MONTANA
LIFE AND HEALTH INSURANCE
GUARANTY ASSOCIATION

PLAN OF OPERATION – AS ADOPTED BY THE BOARD OF DIRECTORS ON August 19, 2002
Amended by the Board of Directors on February 14, 2006, August 17, 2012, August 19, 2016, October 18, 2019, August 18, 2023,August 16, 2024 and August 15, 2025.

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Article 1. Plan of Operation

A. **Effective Date**. This amended Plan of Operation (the "Plan"), shall become effective upon adoption by the Board of Directors and upon written approval of the Montana Insurance Commissioner (the "Commissioner") or 60 days after submission of the Plan to the Commissioner if not disapproved, as provided in Section 33-10-216 of the Montana Life and Health Insurance Guaranty Association Act, Chapter 10 of the Insurance Code, (the "Act").

B. **Board and Association**. Unless otherwise specified, the term "Board" or "Board of Directors" refers to the entire Board of Directors of the Montana Life and Health Insurance Guaranty Association (the "Association") including members elected by the Association member insurers and members appointed from the public at large by the Commissioner.

C. **Amendments.** Amendments to this Plan, as necessary to assure fair, reasonable and equitable administration of the Association, shall be adopted by the Board of Directors and submitted to the Commissioner for approval. Any such amendments so submitted shall be effective upon written approval of the Commissioner or 60 days after submission of the Plan to the Commissioner if not disapproved.

D. **Available for Inspection.** A copy of this Plan shall be available on the Association's website.

Article 2. Meetings of the Member Insurers

A. **Members Meeting.** The Chair of the Board of Directors shall designate the time, day, and place for the annual meeting of the member insurers of the Association which shall be held in Montana. The Association also may hold special meetings of members insurers as called by the Chair or any two member insurers. . Annual, regular and special meetings of the member insurers may be held, in full or in part, remotely or virtually using telephone, digital, web-based or other secure communications technology.

B. **Notification of Members**. Member insurers and the Commissioner shall be notified of the time, day, and place of the annual meeting of the member insurers at least 90 days prior to such meeting. For any other meeting, member insurers and the Commissioner shall be notified of the time, day and place of the meeting at least 10 days prior to such meeting.

C. **Election of Directors.** At the annual meeting of members, member insurers shall have the right to elect Directors not appointed from the public, if there are more nominees than vacancies. Each member insurer shall have one vote in person or by proxy for each member of the Board of Directors to be elected. In the event there is not more than one nominee for each position to be filled, the Secretary shall cast one vote for each such nominee and declare each such nominee elected to the Director position, subject to the approval of the Commissioner.

D. **Voting**. At meetings of the member insurers:

1. Proxy voting shall be permitted, except that the presence of not fewer than three member insurers shall be required to constitute a quorum.

2. The member insurers receiving the greatest number of votes in accordance with subsection C of Article 2 shall be elected to the Board.

Article 3. Board of Directors

A. **Board.** There shall be a Board of Directors in accordance with the provisions of Section 33-10-204 of the Act.

1. **Required number of Directors**. The Board of Directors shall consist of a maximum of nine and a minimum of seven members who serve for terms of three years. No fewer than five and no more than seven members of the Board of Directors must be elected from the member insurers as provided in this Plan of Operation and no two Directors shall be companies within the same affiliated insurance company group. Two members of the Board of Directors must be appointed from the public at large by the Commissioner.

2. **Terms – Elected Members**. The terms of the elected members of the Board shall be staggered terms of three years so that the terms of all Directors do not expire in the same year.

3. **Terms – Appointed Members**. The initial terms of the appointed members are staggered so that both terms will not expire in the same year. Commencing on October 1, 1995, one appointed Board member will commence a two-year term and the other appointed Board member will commence a three-year term. Thereafter, each appointed member will be appointed for a three-year term. Thirty days prior to the expiration of an appointee's term, the Commissioner shall appoint the Board member and notify the Board.

4. **Fair Representation**. Those Directors elected by the member insurers shall be elected as provided in Article 2 of this Plan and shall fairly represent member insurers.

5. **Commissioner Approval**. Upon the election of those Directors elected by member insurers, the Association shall notify the Commissioner and request written approval of the new members of the Board as elected. If the Commissioner fails to approve the newly elected member insurers, the existing Board shall call a new election and continue to serve until a new Board is elected and approved. The Board of Directors may seek the Commissioner's written approval of nominees before holding the annual meeting and any nominee receiving such prior approval shall be fully qualified to serve upon election.

6. **Designation of Representative**. Each elected member of the Board shall designate its representative and may designate an alternative representative.

