

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA**

State of Florida, ex rel., the Department
of Financial Services of the State of Florida,
Relator

CASE NO.: 2022-CA-001378

vs.

Weston Property & Casualty Insurance Company,
Respondent

**Consent Order Appointing the Florida Department of Financial Services as Receiver of
Weston Property & Casualty Insurance Company for Purposes of Liquidation, Injunction,
and Notice of Automatic Stay**

THIS CAUSE was considered on the Petition of the Florida Department of Financial Services ("Department"), for a Consent Order appointing the Department of Financial Services as Receiver of Weston Property & Casualty Insurance Company ("Respondent" or "Company"), for Purposes of Liquidation, Injunction, and Notice of Automatic Stay (hereinafter, "Petition"). The Court, having reviewed and considered the pleadings of record, and otherwise being fully informed in the premises, finds as follows:

1. Section 631.021, Florida Statutes (2022), provides that a delinquency proceeding pursuant to chapter 631, Florida Statutes, constitutes the sole and exclusive method of liquidating, rehabilitating, reorganizing, or conserving a Florida domiciled insurer.

2. This Court has original jurisdiction over these proceedings and has exclusive jurisdiction over all assets or property of the Respondent, wherever located, including property located outside the territorial limits of the state. §§ 631.021(1),(6), Fla. Stat.

3. This Court can exercise jurisdiction over any person required by section 631.391, Florida Statutes, to cooperate with the Department and the Office of Insurance Regulation ("OIR") and over all persons made subject to this Court's jurisdiction by other provisions of law, section 631.025, Florida Statutes.

4. Venue is proper in the Circuit Court of Leon County. § 631.021(2), Fla. Stat.
5. This Court is authorized to enter all necessary or proper orders to carry out the purpose of the Florida Insurers Rehabilitation and Liquidation Act, sections 631.001 *et seq.*, Florida Statutes.
6. Respondent was licensed by OIR as a state of Florida domestic property and casualty insurer authorized to transact insurance business in the state of Florida pursuant to Chapter 624, Florida Statutes. Respondent is specifically authorized to write in the following lines of insurance: (010) Fire, (020) Allied Lines, (040) Homeowners MultiPeril, (050) Commercial Multi-Peril, (170) Other Liability, (260) Burglary and Theft, and (270) Boiler and Machinery. Respondent's principal place of business is located at: 2555 Ponce de Leon Boulevard, Suite 300, Coral Gables, FL 33134-6037.
7. Upon a determination by OIR that one or more grounds exist to initiate a delinquency proceeding against an insurer and upon OIR's determination that a delinquency proceeding should be initiated, OIR is required to refer the insurer to the Department for the initiation of such delinquency proceeding. § 631.031(1), Florida Statutes.
8. By letter dated August 2, 2022, pursuant to section 631.031(1), Florida Statutes, David Altmaier, Commissioner of OIR, advised Florida's Chief Financial Officer, Jimmy Patronis, that grounds exist for the initiation of liquidation proceedings against Respondent. Attached to the letter was an affidavit from Virginia A. Christy, OIR's Director of Property & Casualty Financial Oversight, which provided the information required by that Section.
9. Section 631.031(2) empowers the Department to petition this Court for a consent order directing it to liquidate a domestic insurer upon notification from OIR that grounds exist for the initiation of such proceedings.

10. Pursuant to section 631.061, Florida Statutes, the Department may apply for such an order if the insurer is or is about to become insolvent or upon the existence of any of the grounds specified in section 631.051, Florida Statutes.

11. Based on the evidence presented in the Department's Petition, the Court has determined that sufficient grounds exist for the liquidation of Respondent pursuant to the following provisions of law:

A. Section 631.061(1), in that Respondent is insolvent within the meaning of section 631.011(14).

B. Section 631.051(11), in that Respondent has consented, through a Resolution of its board of directors, to the appointment of the Department as Receiver of Respondent for the purposes of liquidation.

C. Section 631.051(3), in the Respondent's further transaction of insurance is hazardous to policyholders, creditors and the public.

