all agreements existing between the *Member* and the Trust or any of its agents relating to this coverage agreement and the coverage contained herein.

12. ATTORNEY SELECTION - DEFENSE: The *insured* agrees that, as a condition precedent to coverage of any claim or suit by or under this coverage agreement:

(a) the *insured* will accept the attorney or attorneys selected and retained by the Trust,

(b) the Trust is under no obligation to retain more than one attorney for any one *occurrence, offense, error or omission*, claim or suit, whether or not there is more than one defendant covered by the Trust under this and/or any other coverage agreement issued by the Trust and whether or not there is or may be or any such defendant perceives or determines that there is or may be a conflict of interest between or among any two or more defendants in or with respect to such *occurrence, offense, error or omission*, claim or suit or between or among such defendant or defendants and the Trust, and

(c) notwithstanding the foregoing provisions

of this condition, the *insured* may, in its discretion retain counsel (other than counsel provided by the Trust hereunder) to represent the *insured* in any claim or suit with respect to the subject matter of this coverage agreement, provided, however, that the cost of such retained counsel and expenses incurred thereby shall not be covered hereunder and shall be the sole liability of the person or organization retaining such counsel.

13. MEMBER IS AGENT FOR ALL INSUREDS: For purposes of any matter relating to or arising out of this coverage agreement, the *Member* shall be the agent for all *insureds* under this coverage agreement. Any notice given or received by the *Member* and any determination, communication or other action of or by the *Member* shall be binding on all *insureds*. The Trust may, in its discretion, rely on statements, communications, notices and other actions of or from the *Member* with respect to itself or any *insured* without confirmation from any *insured*.

14. NO OBLIGATION TO SETTLE WITHIN COVERAGE AGREEMENT LIMITS. The Trust makes no undertaking to and is not obligated to

the insured,

any excess or umbrella insurer of any insured, or

any third party claimant or beneficiary thereof

to:

settle any claim or suit within the limits of liability applicable to this coverage agreement,

offer to settle any claim or suit within the limits of liability applicable to this coverage agreement, or

offer to settle any claim or suit or to otherwise pay out funds of the Trust in a manner most favorable to or not unfavorable to any insured, any excess or

umbrella insurer or any third party claimant or beneficiary thereof.

## GENERAL EXCLUSIONS

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### 1. NUCLEAR ENERGY LIABILITY EXCLUSION (BROAD FORM)

This coverage agreement does not apply:

(a) to *bodily injury, property damage, personal injury or errors or omissions*

(i) with respect to which an *insured* under this coverage agreement is also an insured under a nuclear liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(ii) resulting from the *hazardous properties of nuclear material* and with respect to which (A) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (B) the *insured* is, or had this coverage agreement not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization;

(b) under any MEDICAL PAYMENTS COVERAGE or under any SUPPLEMENTARY PAYMENTS provision relating to first aid, to expenses incurred with respect to *bodily injury* resulting from the *hazardous properties of nuclear material* and arising out of the operation of a *nuclear facility* by any person or organization;

(c) to *bodily injury, property damage, personal injury or errors or omissions* resulting from the *hazardous properties of nuclear material*, if

(i) the *nuclear material* (A) is at any

*nuclear facility* owned by, or operated by or no behalf of, an *insured* or (B) has been discharged or dispersed therefrom,

(ii) the *nuclear material* is contained in *spent fuel* or *waste* at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an *insured*, or

(iii) the *bodily injury, property damage, personal injury* or *errors or omissions* arises out of the furnishing by an *insured* of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any *nuclear facility*, but if such facility is located within the United States of America, its territories or possessions, or Canada, this exclusion (iii) applies only to *property damage* to such *nuclear facility* and any property threat.