7. **Successors**. The previously elected and appointed Board members shall serve until their successors have been duly elected or appointed and qualified to serve.

8. **Membership**. Membership on the Board of Directors is non-assignable and non-transferable.

9. **Removal for Cause**. Where cause exists as determined by Association counsel, and subject to the written approval of the Commissioner, the Board may vote to remove a Director from the Board. There is cause to remove any member insurer Director which is impaired or insolvent.

10. **Vote by Interested Director**. The vote of an Interested Director may not be counted when the Board of Directors or a committee of the Board takes action on a transaction where such Interested Director is directly or indirectly a party to the transaction. For purposes of this Plan, an "Interested Director" shall include (without limitation) a Director:

(a) in the case of action by the Board with respect to any Member Insurer (whether impaired or insolvent or otherwise), a Director that is such organization or an affiliate of such organization, or

(b) in the case of action by the Board with respect to a person or entity other than a Member Insurer, a Director that is an affiliate of such person or entity, or

(c) which otherwise has (or its affiliates have) a material financial interest in the matter or transaction which is the subject of action by the Board.

No Director shall be deemed to be an Interested Director by virtue of the fact that such Director may be subject to assessments by the Association as a result of actions by the Board.

B. **Duties and Obligations**. The members of the Board of Directors shall have the following duties and obligations:

1. **Officers.** At the annual meeting, the Board shall elect a Chair, Vice Chair, and Secretary-Treasurer from among the individuals serving on the

Board, and such other officers as it deems necessary. Each officer shall serve a term of one-year or until a successor is elected. The offices of Vice Chair and Secretary-Treasurer may both be held by a single individual. Vacancies occurring in elective offices between annual meetings shall be filled by a majority vote of the Board. Such officers shall serve for the unexpired term.

2. **Executive Committee.** The Board may appoint an Executive Committee having as its members the Chair, Vice Chair, Secretary-Treasurer, and such other Directors, if any, as appointed by the Board. The Executive Committee shall have such powers as may be delegated by the Board, provided it shall not have the authority to act on matters requiring a majority vote of the full Board as provided in Article 3(C)(3) below.

3. **Nominating Committee**. The Board shall appoint, from the individuals serving on the Board, a nominating committee. Such committee shall appoint a nominee to succeed each elected Board member whose term expires at the annual meeting of the member insurers. Such nominees shall be made known to the member insurers and the Commissioner at least 90 days prior to such annual meeting. Other nominees may be submitted to the Board, but not less than 60 days prior to such annual meeting, upon the petition of ten member insurers.

4. **Nominees**. If there is not more than one nominee for each position to be filled, each member will be deemed to have voted for the nominees selected by the Nominating Committee and the Secretary-Treasurer will cast a unanimous ballot for the nominees proposed. If there is more than one nominee for each position to be filled, the Board shall make the names of said nominees and the voting procedures known to member insurers at least 30 days prior to the annual meeting of the member insurers.

5. **Audit Committee**. The Board shall, once each calendar year, either (1) appoint an audit committee of three members of the Board of Directors or (2) engage a certified public accountant to review or audit the financial

affairs of the Association. Such committee or accountant shall report its findings to the Board of Directors.

6. **Legal Committee**. At each annual meeting of the Board of Directors, the Chair may appoint, from the individuals serving on the Board, a legal committee, subject to Board approval. The legal committee shall assist the Chair and the Executive Director in the review of agreements, litigation, and other legal matters and shall coordinate such review with the Association's legal counsel. The function of the legal committee shall be for review purposes only and the legal committee shall not be authorized to make final and binding decisions which are reserved for the Board, the Chair, or the Executive Director.

7. **Vacancies – Elected Members**. Vacancies of seats held by elected Board members occurring on the Board of Directors between annual meetings of the member insurers shall be filled by a majority vote of the remaining members of the Board with the approval of the Commissioner. In the event of a merger in which the member insurer that is on the Board of Directors is not the surviving entity, the merger creates a vacancy on the Board of Directors. In the event of an administrative order or court order finding that a member insurer that is on the Board of Directors is impaired or insolvent or subject to supervision, rehabilitation, or liquidation, the entry of such order creates a vacancy on the Board with respect to such member insurer.

8. **Vacancies – Appointed Members**. Vacancies of seats held by appointed Board members shall be filled by a new appointee appointed by the Commissioner. The new appointee shall serve for the remaining unexpired term.

C. **Board Meetings**. Annual, regular and special meetings of the Board and committees may be held, in full or in part, remotely or virtually using telephone, digital, web-based or other secure communications technology. At meetings of the Board of Directors:

1. **Voting**. Each member of the Board shall have one vote.