12. The Court therefore finds that it is in the best interests of Respondent, its policyholders, creditors, stockholders, and the Public that the Department be appointed receiver of Respondent for purposes of liquidation.

THEREFORE, IT IS ORDERED AND ADJUDGED:

13. The Department of Financial Services of the State of Florida shall be and is hereby appointed receiver of Respondent for purposes of liquidation, **effective immediately upon the entry of this Order.**

14. The Department is authorized to appoint and employ Cantilo & Bennett, LLC as Special Deputy Receiver of Respondent, pursuant to section 631.141(9), Florida Statutes, and the provisions of the Special Deputy Receiver Agreement entered between the Department and Cantilo & Bennett, LLC, which Agreement is hereby approved and attached hereto as **Exhibit A**. Cantilo &

Bennett, LLC, in its capacity as Special Deputy Receiver of Respondent, is authorized to act on behalf of the Department as Receiver of Respondent and to carry out any and all duties and to exercise the authority of the Receiver granted in this Order and under chapter 631, Florida Statutes.

15. The Department is granted all the powers of the Respondent's officers, directors, and managers, all of who are permanently discharged and who have no further authority of any kind over the affairs or assets of Respondent, except as may be redelegated by the Department.

§ 631.141(10), Fla. Stat.

16. The Department has full power to direct and manage the affairs of Respondent, to hire and discharge employees, and to deal with the property and business of the Respondent.

17. All officers, directors, trustees, administrators, agents and employees, and all other persons representing Respondent or currently employed or utilized by Respondent in connection with the conduct of its business are discharged forthwith, provided, however, the Department may retain such persons in the Department's discretion. § 631.141(10), Fla. Stat.

18. For purposes of this Order, the term "affiliate" shall be defined in accordance with section 631.011(1), Florida Statutes, and shall include, but not be limited to, the following affiliates: Weston Claims Management, LLC; Weston Insurance Management, LLC; Weston Insurance Holdings Corporation; HSCM Bermuda Fund, Ltd; HSMC Bermuda Special Opportunities Fund, Ltd; Adam J. Barron; Hudson Structured Capital Management, Ltd; HSCM SPV LLC; Hudson Structed Capital Management, LP; HSCM GP LLC and Michael John Millette.

19. Any present or former officer, director, manager, trustee, administrator, attorney, agent, accountant, actuary, broker, employee, adjuster, independent contractor, or affiliate of Respondent and any other person who possesses or possessed any executive authority over, or who exercises or exercised any control over, any segment of Respondent's affairs or the affairs of its affiliates ("Controlling Persons") shall be required to fully cooperate with the Department, pursuant

to section 631.391, Florida Statutes. Any person who fails to cooperate with the Department, interferes with the Department, or fails to follow the instructions of the Department, may, at the Department's discretion, be excluded from the Respondent's business premises.

20. The Department is vested with title to all property, real or personal; contracts; rights of action; and all books and records of Respondent, wherever located. § 631.141, Fla. Stat.

21. **THE DEPARTMENT IS AUTHORIZED AND DIRECTED TO:**

Take immediate possession of all the assets, estate, and property of every kind whatsoever and wherever located belonging to Respondent pursuant to sections 631.111 and 631.141, Florida Statutes, whether in the possession of Respondent or its officers, directors, shareholders, trustees, employees, consultants, attorneys, agents, affiliates, or other persons, including but not limited to: offices maintained by Respondent; furniture; fixtures; equipment; office supplies; choses in action; rights of action; contract rights; books, papers, claims and claim files, policy files, application files, premium records, rate books, underwriting manuals, all reinsurance files, records, and related data; personnel records, and all other records and data that are otherwise the property of the Respondent, in whatever form maintained; evidences of debt; bank accounts; savings accounts; certificates of deposit, stocks, bonds, debentures, letters of credit, trust accounts, and all other sources of collateral, and other securities; mortgages; real property; and all funds held by Respondent's agents, subagents, producing agents, brokers, solicitors, service representatives, premium finance companies, or others under agency contracts or otherwise which are due and unpaid to Respondent, including premiums, unearned commissions, agents' balances, agents' reserve funds, subrogation recoveries, and the benefit of any tax refunds and/or recoverables, including but not limited to any net operating loss ("NOL") carrybacks, with the understanding that any right of offset shall be subject to the provisions of Chapter 631, Florida Statutes.

