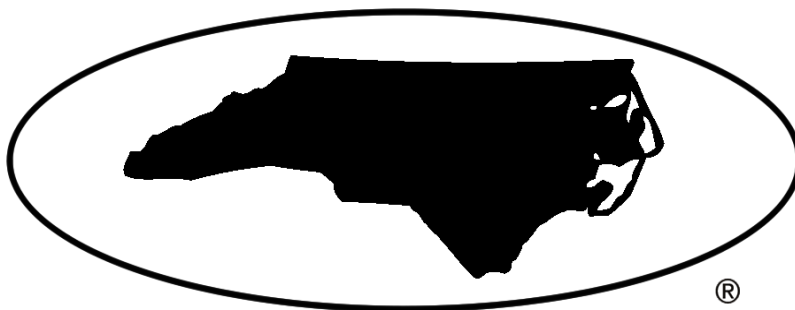


**PLAN OF OPERATION  
OF THE  
NORTH CAROLINA JOINT UNDERWRITING ASSOCIATION  
DATE APPROVED BY DEPARTMENT OF INSURANCE: EFFECTIVE AUGUST 12, 2019**

**NCPC-132046117**



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**PLAN OF OPERATION  
OF THE  
NORTH CAROLINA JOINT UNDERWRITING ASSOCIATION  
DATE APPROVED BY DEPARTMENT OF INSURANCE: AUGUST 12, 2019**

**NCPC-132046117**

The North Carolina Joint Underwriting Association is an association of insurers licensed to write and writing property insurance in North Carolina, and formed pursuant to Article 46 of the North Carolina Insurance Law to provide a program whereby adequate basic property insurance is made available to property owners having insurable property in all geographic areas of the State, except the "Beach Area" (as hereinafter defined) to establish and maintain a FAIR Plan (Fair Access to Insurance Requirements) in connection therewith and for the other purposes set forth in G.S. 58-46-1.

**Section I – Purpose of the Plan of Operation  
[Statutory Authority: G.S. 58-46-1]**

In furtherance of G.S. 58-46-1, the primary purposes of this Plan of Operation are:

- To provide for the operation and governance of the Association (as hereinafter defined).
- To enable the Association to provide the insurance coverages described in Article 46 of the North Carolina Insurance Law (including, without limitation, the coverages described in G.S. 58-46-15).
- To encourage improvement of properties located in the State and to arrest the decline of properties located in the State.
- To have the market provided by the Association and this Plan of Operation not be the first market of choice, but the market of last resort.

**Section II – Definitions  
[Statutory Authority: G.S. 58-46-1 and 58-46-15]**

As used in this Plan of Operation, the following terms shall have the meanings set forth below:

**"Agent Director"** – a member of the Board described as such in Section XIV, paragraph 2 hereof.

**"Articles of Agreement"** – the Articles of Agreement of the Association in force from time to time, to which each Member Insurer shall be a party.

**"Association"** – the North Carolina Joint Underwriting Association, established pursuant to Article 46 of the North Carolina Insurance Law.

**"Beach Area"** – shall have the meaning specified in G.S. 58-45-5(2).

**"Board"** – the Board of Directors of the Association.

**"Coastal Area"** – shall have the meaning specified in G.S. 58-45-5(2b).

**"Commissioner"** – the Commissioner of Insurance for the State of North Carolina.

**“Crime Insurance”** – shall have the meaning specified in G.S. 58-46-1(c).

**“Director”** – shall mean any director of the Association including any Insurer Director, Agent Director, or Public Director.

**“Insurer Director”** – a member of the Board described as such in Section XIV, paragraph 2 hereof.

**“Member Insurer”** – every insurer authorized to write basic property insurance in North Carolina, except town and county mutual insurance associations and assessable mutual companies as authorized by G.S. 58-7-75(5)b, G.S. 58-7-75(5)d and G.S. 58-7-75(7)b, and except an insurer who only writes insurance on property exempted from taxation by the provision of G.S. 105-278.1 through 105.278.8.

**“Named Storm”** – a weather-related event involving wind that has been assigned a formal name by the National Hurricane Center, National Weather Service, World Meteorological Association, or any other generally recognized scientific or meteorological association that provides formal names for public use and reference. A Named Storm includes hurricanes, tropical depressions, and tropical storms.

**“NCIUA”** – the North Carolina Insurance Underwriting Association, established pursuant to Article 45 of the North Carolina Insurance Law.

**“North Carolina Insurance Law”** – shall have the meaning specified in G.S. 58-1-1.

**“Plan of Operation”** – shall have the meaning specified in G.S. 58-46-20(d).

**“Premiums Written”** – gross direct premiums charged during the most recent calendar year for which data is available, as determined by the Association, with respect to property in this State, excluding the Beach Area, on all policies of basic property insurance and the basic property insurance premium components of all multi-peril policies, as computed by the Association less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits.

**“Producer”** – an agent or broker licensed pursuant to G.S. 58-33-1 et seq., except as provided in G.S. 58-46-10(b).

**“Producer of Record”** – the Producer whose name is on file with the Association for a particular policy written by the Association.

**“Public Director”** – a member of the Board described as such in Section XIV, paragraph 2 hereof.

**Section III – Applications; Inspections; Reports**  
**[Statutory Authority: G.S. 58-46-1, 58-46-15, and 58-46-35]**

1. **Application; Inspection.** Upon receipt of an application from or on behalf of any person having an insurable interest in real or tangible personal property at a fixed location in all geographic areas of the State, except the Beach Area, the Association may conduct or cause to be conducted an inspection of the property at no cost to the applicant. Applications must be submitted on forms prescribed by the Association.