2. **Quorum**. A majority of the Board shall constitute a quorum for the transaction of business. However, if there is an even number of incumbent Directors, one half of the Directors shall constitute a quorum. 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 as provided in paragraph 3 below.

3. **Majority Vote Required**. An affirmative vote of a majority of the full Board is required to:

   a. approve a contract with a servicing facility for overall administration of the Association, except that administration of specific functions with regard to specific impairments or insolvencies shall not require an affirmative vote of such number of Directors;

   b. levy an assessment or provide for a refund;

   c. borrow money;

   d. adopt amendments to this Plan.

4. **Consent to Board Action.** Any Board member not present at any annual, regular or special meeting may consent in writing to any specific action taken by the Board, but this shall not permit Board members to act through other Board members by proxy. Any action approved by the required number of Board members at such meeting, including those consenting in writing, shall be valid as a Board action. Electronic mail and other forms of electronic voting constitute a writing.

D. **Annual Board Meeting**. The Board shall hold an annual board meeting which shall be held in Montana immediately following the annual meeting of the

member insurers, unless the Chair of the Board, upon proper notice, shall designate some other time, day, or place. At each annual meeting the Board shall:

1. Review the Plan and submit proposed amendments, if any, to the Commissioner for approval.

2. Review each outstanding contract or agreement, if any, and make necessary or desirable corrections, improvements, or additions.

3. Review operating expenses and outstanding contractual obligations and determine if an assessment, or a refund of a prior assessment, is necessary for the proper administration of the Association, and if so, the amount of either. If such assessment or refund is deemed to be necessary, the Board shall levy such assessment or make such refund in accordance with Section 33-10-227 of the Act. The Board may waive the collection of any assessment from a member insurer in accordance with Section 33-10-227 of the Act. In order to avoid disproportionate clerical expenses, the Board may establish an amount below which refunds shall not be made.

4. Review all assessments previously authorized by the Board but uncalled by the Association at the time of such annual meeting. At such annual meeting, the Board may elect to continue the authorized but uncalled assessment, cancel the assessment, or call for payment of the assessment by the member insurers.

5. Review, consider, and act on any matters deemed by it to be necessary and proper for the administration of the Association.

E. **Other Meetings**. The Board shall hold other regular or special meetings at such times and with such frequency as it deems appropriate to conduct the business of the Association.

1. **Regular Meetings**. Regular meetings, if any, shall be scheduled by the Board at its annual meeting and noted in the minutes.

2. **Special Meetings**. Special meetings of the Board of Directors may be called by the Chair or upon the request of any three Board members. At such special meetings, the Board may consider and decide any matter deemed necessary for the proper administration of the Association. Not less than five days' notice shall be given to each Board member of the time, place, and purpose of any such special meeting.

3. **Meetings by Consent**. Any action required or permitted to be taken at a meeting of the Board of Directors, or at a meeting of any committee, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all the Directors entitled to vote with respect to the subject matter thereof. Any action taken by unanimous written consent shall be effective on the date specified therein, which date may be before or after the date of the execution thereof. Electronic mail and other forms of electronic voting constitute a writing.

4. **Waiver of Notice**. Whenever notice is required to be given to any Director under the provisions of the Act or the Plan, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before, at or after the time stated therein, shall be equivalent to the giving of such notice.

F. Procedures for Public Participation - Meetings.

1. **Definitions**. As used in this Plan:

   a. "Meeting" means the convening of a quorum of the Board, whether corporal or by means of electronic equipment (Section 2-3-202, MCA).

   b. "Individual privacy" means the privacy interests of policyholders, beneficiaries, other persons, and the privacy interests of member insurers, as determined in accordance with Article II of Section 9 of the Montana Constitution, the Act (33-10-201 et seq. MCA),

and as recognized by the Montana Supreme Court in Belth v. Bennet, 227 Mont. 341, 740 P.2d 638 (1987).

2. **Public Notice and Commissioner.**

a. The Board shall publish notice of the date, time, and place of its annual meeting and of regularly scheduled meetings by posting it on the Association's public website not less than 10 days prior to the meeting date.

b. The Board will post notice on the Association's website of the time and place of special meetings as soon as practical after the time and place of any such meeting has been determined and at least 24 hours before the time of the special meeting.

c. The Executive Director will directly notify the Commissioner of such meetings within the time frames identified in a and b.

d. Any person may submit a written request to the Board to receive notice of all Board meetings and, in addition to providing notice to the public as set forth herein, the Board shall notify such person of the time and place of the Board meetings.

e. All Board meetings will be open to the public unless, by majority vote, the Board determines that the demands of individual privacy clearly exceed the merits of public disclosure. Upon determining that the demands of individual privacy clearly exceed the merits of public disclosure, the Board will close the meeting.