- A. Marshal the assets and liquidate the business of Respondent.
- B. Publish notice specifying the time and place fixed for the filing of claims with the Department in all states where Respondent may have issued insurance policies. § 631.181, Fla. Stat.
- C. Give notice of this proceeding to Respondent's agents pursuant to section 631.341, Florida Statutes.
- D. Employ and authorize the compensation of legal counsel, actuaries, accountants, clerks, consultants, and such assistants as it deems necessary; purchase or lease personal or real property as it deems necessary; and authorize the payment of the expenses of these proceedings and the necessary incidents thereof, to be paid out of the funds or assets of the Respondent in the possession of the Department or coming into its possession. § 631.141(9), Fla. Stat.
- E. Reimburse such employees, from the funds of this receivership, for their actual necessary and reasonable expenses incurred while traveling on the business of this receivership.
- F. Not defend or accept service of process on legal actions wherein Respondent, the Department, or the insured is a party defendant, commenced either prior to or subsequent to the order, without authorization of this Court; except, however, in actions where Respondent is a nominal party, as in certain foreclosure actions, and the action does not affect a claim against or adversely affect the assets of Respondent, the Department may file appropriate pleadings in its discretion. § 631.021(5), Fla. Stat.
- G. Commence and maintain all legal actions necessary, wherever necessary, for the proper administration of this receivership proceeding.
- H. Collect all debts that are economically feasible to collect that are due and owing to Respondent.

I. Deposit funds and maintain bank accounts in accordance with section 631.221, Florida Statutes.

J. Take possession of all of Respondent's securities and certificates of deposit on deposit with the Chief Financial Officer of Florida or any similar official of any other state, if any, and convert to cash as much as may be necessary, in its judgment, to pay the expenses of administration of this receivership.

K. Negotiate and settle subrogation claims and final judgments without further order of this Court.

L. Sell any salvage recovered property without further order of this Court.

M. Coordinate the operation of the receivership with the operation of the Florida Insurance Guaranty Association and any other affected guaranty association in accordance with the provisions of sections 631.395, 631.397, and part II of chapter 631, Florida Statutes, and any other the provisions of law which trigger the obligations of other affected guaranty associations. The Department may in its discretion, contract with, provide data processing services for, and release claims files, records, documents pertaining to claims on file with Respondent, or insurance claims filed with the Department to the appropriate guaranty association(s) as necessary to carry out the purposes of chapter 631, Florida Statutes.

N. Update its records to incorporate change of address information for interested individuals/entities (e.g. agent, claimant, creditor, policyholder, subscriber) if the Department determines that there has been a change of address for any interested individuals/entities. The Department is authorized to use change of address information for future mailings.

O. Transfer unclaimed funds to the unclaimed property unit(s) of the states(s) reflected in the claimants' last address of record in the Department's files.

P. Dispose of and destroy obsolete and unneeded records pursuant to section 631.141(12), Florida Statutes.

Q. Authorize the applicable guaranty association(s) to dispose of and destroy obsolete and unneeded records after the records have been scanned, verified, and added to the guaranty association's records management system so long as the guaranty association(s) provide access to these electronic records to the Department as required to handle its duties.

R. Surrender Respondent's certificate of authority to engage in the insurance business in the state of Florida to the Office of Insurance Regulation, as well as to surrender Respondent's certificate of authority to engage in the insurance business to any other state's Department of Insurance, or appropriate state regulatory authority, where Respondent may be licensed.

S. Apply to this Court for further instructions as the Department deems necessary.

IT IS FURTHER ORDERED AND DIRECTED:

22. Any "Covered Entity" or "Business Associate" in possession of "Protected Health Information" ("PHI") as defined in and governed by the federal Health Insurance Portability and Accountability of 1996, is authorized and directed to disclose such PHI to the Department as receiver of Respondent to the same extent that such disclosure would have been permissible if made directly to Respondent prior to the entry of this Order.