2. **Manner and Scope of Inspections.** The manner and scope of inspections shall be prescribed by the Association, with the approval of the Commissioner.

3. **Inspection Report.** An inspection report shall be made for each property inspected. The report shall cover pertinent structural and occupancy features, as well as the general condition of the

building and surrounding structures. One or more representative photographs of the property may be taken during the inspection.

4. **Association to Receive Inspection Report.** After the inspection, a copy of the completed inspection report, and any photograph(s) taken, indicating the pertinent features of building construction, maintenance, occupancy and surrounding property, shall be sent to the Association.

5. **Inspections to be Made Available.** All reports of inspections performed by or on behalf of the Association shall be made available to Member Insurers, applicants, their Producer of Record and the Commissioner, each upon request.

#### **Section IV – Procedure After Application; Underwriting Standards** **[Statutory Authority: G.S. 58-46-5, 58-46-15, and 58-46-35]**

1. **Association Procedures After Application Received.** Following receipt of an applicant's application for coverage and the completion of any inspection that the Association may elect to conduct, the Association will do one of the following and so advise the applicant or his or her Producer of Record:

- Determine that the risk is acceptable but conditional surcharges have been applied, along with notation of the improvements required to remove conditional surcharges; or
- Determine that the risk is not acceptable, but will be acceptable if improvements noted in an inspection report are made by the applicant and confirmed by re-inspection or written response from Producer of Record or applicant; or
- Deny coverage for the risk; or
- Accept the risk for coverage and issue the requested policy, subject to the adjustment of the requested coverage limit of liability to conform to the requirements of this Plan of Operation, the Association's Manual of Rules and Procedures, and G.S. 58-46.

2. **Underwriting Standards.** In the event a risk is declined because it fails to meet applicable underwriting standards, the Association shall notify the applicant and his or her Producer of Record. Reasonable underwriting standards shall include an analysis or other examination of the following:

- Standards prescribed in the Association's Manual of Rules and Procedures.
- Such other standards as are prescribed in Article 46 of the North Carolina Insurance Law or may be approved from time to time by the Commissioner.

3. **Grounds on Which Risk May Not Be Declined.** A risk shall not be declined for neighborhood, area, location or any environmental hazard beyond the control of the property owner.

4. **Conditional Declinations.** In the event the risk is conditionally declined because the property does not meet reasonable underwriting standards but can be improved to meet such standards, the Association shall promptly advise the applicant and his or her Producer of Record of the necessary improvement. Upon completion of the improvements by the applicant or property owner, the Association, when notified, may have the property promptly re-inspected.



5. **Substandard Conditions; Surcharges.** If the inspection of the property reveals one or more substandard conditions, surcharges will be imposed in conformity with any substandard rating plan approved by the Commissioner. The applicant or policyholder and the Producer of Record shall be notified of any substandard conditions and what must be done to remove the surcharges.

6. **Declination; Notice to Applicant and Producer.** If a risk is declined or the coverage will be written only on condition that the property be improved, the Association shall, if requested, send copies of inspection and action reports to the applicant and his or her Producer of Record and advise applicant of the right of appeal and the procedures for an appeal as set forth in Section XII of this Plan of Operation.

**Section V – Placement of Insurance**  
**[Statutory Authority: G.S. 58-46-5, 58-46-15, and 58-46-55]**

1. **Issuance of Policies.** Upon approval by the Association of an application for insurance and receipt by the Association of the full amount (or approved installment amount) of the required premium in a manner approved by the Board, the Association shall cause to be issued a policy of insurance.

2. **When Coverage is Effective.** The effective date of coverage on policies issued by the Association shall be as follows, unless a later effective date is requested by or on behalf of the applicant: (a) 12:01 am on the day immediately following the date of the postmark affixed by the US Postal Service on an envelope carrying to the Association a properly completed application and the estimated annual or approved installment premium, (b) with respect to applications received in envelopes that do not have affixed a US Postal Service postmark, 12:01 am on the day the properly completed application and premium are received at the office of the Association, and (c) with respect to hard copy applications received by messenger hand delivery or other means not encompassed in subsections (a) and (b) of this sentence, 12:01 am on the date immediately following the day the properly completed application and premium are received at the office of the Association. Unless a later date is specified, coverage based on Dynamic Web applications will be effective 12:01 am on the date immediately following the day of transmittal to the Association, and coverage based on RPM applications will be effective 12:01 am on the date of transmittal to the Association.

3. **Coverage Limits.** Limits of coverage shall be provided for in rules adopted by the Board, subject to approval of the Commissioner.

a. *Habitational Property.* Limits of coverage for habitational property shall not exceed a building value of \$750,000 for habitational property. Contents of habitational property can be insured up to forty percent (40%) of the building value.

b. *Commercial Property.* Limits of coverage for commercial property shall not exceed \$2.5 million per commercial risk on any freestanding structure or any building unit within multiple firewall divisions, provided the aggregate insurance on structures with multiple firewall divisions shall not exceed \$6 million.

4. **Circumstances Under Which Excess Coverage is Required.** If the value of the property exceeds the maximum coverage limits as described in this Section V, the Association shall not issue any coverage unless the insured contemporaneously purchases excess coverage to the full value of the property insured.