G. Notice of Impaired or Insolvent Insurer. Upon receiving notice of the impairment or insolvency of any member insurer, the Board may:

1. Consider and determine the legal obligations of the Association with regard to any reported impairment or insolvency.

2. Consider and decide what actions, methods or facilities, shall be adopted or utilized to assure fulfillment of the covered obligations of the impaired or insolvent member insurer for each of the categories of covered policies.

3. Assure that timely action is taken to gain access to and effect proper retention of records of the impaired or insolvent member insurer which are deemed necessary to the prompt and economical handling by the Association of its legally imposed duties.

4. Consider and decide what persons, if any, should be hired by the Association to implement and carry out broad directives of the Board made pursuant to its statutorily imposed duties, in accordance with the guidelines set forth in Article 4, Section B.

5. Consider and decide to what extent and in what manner the Board shall take actions, including, but not limited to the exercise of powers authorized by Section 33-10-205 of the Act to bring legal actions or provide for the defense thereof, in order to avoid or recover payment of improper claims.

6. Take all steps permitted by law, and deemed necessary, to protect the Association's rights as pertaining to the impaired or insolvent member insurer and its policyholders.

H. Reimbursement. Members of the Board may be reimbursed from the assets of the Association for expenses incurred by them as members of the Board of Directors upon approval of such expenses by the Chair or other officer of the Association, but members of the Board shall not otherwise be compensated by the Association for their services. No Board member may approve his or her own expenses. Reimbursement shall be for the full amount, but not greater than reasonable current commercial standards expended for meals, travel, lodging and incidentals.

I. Protests and Appeals.

1. To protest an assessment, member insurers must do the following: (1) the member insurer must first pay the full amount of the assessment; (2) the member insurer must accompany the payment with a statement in writing that the payment is made under protest; and (3) the member insurer must set forth a brief statement of the grounds for the protest.

2. Member insurers aggrieved by any other act, failure to act, or decision of the Association or its Board shall send the Association a written notice of appeal stating the grounds for the appeal before appealing to the Commissioner. Such appeal shall be taken within 60 days of the date on which such member insurer knew or should have known of such act, failure to act, or decision.

3. Within 60 days of receipt of the protest or appeal, the Association will either (1) notify the member insurer in writing of the Association's determination; or (2) notify the member insurer that additional time is required to resolve the issues raised by the protest or appeal. If the Association decides to provide a refund or a member insurer prevails on a protest, the refund shall be sent within 90 days of a final decision.

4. The Board shall consider each protest and appeal pursuant to and in compliance with all statutory requirements. The member insurer has the burden of proving to the Board that a protest or appeal should be granted. Based on the grounds stated in the protest or appeal, the Board will determine whether the statutory requirements for a valid assessment or grounds for the Board's action have been met. The Board will notify the member insurer of its decision to grant or deny the protest or appeal within 30 days of making a final decision. Instead of rendering a final decision with respect to a protest based on a question regarding the assessment base, the Association may refer protests to the Commissioner for a final decision, with or without a recommendation from the Association.

5. Any member insurer that makes an appeal to the Commissioner after receiving the Board's decision regarding the member insurer's protest or

appeal, must provide the Association with notice of the appeal by providing a copy of the appeal to the Association on the same day on which the appeal is submitted to the Commissioner.

6. Failure to protest or take an appeal within the time and in the manner set forth in this Plan shall bar any claim that a member might otherwise have with respect to any action taken by the Association or its Board.

J. Abatement and Deferrals. The procedure for granting or denying a request for abatement and deferral shall be as follows:

1. Pursuant to and in compliance with Section 33-10-227 of the Act, the Board shall consider and decide whether any assessment shall be deferred or abated. The Board will grant an abatement or deferral if, in its opinion, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. Each member insurer that has been placed under an Order of Rehabilitation or an Order of Liquidation with a finding of insolvency shall receive an automatic deferral. This automatic deferral shall not apply if a resolution of the Board specifies otherwise with respect to a specific member insurer.

2. If an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers. In order to avoid shortfalls caused by the abatement and deferral process, the Board may authorize the transfer of funds between accounts and classes.

3. If the Board determines that the causes and reasons for any deferral have been removed, the Board shall require the member insurer who received the deferral to pay deferred assessments pursuant to a repayment plan approved by the Board.

Article 4. Operations

A. **Address**. The official address of the Association shall be the address of the Executive Director, unless otherwise designated by the Board.