23. Any "financial institution" in possession of "nonpublic personal information" ("NPI") as defined in and governed by the Gramm-Leach-Bliley Financial Modernization Act of 1999, is authorized and directed to disclose such NPI to the Department as receiver of Respondent, to the same extent that such disclosure would have been permissible if made directly to Respondent prior to the entry of this Order.

24. All records and data of Respondent held by a parent corporation or other affiliate are and remain the property of Respondent and shall be secured and segregated or be readily capable of segregation, at no additional cost to the Department, from all other persons and entities' records and data. This includes all records and data that are otherwise the property of the Respondent, as described in paragraph 212121 of this Order. At the request of the Department the parent corporation or other affiliate shall provide a complete set of all records of any type that pertain to the Respondent's business; complete access to and administrative control of the operating systems on which the data is maintained; use of the software that runs those systems either through assumption of licensing agreements or otherwise.

25. Except as noted in the following paragraph, pursuant to the provisions of 631.252, Florida Statutes, all policies of insurance or similar contracts of coverage issued by Respondent that have not expired are **cancelled effective 12:01 a.m. on the date 30 days after the entry of the Liquidation Order.** Policies or contracts of coverage with normal expiration dates prior to the dates otherwise applicable under this paragraph, or which are terminated by insureds, or lawfully cancelled by the Department or insurer before such date, shall stand cancelled as of the earlier date.

26. Any premium finance company that has entered into a contract to finance a premium for a policy issued by the Respondent is required to pay any premium owed to the Respondent directly to the Department.

27. The Department shall administer reinsurance losses recoverable or payable by the Respondent in accordance with Chapter 631, Florida Statutes. All correspondence concerning Respondent's reinsurance coverage shall be between the Department and the reinsuring company or intermediary.

28. The United States Postal Service shall be directed to provide any information requested by the Department regarding the Respondent and to handle future deliveries of Respondent's mail as directed by the Department.

29. Upon receipt of a copy of this Order, any bank, savings and loan association, financial institution, or other person which has on deposit, in its possession, custody, or control any funds, accounts, or other assets which are or may be property of Respondent, or which are held by Respondent's affiliates, agents, subagents, producing agents, brokers, solicitors, service representatives, premium finance companies, or others under agency contracts or which were otherwise set up for the benefit to Respondent regardless of how such accounts or assets are titled is directed to immediately:

A. Disclose to the Department the existence of those accounts, any funds contained therein, and all documents in its possession relating to Respondent for the Department's inspection and copying;

B. Transfer title, custody, and control of all such funds, accounts, and other assets to the Department; and

C. Not otherwise disburse, convey, transfer, pledge, assign, hypothecate, encumber, or in any manner dispose of such funds, accounts, and assets without prior written consent of, or unless otherwise directed in writing by the Department.

The Department shall be authorized to change the name of such accounts and other assets; change the authorized signers on the accounts; withdraw account funds from such bank, savings and loan association or other financial institution; or take any lesser action necessary for the proper conduct of this receivership. No bank, savings and loan association, or other financial institution shall be permitted to exercise any form of set-off, alleged set-off, lien, any form of self-help whatsoever, or refuse to transfer any funds or assets to the Department's control without permission of this Court.

30. Any entity furnishing telephone, water, electric, sewage, garbage, or trash removal services to the Respondent is required to maintain such service and transfer any such accounts to the Department as of the date of the Order, unless instructed to the contrary by the Department.

31. Upon request by the Department, any company providing telephonic services to the Respondent is directed to provide a reference of calls from the number presently assigned to the Respondent to any such number designated by the Department or perform any other services or changes necessary to the conduct of the receivership.

32. All executory contracts to which the Respondent was a party shall be cancelled and stand cancelled unless specifically adopted by the Department within ninety (90) days of the date of this Order or from the date of the Department's actual knowledge of the existence of such contract, whichever is later. "Actual Knowledge" means the Department has in its possession a written contract to which the Respondent is a party, and the Department has notified the vendor in writing acknowledging the existence of the contract.

