GEORGIA INSURERS INSOLVENCY POOL
AMENDED AND RESTATED PLAN OF OPERATION

**Article 1. Plan of Operation**

This Amended and Restated Plan of Operation, hereinafter referred to as the "Plan", shall become effective upon an affirmative vote of a majority of the Insurers Solvency Board.

**Article 2. Definitions**

(A) "Act" shall refer to the "Georgia Insurers Insolvency Pool Act" as set forth at O.C.G.A § 33-36-1 *et. seq.*

(B) "Covered Claim". Covered Claim shall have the same meaning as it is defined in O.C.G.A. § 33-36-3(4).

(C) "Pool". Pool shall refer to the Georgia Insurers Insolvency Pool established pursuant to O.C.G.A. § 33-36-2.

**Article 3. Insurers Solvency Board**

(A) There shall be an Insurers Solvency Board established in accordance with the provisions of O.C.G.A. § 33-36-4 of the Act. (hereinafter referred to as the "Board")

(1) The Board shall consist of seven members who shall be appointed by the Commissioner. Each Board member so appointed shall represent an insurer licensed to do an insurance business in the State of Georgia and at all times, the Board shall contain at least one member from a domestic insurer.

(2) The members of the Board shall elect a Chairman and Vice-chairman from among its members.

(3) Each member appointed to the Board shall serve for a term of three years or until his or her successor has been appointed and qualified, and in the case of a vacancy on the Board, the Commissioner shall appoint a member to fill the unexpired term of such vacant office.

(4) The Board shall provide a slate of seven names of individuals employed by member insurers that generally have substantial exposure to assessments by the Pool for recommendation to the Commissioner for appointment to the Board for the three-year terms.

(5) In the event of a resignation or other vacancy by a Board member prior to the expiration of the three-year term, the Board shall provide one or more names of qualified individuals for recommendation to the Commissioner to fill the unexpired term of the vacant office.

(B) A majority of the Board shall constitute a quorum for the transaction of business and the acts of a majority of the Board members present at a meeting at which a quorum is present shall be the acts of the Board; except that an affirmative vote of four Board members is required to:

(1) Approve a contract with a Servicing Facility (as defined in Section E of Article 3);

(2) Certify the levy of an assessment by the Commissioner; and

(3) Borrow money.

(C) The Board shall hold an annual meeting at a time and location selected by the Board. At each annual meeting the Board shall:

(1) Review the Plan and approve any necessary amendments;

(2) Review each outstanding contract with Servicing Facilities and, to the extent possible, make any necessary corrections, improvements or additions;

(3) Review operating expenses and Covered Claims costs and determine the amount of any assessment that is necessary for the proper administration of the Pool; and if such assessment is determined to be necessary, the Board shall certify such assessment in accordance with O.C.G.A. § 33-36-7; and

(4) Review, consider and act on any other matters deemed by it to be necessary and proper for the administration of the Pool.

(D) The Board shall hold a meeting after receiving notice from the Commissioner of the insolvency of any member insurer. At such meeting or a subsequent meeting, the Board shall:

(1) Consider and decide what method or methods shall be adopted to pay and discharge Covered Claims of the insolvent insurers for each of the three categories of kinds of insurance as identified in O.C.G.A. § 33-36-2 and O.C.G.A. § 33-36-7(a). If the Board decides to appoint a Servicing Facility, every effort shall be made to secure the receiver, liquidator or statutory successor's participation in such agreement to assist the Pool in the performance of its legally imposed duties.

(2) Consider and decide what immediate action, if any, should be taken to assure the proper retention of the records of the insolvent insurers necessary to the prompt, economical handling by the Pool of Covered Claims. In this effort, the Board or a designated Servicing Facility, shall work closely with the receiver, liquidator or statutory successor and seek the liquidator's, receiver's or statutory successor's approval of having the Board, or a designated Servicing Facility, take direct physical control of the portion of the insolvent insurer's record deemed by the Board to be necessary for the discharge of its duties imposed by law.

(3) Consider and decide what persons, if any should be hired by the Pool to implement and carry out broad directives of the Board made pursuant to its statutorily imposed duties. Such persons may include a managing secretary who would have such authority as is properly delegated to him by the Board. Such persons should be knowledgeable about insurance matters, conversant with the law as it relates to Covered Claims, and administratively capable of implementing the Board's directives. Such persons may include accountants, claims personnel, attorneys at law, insurance actuaries, or any other persons whose advice is deemed by the Board to be necessary to the discharge of its duties imposed by law. The Board may agree to compensate such persons as to best serve the interest of the Pool.

(4) Consider and decide to what extent and in what manner the Board shall review and contest settlements and releases or judgments, orders, decisions, verdicts and findings to which the insolvent insurer of its insureds were parties in accordance with O.C.G.A § 33-36-6 (d) and (e) of the Act.

(5) Take all steps permitted by law and deemed necessary to protect the Pool's rights against the estate of the insolvent insurer.

(6) Consider and decide any other matter deemed by it to be necessary for the proper administration of the Pool.

(E) The Board shall determine a schedule of such other regular meetings as it deems appropriate. Special meetings of the Board may be called by the Chairman and upon the request of any two Board members. Not less than five (5) days written notice shall be given to each Board member prior to the special meeting which shall include the time, place, method (e.g. conference call) and purpose or purposes of any special meeting. Any Board member not present may consent in writing to any specific action taken by the Board. Any action approved by the required number of Board members at such special meeting, including those consenting in writing, shall be valid. At such meeting the Board may consider and decide any matter deemed by it to be necessary for the proper administration of the Pool.