5. **Return of Unearned Premium.** Return of unearned premium by the Association to an applicant or policyholder shall be made as required by applicable law and pursuant to the rules of the North Carolina Rate Bureau or other rating organization with jurisdiction over rating for the particular type of coverage involved.

6. **Rules and Procedures.** From time to time, the Association may establish and modify rules and procedures applicable to the Association's placement of coverage, including limitations thereon. All such rules, procedures, underwriting guidelines, and limitations shall be filed with and approved by the Commissioner prior to effectuation.

**Section VI – Named Storm Coverage Writing Restrictions**  
**[Statutory Authority: G.S. 58-46-15]**

Notwithstanding any other provision in this Plan of Operation, no new or increased coverage shall be bound or application for new or increased coverage accepted for properties otherwise eligible therefor after 12:01 a.m. on the day immediately following any day when the center of a Named Storm is located within Longitudes 65° West and 85° West, and Latitudes 20° North and 37° North; provided, however, that if active watches or warnings are not posted for North Carolina and the National Hurricane Center or other agency or division of the National Weather Service has clearly outlined a projected path for the Named Storm away from North Carolina, the General Manager in his or her discretion may lift restrictions prior to the Named Storm leaving the coordinates designated herein. Any such lifting or expiration of the restrictions in this Section VI shall be announced publicly by the Association on its website or otherwise.

**Section VII – Crime Insurance**  
**[Statutory Authority: G.S. 58-46-15 and 58-46-1(c)]**

1. **General.** The Association shall offer Crime Insurance for eligible and insurable property located in North Carolina, other than in the Beach Area.

2. **Policies.** Crime policies shall be written on forms approved by the Commissioner and shall not be more restrictive than those previously available under the Federal Crime Insurance Program authorized by Public Law 91-609.

3. **Limits on Crime Insurance.** Residential Crime Insurance will be provided in amounts approved by the Board and the Commissioner, not to exceed \$10,000. Commercial Crime Insurance will be provided in amounts approved by the Board and the Commissioner, not to exceed \$15,000.

4. **Rates.** Rates for Crime Insurance will be established by the Board, with the approval of the Commissioner.

5. **Applications for Crime Insurance.** Applicants must submit a properly completed, signed application to be considered for Crime Insurance. The application will set forth minimum protective device requirements that must be met for eligibility, which requirements must be established by the Board and approved by the Commissioner.

6. **Notification by Insured.** The insured must notify local law enforcement authorities and the Association, immediately after discovery of a loss.

**Section VIII – Standard Policy Forms and Coverage**  
**[Statutory Authority: G.S. 58-46-15, 58-46-20, 58-46-55, and 58-46-1(c)]**

1. **Standard Policy Forms; Terms.** All policies shall be on standard policy forms and generally shall be issued for a term of one year; however, policies with terms of less than one year may be issued under circumstances described in the Association's Manual of Rules and Procedures, subject to underwriting approval.

2. **Policy Guidelines.** All policies will be issued according to guidelines approved by the Commissioner and the rules of the North Carolina Rate Bureau or other approved advisory organization having applicable rate and rule jurisdiction over the particular coverage provided.

3. **Optional Customer Service Initiative Following Multiple Named Storms.** In order to assist policyholders following Named Storms, the Association in its discretion is authorized to allow **Waiver of Second or Subsequent Named Storm Deductible.** For any claim arising out of a second or subsequent Named Storm, the Association may waive the application of the Named Storm deductible for that second or subsequent Named Storm if it occurs during the period of 90 days following either (1) the termination of the last watch or warning for the first Named Storm for any part of North Carolina by the "National Weather Service" or (2) the issuance of the last advisory for the first Named Storm for any part of North Carolina by the "National Weather Service," whichever of (1) or (2) occurs later. The second or subsequent Named Storm will be considered to have occurred 24 hours following either (1) the termination of the last watch or warning for the first Named Storm for any part of North Carolina by the "National Weather Service" or (2) the issuance of the last advisory for the first Named Storm for any part of North Carolina by the "National Weather Service," whichever of (1) or (2) occurs later. The General Manager in his or her discretion may enact this waiver of second or subsequent Named Storm deductibles at the time of and in relationship to the extent of the Named Storm. The waiver will be communicated in writing to the Board and the North Carolina Department of Insurance.

#### **Section IX – Rates** **[Statutory Authority: G.S. 58-46-15 and 58-46-55]**

1. **General.** Premium rates, rating plans, and rating rules for Association policies shall be as prescribed in G.S. 58-46-55 and related statutes and regulations and, where applicable, approved by the Commissioner.

2. **Rating Classifications.** Estimated annual premiums and installment premiums shall be based on the applicable existing specific or class rate prescribed in the manual rates or adjusted loss costs promulgated by the rating organization having authority over the base rate for the particular type of policy issued.

3. **Installment Premium Payments.** The Association shall maintain with the Commissioner an installment plan for premium payments.

4. **Minimum Deductible Requirements.** The minimum deductible for Named Storm wind and hail losses is one percent (1%) of the insured value of the property for all Association habitational policies covering risks located in the Coastal Area and all Association commercial policies covering risks wherever located in North Carolina. The Association may offer any other deductible options provided by the North Carolina Rate Bureau or applicable rating agency, so long as the deductible is not lower than one percent (1%) of the insured value of the property applicable to Named Storm wind and hail losses.