A. Further, the Department shall have the authority to do the following:

i. Pay for services provided by any of Respondent's vendors, including affiliates which are vendors, in the ninety (90) day period prior to assuming or rejecting the contract, which are necessary to administer the receivership estate; and

ii. Once the Department determines Respondent's vendor is necessary in the continued administration of the receivership estate for a period to exceed the ninety (90) days from the date of this order, or from the date of Department's actual knowledge of such contract, whichever is later, the Department may make minimal modifications to the terms of the contract, including, but not limited to, the expiration date of the agreement, the scope of the services to be provided, and/or the compensation to be paid to Respondent's vendor pursuant to the contract. "Minimal

Modifications" shall mean any minimum alteration made to the contract in order to adapt to the new circumstances of the receivership estate. In no event will any minimal modification be construed as the Department entering into a new contract with Respondent's vendor.

B. Any vendor, including but not limited to, any and all employees/contractors of insurer, claiming the existence of a contractual relationship with the insurer shall provide notice to the Department of such relationship. This notice shall include any and all documents and information regarding the terms and conditions of the contract, including a copy of the written contract between the vendor and the insurer, if any, what services or goods were provided pursuant to the contract, any current, future and/or past due amounts owing under the contract, and any supporting documentation for third party services or goods provided. Failure to provide the required information may result in vendors' contractual rights not being recognized by the Department. The rights of the parties to any such contracts are fixed as of the date of the Order and any cancellation under this provision shall not be treated as an anticipatory breach of such contracts.

33. Any and all information technology service providers or data processing services which have custody or control of any data processing information and records including but not limited to electronic message communications, source documents, claims data, policy administration data, data processing cards, input tapes, all types of storage information, master tapes or any other recorded information relating to the Respondent is directed to transfer the rights to or actual custody and control of such records to the Department. The Department shall be authorized to compensate any such entity for the actual use of hardware, software, and licenses which the Department finds to be necessary to this proceeding. Compensation should be based upon the monthly rate provided for in contracts or leases with Respondent or its affiliates which were in effect when this proceeding was instituted or based upon such contract as may be negotiated by the Department, for the actual time

such equipment and software is used by the Department. Any past due or pending balances due from Respondent shall be processed as claims against the receivership estate and shall not be a basis for withholding the transfer of records, actual use of hardware or software, or services contemplated in this Paragraph.

34. All attorneys employed by Respondent as of the date of the Order, are required **within ten (10) days of receiving notice of this Order**, to report to the Department on the name, company claim number and status of each file they are handling on behalf of the Respondent. Said report should also include an accounting of any funds received from or on behalf of the Respondent. All attorneys employed by Respondent are advised that pursuant to sections 631.011(17) and 631.011(21), Florida Statutes, a claim based on mere possession does not create a secured claim and all attorneys employed by Respondent, pursuant to *In Re the Receivership of Syndicate Two, Inc.*, 538 So.2d 945 (Fla DCA 1989), who are in possession of litigation files or other material, documents or records belonging to or relating to work performed by the attorney on behalf of Respondent are required to deliver such litigation files, material, documents or records intact and without purging to the Department, on request, notwithstanding any claim of a retaining lien which, if otherwise valid, should not be extinguished by the delivery of these documents.

35. All subsidiaries, affiliates, parent corporations, ultimate parent corporations, and any other business entity affiliated with Respondent having any interest in the building located at 2555 Ponce de Leon, Suite 300, Coral Gables, FL 33134-6037 or any other facility in which Respondent may operate, shall make available, at that location and at no charge to the Department or to Respondent, office space, and related facilities (telephone service, copiers, computer equipment and software, office supplies, parking, etc.) to the extent deemed necessary by the Department in its sole discretion.

36. All claims shall be filed with the Department on proof of claim forms (“POCs”) prepared by the Department **on or before 1 year from the date this Order is entered**, or such claims shall be considered late-filed. The Department may disallow a claim if it does not contain all of the information required by the POC or if the claim is not filed on the POC provided by the Department. If the deadline for filing claims falls on a Saturday, Sunday, or a legal holiday, the deadline is extended to the next business day. Pursuant to section 631.181(5), Florida Statutes, the Department may petition this Court to set a date certain after which no further claims may be filed.