As used in this exclusion:

"*hazardous properties*" include radio-active, toxic or explosive properties;

"*nuclear material*" means *source material, special nuclear material* or *by-product material*;

"*source material*", "*special nuclear material*", and "*byproduct material*" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"*spent fuel*" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a *nuclear reactor*;

"*waste*" means any waste material (i) containing *byproduct material* and (ii) resulting from the operation by any person or organization of any *nuclear facility* included within the definition of *nuclear facility* under subparagraph (i) or (ii) thereof;

"*nuclear facility*" means

(a) any *nuclear reactor*,

(b) any equipment or device designed or

used for (i) separating the isotopes of uranium or plutonium, (ii) processing or utilizing *spent fuel*, or (iii) handling, processing or packaging *waste*,

(c) any equipment or device used for the processing, fabricating or alloying of *special nuclear material* if at the time the total amount of such material in the custody of the *insured* at the premises where such equipment or device is located consists or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of *waste*,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"*nuclear reactor*" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"*property damage*" when used in this exclusion includes

(a) the definition of *property damage* contained in the DEFINITIONS pro-vision of the coverage agreement and

(b) all forms of radioactive contamination of property.

## 2. POLLUTION EXCLUSION:

This coverage agreement does not apply to:

(a) *Bodily injury, property damage, personal injury* (including, without implied limitation, *personal injury* arising out of violations of civil or constitutional rights or assault or battery), loss, injury or damage arising out of *errors or omissions*, any other loss, injury or damage arising out of any negligent or intentional act, error or omission, or other similar or dissimilar loss, injury or damage, arising out of the actual, alleged, potential or

threatened emission, discharge, dispersal, release, escape or existence of *pollutants*.

(b) Any loss, cost, expense payment or other obligation arising out of any direction or request by or for any government, or branch or agency thereof, that the *insured* or any other person or entity tests for; monitors; stops, controls or reduces the emission, discharge, escape, release, dispersal or existence of; cleans up; removes; contains; treats; detoxifies; or neutralizes *pollutants*.

(c) Claims arising out of the *insured's* failure to detect, regulate, control, or prevent acts, operations, or omissions which have caused or may be alleged to have caused the emission, discharge, dispersal, release, escape or existence of *pollutants*, or claims arising out of the *insured's* failure to take action or to take appropriate action to detect, regulate, prevent, reduce, or control loss, injury or damage to persons or property resulting from such discharge, dispersal, release or escape of *pollutants*.

(d) Claims arising out of the provision of water, gas or any other product or substance which is or alleged to be contaminated or potentially contaminated with *pollutants*.

"*Pollutants*" means (i) any solid, liquid, gaseous or thermal irritants, toxicants, toxicoids, mutagens, teratogens or contaminants, including, without implied limitation, smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste material (waste material includes, without implied limitation, materials which are intended to be or have been recycled, reconditioned or reclaimed), (ii) any other chemical compound or element (including, without implied limitation, any radioactive chemical or element or any subatomic particle) which does or may potentially cause or result in any form of loss, injury or damage to persons or property or which is or may potentially be a threat or hazard to or cause loss, injury, or damage to the public or individual health or safety, (iii) any sound or noise, (iv) any light or other electromagnetic forces, and (v) any odor or smell.

### 3. EXCLUSION OF COVERAGE OF

### CERTAIN ACTIONS OR RELIEF:

This coverage agreement does not apply to:

(a) Actions requesting relief other than money damages at law, including, without implied limitation, actions for injunctions or restraining orders (including, without implied limitation, those actions containing prayers for general relief of unspecified type), declaratory judgement actions, actions legally defined as nuisance actions or for the abatement of a nuisance, and other actions of an equitable nature.

(b) Actions for extraordinary relief such as, but not limited to, mandamus, quo warranto, prohibition, certiorari, habeas corpus, and ne exeat.

(c) Actions for return of money or other property taken by, paid to, given to or otherwise transferred to the *insured*.

(d) Actions to compel payments mandated by or provided for in statutes or ordinances (other than covered *damages* caused by violations of federal civil and constitutional rights, if coverage is expressly provided for in the coverage agreement and subject to the exclusions, applicable limit of liability and other terms and conditions of this coverage agreement).