5. **Schedule of Mitigation Credits.** The Association may file with the Commissioner, for adoption, a schedule of credits for policyholders based on the presence of mitigation and construction features of buildings that it insures in the Coastal Area. Any such schedule shall be consistent with schedules promulgated by the rate making body having jurisdiction over the applicable coverages.

6. **Premium Taxes.** Consistent with its past practice, the Association shall pay the premium taxes due on insurance written by the Association under Article 46 of the North Carolina Insurance Law by remitting such taxes directly to the North Carolina Secretary of Revenue as prescribed in Article 8B of Chapter 105 of the North Carolina General Statutes (Taxation). For the avoidance of

doubt, nothing in this paragraph 6 shall be interpreted as causing the Association to be considered an insurer for any purpose other than payment of premium taxes. Premium taxes paid in accordance with this paragraph 6 shall be considered expenses of the Association for purposes of the Member Insurer assessment procedures described in Section XIII hereof.

**Section X – Cancellation and Continuation (Renewal)**  
**[Statutory Authority: G.S. 58-46-15, 58-46-20, 58-46-55, and 58-46-1(c)]**

1. **Grounds for Policy Cancellation.** Grounds for cancellation of an insurance policy issued by the Association shall be limited to:

- Cause which would have been grounds for non-acceptance of the risk under the Manual of Rules and Procedures had such cause been known at the time of acceptance;
- Non-payment of premium;
- Evidence of incendiarism;
- Misrepresentation of any material fact either before or after loss;
- Those grounds set forth in the Association’s Manual of Rules and Procedures; or
- A finding on the basis of satisfactory evidence that changes in the physical condition of the property or other changed conditions make the risk uninsurable.

The Association also may effectuate cancellation upon such other grounds and upon such notice thereof, as may be approved from time to time by the Commissioner.

2. **Notice of Cancellation.** Notice of Cancellation, together with a statement of the reason therefore, shall be sent to the insured, identified mortgagees and Producer of Record. Any cancellation notice to the insured shall be accompanied by a statement that the insured has a right of appeal as provided in Section XII hereof.

3. **Continuation (Renewal) of Coverage.** The Association shall continue (renew) annually any policy that it issues pursuant to this Plan of Operation, so long as the property meets the Association’s underwriting standards as set forth in this Plan of Operation and the Association’s Manual of Rules and Procedures, as either may be amended from time to time. The Association shall deem payment of the required continuation (renewal) premium to be an application for continued coverage (i.e., renewal).

**Section XI – Member Insurer**  
**Responsibility with respect to Cancellation or Non-Renewals**  
**[Statutory Authority: G.S. 58-46-55]**

With regard to risks eligible for coverage by the Association, each Member Insurer agrees that with respect to cancellation or non-renewals initiated by it, the Member Insurer will give to all of its policyholders, except in cases of non-payment of premium, material misrepresentation or evidence of incendiarism, thirty (30) days to obtain coverage from the Association of the cancelled or non-renewed risks and shall, in writing, explain to the policyholder the procedures for making application for coverage from the Association.

**Section XII – Appeals**  
**[Statutory Authority: G.S. 58-46-15 and 58-46-30]**

1. **Right of Appeal.** Any person or insurer affected by an act or decision of the Association, other than an act or decision relating to the cause or amount of a claimed loss, may appeal such act or decision in writing to the Board.
2. **Appeal to be Filed Within Fifteen (15) Days.** The appellant shall notify the Association in writing of its intention to appeal the act or decision within fifteen (15) days after the appellant is notified of the act or decision.
3. **Hearing.** The Board or an Appeals Committee designated by the Board shall schedule a hearing to consider the appellant's appeal as soon as practicable after the appellant notifies the Association of its intention to appeal pursuant to the foregoing paragraph 2. The General Manager or his or her designee shall promptly advise the appellant of the date and time of the hearing. The Board or Appeals Committee shall render a decision as soon as practicable following the hearing, and the General Manager or his or her designee shall communicate the decision to the appellant promptly thereafter.
4. **Appeal to Commissioner.** The appellant may appeal the decision of the Board or Appeals Committee to the Commissioner pursuant to G.S. 58-46-30.

**Section XIII – Articles of Agreement; Assessments and Certain Other  
Matters Affecting Member Insurers; Reserves; Reinsurance; Financing Arrangements**  
**[Statutory Authority: G.S. 58-46-10, 58-46-15, 58-46-20(a), and 58-46-20(d)]**

1. **Articles of Agreement.** The Articles of Agreement may be amended by the Board with the approval of the Commissioner. A vote of the Member Insurers with respect to any amendment to the Articles of Agreement shall be cast and counted on a weighted basis in the same portion as each Member Insurer's Premiums Written bear to the aggregate Premiums Written by all Member Insurers. The amendment to the Articles of Agreement shall become effective when approved by the majority of the votes cast on such weighted basis and by the Commissioner.
2. **Member Insurer Assessments.** The Board, acting on behalf of the Association, shall be authorized to make a preliminary assessment upon all Member Insurers and such further assessments as may be deemed necessary.
  - a. **Basis for Assessment.** Assessments upon each Member Insurer shall be levied on the basis of its Premiums Written. Each Member Insurer shall participate in the expenses, profits and losses of the Association in the same proportion as its Premiums Written bear to the aggregate Premiums Written by all insurers in the Plan of Operation. Each Member Insurer's participation in the expenses, profits and losses of the Association shall be determined annually. Each Member Insurer shall have forty-five (45) days following receipt of notice of its percent of participation within which to appeal the same as otherwise provided for in Section XII. Errors found after forty-five (45) days will result in a recalculation of the percent of participation only if such a recalculation will benefit all Member Insurers as a whole.
  - b. **Late Charges.** A late charge of one-half percent (0.5%) per week, not to exceed a total of four percent (4%) of the original assessment, shall be added to the assessment of any Member Insurer for any portion of the assessment that remains unpaid after the due date specified on the invoice therefor. In addition, the failure of any Member Insurers to pay any assessment levied against it within thirty (30) days of the notice thereof shall be grounds for the referral of such Member Insurers to the Commissioner for such action the Commissioner deems appropriate.