B. **Consultants**. The Board of Directors may employ or retain such persons, corporations, associations, or other organizations including, but not limited to, any liquidator, rehabilitator, supervisor or ancillary receiver, to perform such administrative functions as are necessary for the Board's performance of the duties imposed upon the Association. The Board may use the mailing address of such a person, corporation, association, or other organization as the official address of the Association. Such persons may include an executive director and, in the event of an impairment or insolvency, a special administrator, with such authority as may be delegated by the Board to implement and carry out broad directives of the Board made pursuant to its statutory authority and duties; provided, however, that such persons shall not have any authority to borrow money or to authorize or call an assessment. Such persons shall be knowledgeable about insurance matters, conversant with the law as it relates to covered policies of insurance and administratively capable of implementing the Board's directives. Such persons may also include attorneys at law, actuaries, accountants, claims personnel and such other specialists or persons whose advice or assistance 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, corporations, associations, or other organizations so as to best serve the interests of the Association and the public. Such persons, firms or corporations shall keep and maintain such records of their activities as may be required by the Board.

C. **Bank Accounts**. The Board may open such bank accounts as it deems necessary for the proper administration of Association business. Reasonable delegation and withdrawal authority to such accounts for Association business will be made consistent with prudent fiscal policy. The Board may employ or retain such persons as it deems necessary to handle financial transactions of the Association

and perform such other functions or financial services as become necessary or proper.

D. **Prevention of Impairments or Insolvencies**. In order to effectuate the purposes set forth in Section 33-10-217 of the Act concerning the prevention of impairments or insolvencies, the Board of Directors may develop procedures for discovering and reporting any member insurer that may be insolvent or in an impaired financial condition which is hazardous to the interest of the policyholders of such insurer or to the public interest. Pursuant to Section 33-10-206 of the Act, no such reports shall be considered public documents. The Board of Directors may review the Insurance Code and appropriate regulations with a view towards making recommendations to the Commissioner for the improved and more certain detection and prevention of member insurer impairments or insolvencies.

E. **Policy Forms**. Pursuant to the Association's authority under Section 33-10-205 of the Act, the Board of Directors may adopt for future issuance without regard to any particular impairment or insolvency, and submit to the Commissioner for approval, policy forms of various types, containing at least the minimum statutory provisions required in this state, and associated tables of premium rates. Policy forms and rates so adopted and approved may be used to provide substitute benefits or alternative continued coverage with respect to the covered policies or contracts of an impaired or insolvent member insurer.

F. **Summary Document**. In its discretion, the Board may update the summary document required by Section 33-10-210 of the Act and submit it to the Commissioner for approval.

G. **Long Term Care Assessment Allocation.** The purpose of this paragraph is to provide the framework for allocating Class B assessments attributable to the Association's obligations for any covered long-term care policies between the "Health Account" and the "Life and Annuity Account" defined below. The allocation method outlined below is intended to implement the requirements of Section 33-10-227(4)(c) and be consistent with the drafting note to Section 9 C

(3) of the NAIC Life and Health Insurance Guaranty Association Model Act (#520).[1]

The instructions are intended to result in a net allocation of any Class B assessments for the Association's long-term care policy obligations in equal 50% shares to "Accident and Health Member Insurers" and "Life and Annuity Member Insurers" as those two categories of member insurers are defined below.

In accordance with Section 33-10-227(4)(c) of the Act, and consistent with the drafting note to Section 9 C (3) of the NAIC Life and Health Insurance Guaranty Association Model Act (#520), if a Class B assessment is authorized due to covered long-term care policies, a portion of the Association's Class B assessment authorized to meet its obligations for the covered long-term care policies (the "LTC Assessment") shall be allocated to the Life and Annuity Account, without dividing it between the subaccounts thereof, with the remaining portion of the LTC Assessment allocated to the Health Account.

The following definitions shall apply only for the purposes of allocating any such Class B assessment for covered long-term care policies to the Life and Annuity Account and the Health Account in accordance with the below formula:

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[1] Drafting note to Section 9(C)(3) of the NAIC Model Act (#520).
The purpose of Subsection C(3) is to allocate the responsibility for an insolvency of a long-term care member insurer evenly between member insurers in the health industry and member insurers in the life and annuity industries. As it is likely that life and annuity member insurers will be subject to assessments from the health account, and accident and health member insurers will be subject to assessments from the life account, the formula below should be utilized by guaranty associations so that member insurers in the health industry pay 50% of the assessment and member insurers in the life and annuity industries pay 50% of the assessment.