(e) Actions for or arising out of breach or specific performance of any contract or agreement or the the direct or consequential results of a breach of or failure to perform or enter into such contract or agreement, whether or not such breach or failure to perform constitutes an independent tort and actions for or in quasi-contract, restitution or unjust enrichment.

(f) Criminal prosecution of a criminal act, civil actions alleging or arising out of commission of a criminal act, or civil or criminal penalties.

(g) Actions for or arising out of condemnation; reverse or inverse condemnation; the permanent or temporary taking, in whole or in part, of any real or personal property or any interest therein or the right to the

possession, benefit, use or enjoyment thereof; adverse possession, dedication by adverse possession; trespass; or similar actions, provided, however, that the right and obligation under this coverage document to defend the *insured* (but not any obligation to pay sums which the *insured* shall become legally obligated to pay as *damages*), as set forth in Coverage C - *Personal Injury* coverage, shall apply to any action against the *insured* requesting *damages* arising out of a regulatory, total, *temporary taking* of property, provided further that such obligation to defend:

(1) shall be subject to all other exclusions, applicable limits of liability and other terms and conditions of this coverage agreement, and

(2) shall not apply to actions for condemnation, inverse condemnation for permanent taking, adverse possession, dedication by adverse possession, trespass or similar actions.

(h) Actions for or arising out of violation of or failure to comply with the Federal Fair Labor Standards Act, any state or local labor standards act, or any law regulating or relating to labor, labor practices or relations, unions or other labor organizations.

(i) Administrative proceedings of any kind, but this exclusion shall not apply to administrative proceedings in which the requested relief against the *insured* includes covered *damages* arising out of a covered *occurrence, offense, error or omission*.

(j) Claims or losses caused by, resulting from or arising out of the ownership, maintenance operation or use of electrical generating equipment.

(k) Claims or losses caused by, resulting from or arising out of the ownership, maintenance operation or use of natural and/or L P gas distribution systems or the existence, sale, resale or other condition of natural and/or L P gas.

(i) Actions for or arising out of liability assumed by the *insured* under any contract or

agreement except a *defined contract*; but this exclusion does not apply to a warranty of fitness or quality of the *Member's products* or a warranty that work performed by or on behalf of the *Member* will be done in a workmanlike manner.

The provisions of this exclusion do not directly or by implication (i) limit or preclude the effect or interpretation of any other exclusion contained in the coverage agreement or in any endorsement hereto or (ii) extend or expand any coverage contained in the coverage agreement or in any endorsement hereto.

4. EXCLUSION OF DEFENSE OF SUITS OR OTHER ACTIONS NOT COVERED:  
The Trust shall not be obligated to

defend or

make any payment under the SUPPLEMENTARY PAYMENTS provisions of the coverage agreement with respect to

any suit or other action which does not claim or allege *damages* which the Trust would have to pay, under the terms and conditions of the coverage agreement, if the suit or other action is successful.

In the event a suit or other action contains

some counts or sections which allege *damages* which the Trust would have to pay and

other counts or sections which allege *damages* or other relief the Trust would not have to pay (referred to herein as "*other counts or sections*"),

the Trust shall be obligated to defend, subject to the exclusions, limit of liability and other terms and conditions of the coverage agreement, only those counts or sections which claim or allege *damages* the Trust would have to pay.

The Trust may, in its discretion, defend one or more of the *other counts or sections*, but undertaking such defense shall not, by

implication or otherwise,

create any obligation of the Trust to pay any sums which the *insured* shall become obligated to pay as a result of judgements or settlements of such *other counts or sections*,

create any obligation to continue the defense of any such *other counts or sections*, or

increase the limit of liability of the coverage agreement.

Payments made by the Trust to pay for the defense of the *insured*, whether or not undertaken at the discretion of the Trust, shall be considered payments made under the SUPPLEMENTARY PAYMENTS provision of the coverage agreement.

**5. EXCLUSION OF JOINT VENTURES AND PARTNERSHIPS:** This coverage agreement does not apply to claims or losses caused by, resulting from or arising out of the conduct of any partnership or joint venture of which an insured is a partner or member and which is not designated in this policy as a *Member*.