37. To assure the validity of claim assignments, to assure that the processing of assignments does not create an undue burden on estate resources, and to assure that assignment decisions are made using the best information available, the Department shall not recognize or accept any assignment of claim by the claimant of record unless the following criteria are met:

- A. A distribution petition has not been filed with this Court;
- B. The Department has been provided with a properly executed and notarized assignment of claim agreement entered into between the parties;
- C. The Department has been provided with a properly executed and notarized Department’s Assignment of Claim Change Form and required supporting documentation.
- D. The Department’s Assignment of Claim Change Form shall contain an acknowledgement by the claimant, or someone authorized to act on behalf of the claimant, that:
 - i. The claimant is aware that financial information regarding claims distributions and payments published on the Department’s website or otherwise available can assist the claimant in making an independent and informed decision regarding the sale of the claim;

ii. The claimant understands that the purchase price being offered in exchange for the assignment may differ from the amount ultimately distributed in the receivership proceeding with respect to the claim;

iii. It is the claimant's intent to sell their claim and have the Department's records be permanently changed to reflect the new owner; and

iv. The claimant understands that that they will no longer have any title, interest, or rights to the claim including future mailings and distributions if they occur.

38. Any person, firm, corporation, or other entity having notice of the Order that fails to abide by its terms is directed to appear before this Court to show good cause, if any they may have, as to why they should not be held in contempt of Court for violation of the provisions of this Order.

CONTINUATION OF INVESTIGATION

39. The Department shall be authorized to conduct an investigation as authorized by section 631.156, Florida Statutes, to determine the causes of the insolvency, including whether false statements filed with the Department contributed to the insolvency and if any laws of this state, any other state, or the Federal Government relating to the solvency of the insurer were violated; to discover assets for recovery; and to determine the location of assets and their manner of recovery.

40. The Department may take statements under oath and examine and review the books, records, and documents of Controlling Persons as defined in paragraph 1918. OK AD

41. Section 631.391, Florida Statutes, imposes on Controlling Persons a duty to cooperate with the Department in any proceeding under Chapter 631, Florida Statutes, and during any investigation preliminary or incidental to the proceeding. Such cooperation shall include, but not be limited to, providing oral testimony under oath, in both their official, representative, and individual capacities and the production of all documents that are calculated to disclose the true state of Respondent's affairs.

42. In furtherance of this investigation, Respondent's parent corporations, its subsidiaries, and affiliates are required to make all books, documents, accounts, records, including all records located in any premises occupied by such parent corporations, subsidiaries or affiliates available for full, free and unhindered inspection and examination by the Department during normal business hours (8:00 a.m. to 5:00 p.m.) Monday through Friday, from the date of the Order and to provide copies of any records requested by the Department whether or not such records are related to Respondent.

43. Additionally, Respondent's parent corporations, its subsidiaries, and affiliates shall secure all employee electronic mailboxes and provide to the Department a full export of all employee electronic mailboxes for the past twelve months or longer to the extent that data older than twelve months is available in a format that maintains all header and custodian metadata.

44. All Sheriffs and all law enforcement officials of this state shall cooperate with and assist the Department in the implementation of this Order.

INJUNCTION

45. Pursuant to sections 631.041(3) and (4), Florida Statutes, all persons, firms, corporations and associations within the jurisdiction of this Court, including, but not limited to, Respondent and its officers, directors, stockholders, affiliates, members, subscribers, agents, and all other persons are enjoined and restrained from the further transaction of the insurance business of the Respondent; from doing, doing through omission, or permitting to be done any action which might waste or dispose of the books, records and assets of the Respondent; from in any means interfering with the Department or these proceedings; from the transfer of property and assets of Respondent without the consent of the Department; from the removal, concealment, or other disposition of Respondent's property, books, records, and accounts; from the commencement or prosecution of any actions against the Respondent or the Department together with its agents or employees, the service of process and subpoenas, or the obtaining of preferences, judgments, writs of attachment or

garnishment or other liens; and, from the making of any levy or execution against Respondent or any of its property or assets.