In determining the shares that shall be allocated to the life and annuity account pursuant to Subsection C(3), guaranty associations should use the following formula:

(.50 - Life and annuity member insurers' share of HA) / (Life and annuity member insurers' share of LIAA - Life and annuity member insurers' share of HA)

For the purposes of the formula above and Subsection C(3) only, a "life and annuity member insurer" means a member insurer for which (i) the sum of its assessable life insurance premiums and annuity premiums is greater than or equal to (ii) its assessable health insurance premiums, which shall include its assessable health maintenance organization premiums but shall exclude its assessable premiums written for disability income and long-term care insurance. For purposes of this definition, assessable premiums shall be measured within the state. An "accident and health member insurer" means any member insurer not defined as a "life and annuity member insurer." HA represents the guaranty association Health Account and LIAA represents the guaranty association Life Insurance and Annuity Account.

"Accident and Health Member Insurer" means any member insurer that does not qualify as a Life and Annuity Member Insurer.

"Health Account" shall mean the health insurance account established under Section 33-10-203(2)(a) of the Act.

"LAMIHA" shall mean the quotient of (a) the Life and Annuity Member Insurers' aggregate assessable premium in the Health Account divided by (b) the total assessable premium in the Health Account.

"LAMILAA" shall mean the quotient of (a) the Life and Annuity Member Insurers' aggregate assessable premium in the Life and Annuity Account divided by (b) the total assessable premium in the Life and Annuity Account.

"Life and Annuity Account" shall mean the aggregate life insurance and annuity account established under Section 33-10-203(2)(b) of the Act, without dividing such account into subaccounts.

"Life and Annuity Member Insurers" shall mean each and every member insurer having (i) total assessable premium in the Life and Annuity Account greater than or equal to (ii) its total assessable premium in the Health Account, where assessable premium in the Health Account includes, but is not limited to, the member insurer's assessable health maintenance organization premiums but shall exclude the member insurer's assessable premiums for disability income and long-term care insurance. Note: The exclusion of a member insurer's assessable premiums for disability income and long-term care insurance shall be applied only for the purpose of the definition of "Life and Annuity Member Insurers," and such exclusion shall not apply for any other purposes.

The amount of the LTC Assessment allocated to the Life and Annuity Account shall be determined in accordance with the following formula:

Life and Annuity Account LTC Assessment Share	=	LTC Assessment	*	(.50 - LAMIHA) / (LAMILAA - LAMIHA)

The amount of the LTC Assessment not allocated to the Life and Annuity Account as provided above shall be allocated to the Health Account.

The amount of any LTC Assessment allocated to the Life and Annuity Account or to the Health Account shall be allocated among member insurers in accordance with Section 33-10-227(4)(d) of the Act, except that the total assessable premium in the entire Life and Annuity Account shall be used in the aggregate without dividing it between the subaccounts.[2]

H. Maximum Assessment. If in the judgment of the Board of Directors the maximum assessment under Section 33-10-227 of the Act, in combination with the Association's borrowing authority, will be insufficient over any two years to cover the outstanding and anticipated covered claims against the Association relating to one or more impaired or insolvent member insurers under any account or accounts, the Board of Directors may provide that the Association shall make partial and periodic payments on such claims in accordance with a schedule to be adopted by the Board of Directors and approved by the Commissioner. Such schedule may give preference to health claims, periodic annuity benefit payments, death benefits, supplemental benefits and cash withdrawals under emergency or hardship standards proposed by the Board of Directors and approved by the Commissioner under Section 33-10-205 of the Act or for other claims pursuant to Board resolution. Such schedule may be adjusted from time to time as changes in the volume and type of such covered claims may warrant and may be structured so as not to give preference to claims in the order in which they were incurred or made or in the order of which member insurers first became impaired or insolvent, or to require retroactive adjustments.

[2] Article 4 (G) shall become effective on January 1, 2020.

I. **Refund and Credit to Member Insurers**. The Board of Directors may refund by payment or by credit against Class B assessments to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the Board finds is necessary to carry out during the coming year or years the obligations of the Association with regard to that account, including assets accruing from assignment, subrogation, net realized gains on distributions and income from investments. In its sole discretion, the Board of Directors shall determine the amount of funds to maintain on reserve for continuing expenses and future losses in accordance with Section 33-10-227 of the Act and may take into account the following: historic costs and expenses of the Association obligations; historic assessments of the Association; historic borrowing of the Association; existing and reasonably probable current and future obligations of the Association; reserves for future losses and expenses maintained by similar insurance guaranty associations. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the Association and for future liabilities. To the extent a refund is provided by credit, the credit shall be reflected in the next subsequent assessment made upon the member insurer. In any year when funds received from a Class A assessment are insufficient to pay the Association's administrative and legal costs and expenses or the imposition of a Class A assessment is economically or administratively impractical, the Board, in its discretion, may authorize the use of net realized gains and investment income from assets in any account to pay such administrative and legal costs and expenses.