(F) Members of the Board shall serve without compensation; but they may be reimbursed for necessary travel expenses incurred in attendance at Board meetings. Such expenses shall be submitted to the Pool for approval and subsequent payment.

**Article 4. Operations**

(A) The official address of the Pool shall be the address of the Executive Director unless otherwise designated by the Board.

(B) The Board may employ such persons, firms or corporations to perform such administrative functions as are necessary for the Board's performance of duties imposed on the Pool. Such persons, firms or corporations shall keep such records of its activities as may be required by the Board.

(C) The Board shall establish procedures for the handling of the Pool's assets which shall consist of establishing an Investment Committee and approving an appropriate Investment Policy as may be amended from time to time. The Board may open one or more bank accounts for use in the Pool's business. Reasonable delegation of deposit and withdrawal authority to such accounts for the Pool's business may be made consistent with prudent fiscal policy. The Board, upon approval of the Commissioner, may borrow money from any person or organization including a member insurer or from an appointed Servicing Facility as the Board in its judgment deems advantageous for the Pool.

(D) (1) The Board shall certify the levy of an assessment by the Commissioner as provided in O.C.G.A. § 33-36-7 to secure the funds for the respective accounts of the Pool for the payment of Covered Claims and to cover the reasonable costs of administering the Pool. The Board may waive the collection of an assessment from a member insurer when the amount produces an assessment of less than $10.00.

(2) In accordance with O.C.G.A. § 33-36-7.1 (a), the Board will require member insurers to calculate and recoup their assessments paid in the year following an assessment through a surcharge on premiums charged for insurance polices in the class of insurance assessed.

(3) The Pool will determine through financial reports of member insurers (which may include NAIC Annual Statement filings) any surcharge collected in excess of their assessment and notify the member insurers of the amount of excess recoupment that shall be remitted to the Pool within thirty (30) days of receipt of notice from the Pool as required under O.C.G.A. § 33-36-7.1 (b).

(4) Any excess recoupment recovered by member insurers shall be applied to reduce future assessment charges against all member insurers in the appropriate category as required under O.C.G.A. § 33-36-7.1 (b).

(5) Member insurers are permitted to omit collection of the surcharge from its insureds when the expense of collecting the surcharge would exceed the amount of the surcharge as allowed under O.C.G.A. § 33-36-7.1 (c).

(E) Servicing Facility. In the event that the Board receives notice from the Commissioner that a member insurer is insolvent, the Board may contract with one or more persons, firms or corporations to serve as a "Servicing Facility." The Servicing Facility shall be responsible for performing those duties that the Pool is required or permitted to do by the Act. The Board may enter into an agreement with the Servicing Facility to perform such duties subject to the approval of the Commissioner. Such agreement shall include, but not be limited to, the following terms and conditions:

(1) Terms of payment to the Servicing Facility;

(2) Extent of authority delegated to the Servicing Facility;

(3) Procedures established by this Board for the determination of the net worth of Insureds pursuant to the requirements of the Act;

(4) Procedures for giving the receiver timely notice, sufficient to protect the Pool 's right of subrogation against the receiver, liquidator, or statutory successor, of each and every Covered Claim otherwise reported to the receiver, liquidator or statutory **successor;**

(5) Procedures established by this Board for the handling of Covered Claims which shall include the right to request from or offer to any person arbitration of this Covered Claim;

(6) Requirement that the Servicing Facility use forms established by this Board that are necessary to properly handle Covered Claims;

(7) Requirement of bond for faithful performance; and

(8) Any other provisions deemed necessary and desirable by the Board.

(F) The Board shall establish a "Claims Committee" from member insurers personnel to assure quality claim handling in all areas of loss and expense. Their function will include, but not be limited to, settlement authorization, claim audits, claim file evaluations.

(G) In accordance with the immunity granted under OCGA § 33-36-16.1 to all individuals in the performance of their powers and duties under this Chapter, the Board will authorize defense and indemnification by the Pool in any action against them.

**Article 5. <u>Records and Reports</u>**

(A) **Financial Records.** The Board shall establish procedures that set forth the type of records that shall be kept for all financial transactions of the Pool, its agents and the Board.

(B) **Minutes of Board Meetings.** A written record of the proceedings of each Board meeting shall be made, and the original of this record shall be retained by the Chairman with copies being furnished to each Board member.

(C) **<u>Annual R</u>eport.** The Board shall make an annual report to the Commissioner and to the member insurers. Such report shall include a review of the Pool's activities and an accounting of its income and disbursements for the past year.

(D) **<u>Audit R</u>eport.** The Board shall appoint certain of the member insurers to serve as an audit committee. Such committee shall oversee the proper auditing of all the books and records of the Pool and shall report its findings to the Board.

**Article 6. Membership**

Insurers who were admitted, as of July 1, 1970, to transact the kinds of insurance covered by the Act in the State of Georgia shall be members of this Pool. Each insurer admitted after July 1, 1970, to transact the kinds of insurance covered by the Act shall automatically become, effective on the date of its admission, members in said Pool. An insurer which ceases to be admitted after July 1, 1970, shall automatically cease to be a member effective on the day following the termination or expiration of its license to transact the kinds of insurance covered by the Act, provided such insurer shall remain liable for any assessments occurring prior to the termination of its license.

**Article 7. Conformity to Statute**

The Act as written, and as may be amended, is incorporated as part of this plan and as such is attached hereto.

Adopted and approved by the Board on March 17, 2022.