46. Notwithstanding the provisions of this paragraph, the Department is permitted to accept and be subpoenaed for non-party production of claims files, insurance policies, underwriting files, personnel and other types of related company files, in its possession, including medical records, which may be contained therein. In such cases where medical records are subpoenaed, the requesting party must submit an affidavit to the Department stating that notice of the non-party production was appropriately issued and provided to the patient and that the patient was given the opportunity to object and either did not object to the non-party production, or objected and the Court overruled the objection, in which case a copy of the Court's ruling must be attached to the affidavit. The Department is authorized to impose a charge for copies of such files pursuant to the provisions of section 624.501, Florida Statutes.

NOTICE OF AUTOMATIC STAY

47. Notice is hereby given that, pursuant to section 631.041(1), Florida Statutes, the filing of the Department's Petition herein operates as an automatic stay applicable to all persons and entities, other than the Department and OIR, which shall be permanent and survive the entry of the order, and which prohibits:

- A. The commencement or continuation of judicial, administrative, or other action or proceeding against the insurer or against its assets or any part thereof;
- B. The enforcement of a judgment against the insurer or an affiliate obtained either before or after the commencement of the delinquency proceeding;
- C. Any act to obtain possession of property of the insurer;
- D. Any act to create, perfect or enforce a lien against property of the insurer, except a secured claim as defined in section 631.011(21), Florida Statutes;

E. Any action to collect, assess or recover a claim against the insurer, except claims as provided for under chapter 631, Florida Statutes; and

F. The set-off or offset of any debt owing to the insurer except offsets as provided in section 631.281, Florida Statutes.

48. The estate of an insurer in liquidation which is injured by any willful violation of an applicable stay or injunction shall be entitled to actual damages, including costs and attorney's fees, and, in appropriate circumstances, this Court may impose additional sanctions. § 631.041(6), Fla. Stat.

49. This Court retains jurisdiction of this cause for the purpose of granting such other and further relief as from time to time shall be deemed appropriate.

DONE and ORDERED in Chambers at the Leon County Courthouse in Tallahassee, Leon County, Florida on this 8 day of August 2022.



Honorable Angela Dempsey
Circuit Judge

SPECIAL DEPUTY RECEIVER AGREEMENT

This Special Deputy Receiver Agreement ("Agreement") is made by and between Cantilo & Bennett, L.L.P. and the Florida Department of Financial Services, ("the Department") for Special Deputy Receiver (SDR) services. The Department and Cantilo & Bennett, L.L.P. agree as follows:

I. RECITALS

1.1 When the Department is appointed Receiver by the Court, the Department may require the services stated within this Agreement. This Agreement is entered into by and between the Florida Department of Financial Services, Division of Rehabilitation and Liquidation, as Receiver for **WESTON PROPERTY & CASUALTY INSURANCE COMPANY**, 325 John Knox Road, The Atrium Building, Suite 101, Tallahassee, FL 32303, hereinafter referred to as "Receiver" or "Department", and **CANTILO & BENNETT, L.L.P.**, whose address is 11401 Century Oaks Terrace, Suite 300, Austin, Texas 78758, hereinafter referred to as "SDR".

II. DEFINITIONS

- 2.1 **ASCII**: abbreviated from American Standard Code for Information Interchange, is a character encoding standard for electronic communication. ASCII codes represent text in computers, telecommunications equipment, and other devices.
- 2.2 **Code**: the Florida Insurance Code.
- 2.3 **Company**: refers to Weston Property & Casualty Insurance Company. The insurance company in receivership for which the SDR is engaged to provide receivership services and names in the LOA.
- 2.4 **Commissioner**: The Commissioner of Insurance for the State of Florida.
- 2.5 **Court**: The Second Judicial Circuit in Leon County, Florida in which the Receivership proceeding is pending, unless the context clearly provides otherwise.
- 2.6 **Contract manager**: The Contract Manager or Managers shall be the persons at the Department and SDR who shall have primary responsibility for the contract or portions thereof.
- 2.7 **Department**: The Department of Financial Services, Division of Rehabilitation and Liquidation in its capacity as Receiver of the Company, and its successors and designees.
- 2.8 **Early Access Distribution**: an advance to eligible Guaranty Associations, where certain agreements have been reached between the relevant parties (Early Access Agreement(s)), which are approved by the Court. Early Access Distributions in Florida occur on a periodic basis, typically twice per year.