c. *Minimum Assessment Threshold.* A minimum assessment threshold of \$250 per insolvent Member Insurer shall apply. A minimum assessment threshold of greater than \$25 for each individual Member Insurer shall apply.

d. *Basis for Assessment.* When a Named Storm occurs, the Association will utilize data points which may include models, claims received and loss estimates to determine the assessment(s).

e. *Return of Excess Assessments.* Adjustments to return excess assessments will be made at December 31 of the year in which the storm occurred, and in July and December of the calendar year following the storm. After three initial adjustments, final adjustments will be made when the year is settled. In determining adjustments, the Board will consider both actual losses and modeled losses.

3. **Reserves.** The Association shall make provisions for reserving unearned premiums and reserving for losses, including incurred but not reported losses, and loss expenses in accordance with G.S. 58-3-71, 58-3-75, and 58-3-81.

a. *Unearned Premium Reserves.* With respect to unearned premium reserves, the Association shall maintain reserves equal to the unearned portions of the gross premiums charged on unexpired or un-terminated policies. The Association shall make no deductions from gross premiums in force except for original premiums canceled on risks terminated or reduced before expiration.

b. *Loss Reserves.* With respect to loss reserves, the Association will charge as a liability loss reserves in an amount equal to the aggregate of the estimated amounts payable on all outstanding claims reported to it which arose out of any contract of insurance made by it, and in addition thereto an amount fairly estimated as necessary to provide for unreported losses incurred on or prior to the date of such determination and including, both as to reported and unreported claims, an amount estimated as necessary to provide for the expense of adjusting such claims.

c. *Loss and Loss Expense Reserves.* With respect to loss and loss expense reserves, the Association shall include in its liabilities the aggregate estimated amounts due or to become due on account of all known losses and claims and loss expenses incurred but not paid, including the estimated liability of any notice received by the Association of the occurrence of any event which may result in a loss, and the aggregate amounts of liability for all losses and loss expenses incurred but on which no notice has been received, estimated in accordance with the Association's prior experience.

d. *Investment of Reserves.* The Association shall invest open reserves and Member Insurers' equity funds as outlined in the Investment Policy and approved by the Board and Commissioner.

4. **Member Insurers' Equity or Deficit to be Determined Annually; Interim Annual Procedures; Final Year Closeout Procedures; Insolvent and Former Member Insurers; Miscellaneous.**

a. *Member Insurers' Equity or Deficit to be Determined Annually.* Consistent with the reserving practices described in paragraph 3 above and the final year closeout procedures described below, the Association will make an annual determination of the amount of each Member Insurer's equity or deficit. Each Member Insurer will be provided an account statement annually during the first quarter following each calendar year end that allows the Member Insurer to review its individual balance for all open and closed years.

b. *Interim Annual Procedures.* The Association ordinarily will maintain the five (5) most recent policy years as “open years” in order to allow all Association income and expenses to mature. The Association will retain Member Insurer’s equity from year to year to cover unearned premium reserves, loss reserves, IBNR, and expected losses during the first 60 days following a loss in order to allow the proceeds of any Member Insurer assessment to be received. At least once per year, however, the General Manager will recommend the closing of an open policy year (ordinarily, the sixth oldest open year) to the Accounting & Fiscal Affairs Committee of the Board for approval. If the Accounting & Fiscal Affairs Committee approves the General Manager’s recommendation, the recommendation will then be presented to the Board for adoption.

c. *Final Year Closeout Procedures.*

i. Establishment of Member Insurers’ Equity. The closing of an open fiscal year and the determination of the amount of each Member Insurer’s equity to be retained will be preceded by establishing (or re-confirming) a minimum threshold and maximum limit for aggregate Member Insurers’ equity. The minimum threshold and maximum limit will be based on the General Manager’s assessment of actuarial studies, premium and loss trends, prior hurricane activity and loss settlement statistics, and probable maximum loss projections. The General Manager will present his or her assessment as a recommendation to the Accounting & Fiscal Affairs Committee. If the Accounting & Fiscal Affairs Committee approves the General Manager’s assessment, the assessment will be recommended to the Board for adoption.

ii. Return of Excess Funds Where Member Insurers’ Equity Exceeds Maximum Limit. If, after applying the equity or deficit for the year being closed as described above, the aggregate Member Insurers’ equity for all open and closed years *exceeds* the maximum limit for aggregate Member Insurers’ equity, then the funds that exceed the maximum limit will be distributed to each Member Insurer based on that Member Insurer’s pro rata share of the equity of the year being closed.

iii. Procedure Where Member Insurers’ Equity is Less Than Minimum Threshold. If, after applying the equity or deficit for the year being closed as described above, the aggregate Member Insurers’ equity for all open and closed years *is less than* the minimum threshold for aggregate Member Insurers’ equity, then the following steps will be taken:

1. The General Manager will recommend to the Board an assessment of Member Insurers. The General Manager will also review outstanding loss reserves and recommend to close or partially close any open year.