The Board may establish a general policy whereby the Board or the Board's designee may accept amended assessable premium reports filed with the NAIC which correct reports filed for prior years which contain inadvertent errors made by a member insurer. Under such a policy, correction of the error may be prospective only, in which case the corrected assessable premium would be used for future assessments but could not be used to re-calculate prior assessments.

J. **Payees Not Located**. To the extent the Association is unable to locate specific payees entitled to benefits associated with an impaired or insolvent insurer, any

funds related to such payees shall be, in the discretion of the Board: (i) applied for use with the same impairment or insolvency; (ii) deposited into the composite account established pursuant to Article 4, Section K of this Plan; or (iii) refunded to member insurers, until such payee is located and paid.

K. **Small Expense Impairments or Insolvencies**. With respect to each impairment or insolvency, if the Association accrues an amount less than or equal to $250,000 in administrative, legal, and accounting expenses and payments for policyholder liabilities with respect to a single impairment or insolvency (referred to as a "Small Estate"), the Board may resolve to pay such expenses with funds from the composite account or a Class A assessment instead of imposing a Class B assessment for such amounts. At its Annual Meeting, after consideration of the amount of estate obligations, the amounts in the composite account and the determination of reserves to be maintained in accordance with Article 4, H. of the Plan, the Board may resolve to change the amount defining a Small Estate.

L. **Composite Account**. The Association may create a composite account which operates as follows. To the extent an excess of funds raised by Class B assessments, estate distributions, sale of assets, litigation recoveries, subrogation recoveries, or other recoveries with respect to any one impaired or insolvent insurer is less than an amount established by Board resolution, the Association may return that excess to the member insurers, either by credit or refund, or the Association may deposit the excess into the composite account. Any funds in the composite account shall be used by the Association in exercising its powers and duties. Funds in the composite account lose any distinction among the life, health and annuity accounts and sub-accounts.

M. **Inter-Account Borrowing**. The Board may authorize the transfer of funds between accounts and classes as it deems necessary to assure the fair, reasonable, and equitable operation and administration of the Association. All provisions in this Plan which permit the Board to authorize the transfer of funds between accounts and classes also require the Board to treat all transfers as inter-account loans and to credit all amounts so transferred to the appropriate account and class.

N. **Association Claims**. In order to perfect the rights of the Association for claims against the assets of an impaired or insolvent insurer, the Association may periodically file with the Liquidator of an impaired or insolvent insurer statements of the covered claims and associated expenses paid by the Association and estimates of anticipated claims against the Association. Among other things, such periodic filings may include claims for: administration and claims handling of the Association, costs and expenses for providing continuing coverage and paying benefits for policyholders and beneficiaries, and any other classes of expenses recognized under relevant liquidation acts and priority systems.

O. **Charges on Late Paid Assessments**. Member insurers may be charged penalties on unpaid assessments as set forth in the Act. In addition, the Board, in its discretion, may impose an additional charge on any member insurer that causes the Association to incur extraordinary expenses in collecting and processing assessment payments. Such charges may not exceed the greater of $100 per occurrence or 5% of the unpaid assessment per month. Such charge may be waived by the Board upon request of the member insurer providing a reasonable explanation of mitigating circumstances for its failure to pay an assessment when due or other action or omission causing the Association to incur additional expense.

Article 5. Records and Reports

A. **Records and Reports**. A written record of the proceedings of each Board meeting shall be made. The original of this record shall be retained by the Secretary or Treasurer of the Board of Directors or such other person as the Board may designate.

B. **Minutes**. Copies of minutes, reports, recommendations, records, and documents shall be furnished to each Board member, to the Commissioner upon request subject to all applicable privileges, and to any member insurer upon request; provided, however, that, subject to Section 33-10-206 of the Act, such minutes, reports, recommendations or other records and documents relating to the portions of such proceeding which were closed, because of the confidential nature of the

matters addressed, shall also be confidential, and distribution of such minutes, reports, recommendations, records and documents shall be limited to the members of the Board of Directors and the Association's attorneys, employees or agents, considered by the Board of Directors to be necessary or pertinent to the discussion of the matters addressed or performance of the actions taken during such confidential proceedings.

C. **Annual Report**. The Board of Directors shall make an annual report as required by Section 33-10-209 of the Act not later than May 1 of each year to the Commissioner. Such report shall include a financial report for the preceding calendar year in a form approved by the Commissioner and a review of the activities of the Association during the preceding calendar year.

D. **Procedure for Public Participation – Documents**. The Association shall maintain available for public examination documents in the custody of the Association which are not subject to the limitations found in the Act, attorney client privilege or work product doctrine, except in cases where the demands of individual privacy clearly exceed the merits of public disclosure.