2. Upon approval of the assessment by the Board, the General Manager will:

a) Confirm the aggregate Member Insurers’ equity or deficit balance (for all closed years) by applying each Member Insurer’s percentage of participation in each closed policy year in order to determine each Member Insurer’s equity or deficit balance.

b) Determine each Member Insurer’s portion of the approved assessment by multiplying (x) the Member Insurer’s current percentage of participation times (y) the total approved assessment amount.

c) Net each Member Insurer’s equity or deficit balance against its respective share of the total approved assessment. Member Insurers shall remit any net deficit to the Association promptly.

d. *Insolvent and Former Member Insurers; Miscellaneous.* Whenever the Association is provided appropriate documentation showing that a Member Insurer is insolvent,

all outstanding equity balances for years being closed in which the Member Insurer participated (calculated as described above) will be sent to the Member Insurer's receiver. Likewise, whenever the Association is notified that a Member Insurer has ceased writing business in North Carolina that Member Insurer's equity balance will be remitted as policy years are closed. If a deficit balance exists for the former Member Insurer, the Association will assess the former Member Insurer as each policy year is closed in accordance with paragraph 4.

5. **Reinsurance.** The Association may purchase reinsurance in accordance with the authority granted in G.S. 58-46-15, provided such reinsurance is authorized by the Board.

6. **Financing Arrangements.** The Association shall have the power to secure lines of credit or other borrowings or financing arrangements necessary to fund any actual, projected, or future cash flow deficits of the Association, and to pledge Member Insurer assessments, the proceeds of such assessments, other recoverables, and any other funds available to the Association as the source of revenue for repayment of such borrowings or financing arrangements. Such financing arrangements shall be authorized by the Board.

7. **Employee Benefits Changes.** The adoption of substantive changes in pension plans or employee benefits programs shall be subject to approval of the Board.

#### **Section XIV – Board of Directors** **[Statutory Authority: G.S. 58-46-15 and 58-46-20]**

1. **Powers and Duties of the Board.** The Plan of Operation and the Association shall be administered by the Board, subject to the authority and powers of the Commissioner as set forth in G.S. 58-46-1 et seq. The Board shall be empowered to perform all duties provided in this Plan of Operation or as necessary or incidental to the administration of the Association. In addition to and not in limitation of the foregoing powers and any other powers described in this Plan of Operation:

a. *Financial Matters.* The Board shall be empowered to budget expenses; levy assessments on Member Insurers pursuant to Section XIII, paragraph 3 of this Plan of Operation; and disburse funds.

b. *Expenditures in Excess of Budget.* Any contemplated expenditure in excess of or not included in the Association's annual budget prepared by the General Manager pursuant to Section XVI, paragraph 2(e) of this Plan of Operation shall require prior approval by the Board.

c. *Annual Report to Commissioner.* The Board shall furnish to the Commissioner a written report of operations annually on or before January 1, in such form and detail as the Commissioner may determine.

d. *Annual Report to Member Insurers.* The Board shall furnish to all Member Insurers a written report of operations annually in such form and detail as the Board may determine.

e. *Reinsurance.* The Board shall be empowered to approve purchases of reinsurance pursuant to Section XIII, paragraph 6 of this Plan of Operation.

2. **Number and Qualifications of Directors.** The Board shall consist of (a) seven (7) Member Insurers (one of which shall be a domestic company (as defined in G.S. 58-1-10(5)) (the "Insurer Directors"); (b) three (3) individuals not employed by, or otherwise affiliated with, insurers, insurance agents, insurance brokers, Producers or other entities in the insurance industry (the "Public Directors"); and (c) four (4) individuals who are insurance agents or brokers licensed pursuant to G.S. 58-33-1 et seq. (the "Agent Directors").



3. **Election and Appointment of Directors.**

a. *Election of Insurer Directors.* The seven (7) Directors who are Member Insurers shall be elected annually by cumulative voting by all Member Insurers, whose votes in such election shall be weighted in accordance with the proportion that each Member Insurer's premium written in North Carolina during the most recent calendar year, for which data is available, bears to the aggregate premiums written by all Member Insurers in North Carolina. Voting in elections of Insurer Directors may be in person or proxy. Not more than one (1) Member Insurer in a group under common management or ownership shall serve on the Board at the same time.

b. *Appointment of Public Directors and Agent Directors.* The three (3) Directors who are Public Directors and the four (4) Directors who are Agent Directors shall be appointed annually by the Commissioner.

4. **Selection of Alternate Directors.** As soon as practicable after election or appointment to the Board, and thereafter from time to time as necessary, each Insurer Director shall designate a qualified alternate to serve in such director's place in case of the Insurer Director's absence from one or more meetings, and shall immediately notify in writing the General Manager of such designation. Member Insurer alternates must be from the same Member Insurer as the Insurer Director such alternate represents. Alternates for Public Directors and Agent Directors shall be as appointed by the Commissioner.

**Section XV – Meetings of Directors and Member Insurers**  
**[Statutory Authority: G.S. 58-46-15]**

1. **Meetings of Member Insurers.**

a. *Annual Meeting.* The annual meeting of the Member Insurers for the election of Insurer Directors and such other business as may be necessary shall be held in the State of North Carolina at a time and place to be determined by the Board.

b. *Special Meetings.* Special meetings of the Member Insurers may be held upon the call of the Chair or, in the event of his or her resignation, death or incapacity, upon the call of the Vice Chair. Any six (6) Directors may request the Chair (or, in appropriate circumstances, the Vice Chair) to call a special meeting of the Member Insurers, at such time and place and for such purposes, as may be set forth in writing in such request. If the Chair (or, in appropriate circumstances, the Vice Chair) declines to call a special meeting upon the request of six (6) Directors, a special meeting may be called by the six (6) members making such request. Special meetings may be held at the principal office of the Association or at such other place within the State of North Carolina as may be designated in the notice of the meeting.

c. *Notices of Meetings; Waiver of Notice.* Notices of all meetings shall be given by the Secretary to the Member Insurers and shall state the time and place and the principal purposes thereof. Such notices may be given by telephone, facsimile or by mail (including electronic mail) directed to the Member Insurers at their addresses of record on the books of the Association. Any Member Insurer may waive notice of any meeting either before or after such meeting. Such waiver shall be in writing and signed by the Member Insurer; provided, however, that a Member Insurer's attendance at or participation in a meeting waives any required notice of such meeting, unless the Member Insurer at the beginning of the meeting (or promptly upon the arrival of the Member Insurer's representative) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

d. *Advance Agenda.* The Secretary, after consultation with the Chair, shall prepare in advance of each meeting of the Member Insurers an agenda, which with such supporting data

and information as may be conveniently assembled, shall be forwarded to the Directors in advance of any such meeting.

e. *Quorum.* A majority of the votes entitled to be cast on a matter, represented in person or by proxy, shall constitute a quorum of the Member Insurers for action on that matter. The Member Insurers present at a meeting may continue to transact business until adjournment, notwithstanding the withdrawal of enough Member Insurers to leave less than a quorum.

f. *Participation in Meetings.* Any or all of the Member Insurers may participate in the annual or any special meeting by, or conduct the meeting through the use of, any means of communication by which all Member Insurers participating may simultaneously hear each other during the meeting.

g. *Voting at Meetings of Member Insurers.* At any annual or special meeting at which a vote of the Member Insurers is or may be required on any proposal, voting may be in person or by written proxy. Votes shall be cast and counted on a weighted basis in the same proportion as each Member Insurer's Premiums Written bear to the aggregate Premiums Written by all Member Insurers in Association. A proposal at a meeting of Member Insurers shall become effective when approved by a majority of the votes cast on such weighted basis.

h. *Written Ballot.* Voting by written ballot is permitted upon the giving of at least ten (10) days' written notice and provided that the written ballot provisions of G.S. 143-318.13 are followed. Any matter voted upon by the written ballots of the Member Insurers shall be carried if it receives an affirmative vote from a weighted majority (calculated in accordance with the foregoing clause (g)) and provided not more than five percent (5%) of the votes entitled to be cast, counted on a weighted basis, are negative votes. Voting by written ballot is not permitted in meetings in which one or more Member Insurers are participating through the use of means of communication as permitted by clause (f) of this paragraph 1.

i. *Open Meetings Law Applies.* Pursuant to G.S. 58-46-60, meetings of the Member Insurers are subject to the Open Meetings Act, G.S. 143-318.9 et seq.

2. **Meetings of Directors.** The Board shall meet as often as required to perform the general duties of the administration of the Association or the Plan of Operation, or on the call of the Commissioner, subject to the following:

a. *Regular Meetings.* The Board shall hold at least two (2) regular meetings per year, at such time and place within the State of North Carolina as the Board shall designate. One such meeting shall be held in connection with the annual meeting of Member Insurers.

b. *Special Meetings.* Special meetings of the Board may be held upon the call of the Chair or in the event of his or her resignation, death or incapacity, upon the call of the Vice Chair. Any six (6) Directors, acting by their designated representatives, may request the Chair (or, in appropriate circumstances, the Vice Chair) to call a meeting of the Board, at such time and place and for such purposes, as may be set out in writing in such request. If the Chair (or, in appropriate circumstances, the Vice Chair) declines to call a special meeting on request of six (6) Directors, a special meeting may be called by the six (6) members making such request. Special meetings may be held at the principal office of the Association or at such other place within the State of North Carolina as may be designated in the notice of the meeting.

c. *Notices of Meetings; Waiver of Notice.* Notices of all Board meetings shall be given by the Secretary to the Directors and shall state the time and place and the principal purposes thereof, except that no notice of the Board meeting immediately following the annual meeting of Member Insurers shall be given to newly elected Insurer Directors, provided that a majority of the Insurer Directors are already present at such meeting. Such notices may be given by telephone, facsimile or by mail (including electronic mail) directed to the Agent Directors and

Public Directors, and to the attention of the Insurer Directors, and shall be sent or mailed at least in advance of the meeting in accordance with the Open Meetings Act (G.S. 143-318.9 et seq.) and other applicable law. Any Director may waive notice of any meeting either before or after such meeting. Such waiver shall be in writing and signed by the Director; provided, however, that a Director's attendance at or participation in a meeting waives any required notice of such meeting, unless the Director at the beginning of the meeting (or promptly upon his or her arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

d. *Advance Agenda.* The Secretary, after consultation with the Chair, shall prepare in advance of each meeting of the Board an agenda, which with such supporting data and information as may be conveniently assembled, shall be forwarded to the Director in advance of any such meeting.