E. **Documents Available to the Commissioner**. Upon request by the Commissioner, the Association shall make available to the Commissioner all documents relating to the operations of the Association which are not subject to the attorney client privilege or work product doctrine. Such documents shall remain subject to individual privacy rights, and the Board shall indicate to the Commissioner which documents are subject to individual privacy rights.

F. **Joint and Common Interest – Disclosure of Documents and Other Information.**

1. The Association, Commissioner and/or Supervisor, Rehabilitator, Liquidator, or other Receiver of an insurer (the "Receiver") may share joint and common interests as referenced in statute (including, but not limited to, Section 33-10-217 of the Act) and as otherwise provided in common law with respect to various matters which are the subject of

potential or pending impairments, insolvencies, or other litigation. To the extent that the Association, Commissioner and/or the Receiver share a joint or common interest, they may, but are not required to, share and exchange documents or other information which is subject to a constitutionally protected privacy interest or where confidentiality is otherwise provided by law.

2. No sharing or exchange of documents or other information pursuant to this section shall allow or permit the Association, Commissioner and/or the Receiver to disclose any such documents or other information to third parties or the public if those documents or information are otherwise subject to a constitutionally protected privacy interest and the demands of individual privacy clearly outweigh the merits of public disclosure or where confidentiality is otherwise provided by law.

Article 6. Membership

A. Membership. The "Member Insurers" of the Association shall consist of every person designated in the Act as a member insurer.

B. Liability. When a person ceases to be a Member Insurer, such person shall remain liable for any assessment or assessments with respect to any insurer that became an impaired or insolvent insurer prior to the termination of such Members Insurer's membership in the Association.

C. Efficient and Economical Communication with Members. Any notice which must be provided under this Plan may be provided by e-mail. To assist in the efficient and economical operation of the Association, each Member Insurer must provide one or more e-mail addresses to which notices may be provided.

Article 7. Indemnification

A. Indemnification. All persons, except the Commissioner and his or her representatives, described in Section 33-10-207 of the Act, including but not limited to the member insurers serving on the Board of Directors and their

representatives, along with the members of the Board of Directors appointed by the Commissioner, and the Association's agents and representatives including, but not limited to, the Administrator and/or the Executive Director, shall be indemnified by the Association for all losses and expenses incurred on account of any action taken or not taken by them in the performance of their powers and duties under the Act, unless such persons shall be finally adjudged to have committed a breach of duty involving gross negligence, bad faith, dishonesty, willful misfeasance or reckless disregard of the responsibilities of their office or position. Such expenses shall include, but not be limited to attorneys' fees, judgments, decrees, fines, penalties and amounts paid in settlement actually and reasonably incurred in the defense of any action, suit or proceeding, whether civil, criminal, administrative, or investigative, including all appeals, brought or threatened to be brought against such persons, their testators or intestates. In the event of settlement before final adjudication with or without court approval, such indemnity shall be provided only if the Association is advised by independent counsel that such person did not, in such counsel's opinion, commit such a breach of duty. The Association shall make such assessments of member insurers as shall be necessary to permit the Association to discharge its indemnity obligations under this Section A. Indemnification shall be provided under this Article even though the person no longer serves in a capacity performing powers and duties under the Act.

B. **Supplement**. This Article is intended to operate as a supplement and additional safeguard to, and not in place of, the immunity granted by Section 33-10-207 of the Act.

Article 8. Distribution of Assets Upon Dissolution

Unless otherwise provided by the Act, the assets of the Association in the process of dissolution shall be applied and distributed as follows:

A. All liabilities and obligations of the Association shall be paid and discharged, or adequate provisions shall be made therefor.

B. The properties that will not be distributed in kind shall be disposed of.

C. Assets held by the Association on condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred or conveyed in accordance with the condition.

D. Other assets, if any, shall be transferred, subject to any contractual or legal requirements, as provided in or authorized by the Plan.

E. If provision has not been made in the Plan for the distribution of assets upon dissolution, the assets shall be transferred to one or more public benefit corporations or public benefit associations.

Article 9. Conformity to Statute

Title 33, Chapter 10, Sections 201-236, of the Montana Insurance Code, as written and heretofore amended, and as may be hereafter amended, are hereby incorporated by reference and by this reference made a part of this Plan.

As adopted by the Board on August 15, 2025.

C. Elizabeth Sloan Digitally signed by C. Elizabeth Sloan Date: 2025.09.17 10:17:34 -07'00'

Chair

As approved by the Commissioner on 9/15/25

Montana State Auditor, Commissioner of Securities and Insurance