e. *Quorum.* Ten (10) Directors shall constitute a quorum for transaction of business at any meeting of the Board.

f. *Manner of Acting.* The affirmative vote of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board.

g. *Participation in Meetings.* Any or all of the Directors may participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all Directors participating may simultaneously hear each other during the meeting.

h. *Written Ballot.* Voting by written ballot is permitted upon the giving of at least ten (10) days' written notice and provided that the written ballot provisions of the Open Meetings Act, G.S. 143-318.13, are followed. Any matter voted upon by written ballot shall be carried, provided it receives an affirmative vote from a majority of the Directors in attendance at the meeting at which such matter is considered. Written ballot procedures do not apply to meetings conducted with conference call participants. Voting by written ballot is not permitted in meetings in which one or more Directors are participating through the use of means of communication as permitted by clause (e) of this paragraph 2.

i. *Open Meetings Law Applies.* Pursuant to G.S. 58-46-60, meetings of the Board are subject to the Open Meetings Act, G.S. 143-318.9 et seq.

3. **Committees.** Subject to the Articles of Agreement, the Chair may appoint or the Board may elect such standing committees or such temporary or special committees as may be deemed necessary for the transaction of the Association's business. With the exception of the Appeals Committee, all committees so appointed or elected shall be advisory only.

a. *Appeals Committee.* The Appeals Committee shall consist of three (3) Directors, at least one (1) of whom shall be an Agent Director or a Public Director. The Appeals Committee shall be appointed by the Chair; provided, however, that the General Manager may appoint one or more Directors to serve on the Appeals Committee on an ad hoc basis whenever a Director appointed by the Chair is unavailable to serve.

b. *Chair and Vice Chair to be Ex Officio Members of Committees.* The Chair and Vice Chair shall be ex officio members of all standing or special committees, with no right to vote.

### **Section XVI – Officers** **[Statutory Authority: G.S. 58-46-15]**

1. **Officers.** The officers of the Association may consist of a Chair, a Vice Chair, a Secretary, a Treasurer, a General Manager, and such other officers as the Board may from time to time

appoint. Any two or more offices may be held by the same person, but no officer may act in more than one capacity where action of two or more officers is required.

2. **Appointment and Term.** The officers of the Association shall be appointed by the Board annually. Each officer shall hold office until his or her death, resignation, retirement, or removal.

a. *Chair.* The Chair shall preside over all meetings of the Board and at all meetings of the Member Insurers. He or she shall discharge such other duties as may be incidental to his or her office or as shall be required of him or her by this Plan of Operation or by the Board.

b. *Vice Chair.* In the absence of the Chair, the Vice Chair shall preside at meetings of the Board and the Member Insurers. In case of death, incapacity or disability of the Chair, the Vice Chair shall perform the duties of the Chair.

c. *Secretary.* The Secretary shall issue all notices of meetings, record minutes of all meetings, keep the records of the Board, and discharge such other duties as may be incidental to his or her office, or as shall be required of him or her by this Plan of Operation or by the Board.

d. *Treasurer.* The Treasurer shall (i) have charge and custody of and be responsible for all funds and securities of the Association; (ii) receive and give receipts for monies due and payable to the Association from any source and deposit all such monies in the Association's bank accounts; (iii) prepare, or cause to be prepared, annual financial statements as required by the Commissioner; and (iv) in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him or her by the Chair, the General Manager or the Board.

e. *General Manager.* The General Manager shall discharge such duties as may be incidental to his or her office or as shall be required of him or her by these rules or by the Board. Annually, the General Manager shall prepare an operating budget, which shall be subject to the approval of the Board. The General Manager shall serve as both Secretary and Treasurer unless the Board determines otherwise.

### **Section XVII – Producer Commissions** [Statutory Authority: G.S. 58-46-15 and 58-46-20]

1. **Commissions to be Determined by Board and Approved by Commissioner.** Commissions to the Producer of Record shall be as determined by the Board and approved by the Commissioner.

2. **Pro Ration of Commissions Upon Certain Events.** In the event of cancellation of a policy, or if an endorsement is issued which requires premium to be returned to the insured, the Producer of Record, if requested to do so, shall refund to the Association commissions on the portion of canceled premiums or on reduced premiums at the same rate at which such commissions were originally paid.

### **Section XVIII – Transactions with the NCIUA**

The Association and the NCIUA are under common management. The Association shall pay all operating expenses (except Producer commissions, property inspection costs associated with policies of insurance written by the Association and premium taxes payable pursuant to G.S. 58-46-45) on behalf of the NCIUA. The Association and the NCIUA shall reconcile all receivables and payables between themselves by means of a monthly intercompany transaction. Receivables and payables incurred and recorded by the Association and the NCIUA, respectively, in any given calendar month shall be settled by intercompany transaction no later than the fifteenth day (15<sup>th</sup>) of the next succeeding calendar month. If

the Association does not have adequate resources available to prepay operating expenses for the NCIUA, the intercompany transaction may be settled on a daily basis.

**Section XIX – Amendment and Termination of Plan of Operation**  
**[Statutory Authority: G.S. 58-46-15]**

1. **Amendment.** The Board may amend the Plan of Operation as permitted by G.S. 58-46-15.

2. **Termination.** The Plan of Operation shall terminate as may be provided by law. Notwithstanding the foregoing, any obligations incurred by the Association, or by the Member Insurers with respect to the Association, shall not be impaired by the termination of the Plan of Operation.