- 2.9 **EBCDIC:** Extended Binary Coded Decimal Interchange Code, a standard eight-bit character code used in computing and data transmission. Pronounced either "ehb-suh-dik" or "ehb-kuh-dik"), it is a binary code for alphabetic and numeric characters that were developed for larger IBM operating systems.
- 2.10 **Guaranty Association:** An insurance guaranty association is a statutorily created organization that protects policyholders and claimants in the case of an insurer's insolvency. For purposes of this contract, the Florida Health Maintenance Organization Consumer Assistance Plan is considered a Guaranty Association.
- 2.11 **HMO:** Health Maintenance Organization ("HMO"): provides health insurance coverage for a monthly or annual fee. An HMO limits member coverage to medical care provided through a network of doctors and other healthcare providers who are under contract to the HMO.
- 2.12 **HMOCAP:** The Florida Health Maintenance Organization Consumer Assistance Plan ("HMOCAP") was created by Florida Statute to protect persons enrolled for coverage with HMOs, subject to certain limitations, against the failure of their HMO to perform its contractual obligations due to its insolvency.
- 2.13 **OIR:** the Florida Office of Insurance Regulation
- 2.14 **Department Outside Counsel for Receiver of Company:** The SDR shall consult with the Department and obtain written approval prior to retaining any outside counsel to handle legal matters on behalf of the Department as Receiver of Company.
- 2.15 **Receivership:** the receivership estate of the Company.
- 2.16 **Receivership Court:** the circuit court in which the receivership proceeding is pending; Circuit Court of Leon County, Florida, shall be the original jurisdiction of any delinquency proceeding under Chapter 631, F.S.
- 2.17 **Standards of Performance:** The SDR shall comply with the requirements of Exhibit "A" to this Agreement.
- 2.18 **SDR:** refers to the contractor executing the Agreement as a Special Deputy Receiver ("SDR" or "Contractor") and **SDR Staff** refers to the SDR's employees and subcontractors listed in Exhibit "B" to this Agreement. The SDR and the SDR staff are special agents pursuant to Fla. Stat. 631.141(9)(a).
- 2.19 **Subcontractor:** A person or entity who contracts with the SDR to provide certain services under the SDR contract.
- 2.20 **UDS** The NAIC Uniform Data Standard precisely defined series of data file formats and codes used by Receivers and Guaranty Funds to exchange data electronically.

III. DUTIES

3.1 GENERAL

The SDR will comply with the following requirements with respect to its duties under this Agreement:

- a. The SDR agrees and understands that it operates under the authority of, and serves at the pleasure of, the Department in performing duties under this Agreement.
- b. The SDR agrees to perform its duties in accordance with this Agreement and its Exhibits, including the Standards of Performance (Exhibit "A"), the Fee Schedule (Exhibit "B"), the Standards of Ethics and Conduct (Exhibit "C"), and the Travel Policy (Exhibit "D"); with the receivership plan approved by the Department, and with all applicable federal, state and local laws, regulations, and ordinances. In the event that the SDR determines that it is unable to comply with the Standards of Performance or the Department's procedures for any reason, it must immediately inform the Department and request a waiver. The SDR shall not be responsible for any actions required by the Standards of Performance that have been completed before its appointment.
- c. The SDR agrees and understands that its obligations under this Agreement are fiduciary in nature and imbued with a public purpose. The SDR shall maintain the highest standard of ethics with respect to the Receivership, acting in good faith and in the best interest of the Receivership at all times, and exercising sound business judgment in performing the duties under this Agreement. The SDR shall fulfill its duties in a cost effective and timely manner. The SDR shall undertake at its sole expense any background checks of its employees or subcontractors required to fulfill its duties under this contract and its addenda.
- d. Unless expressly authorized by the Department in writing, the SDR and the SDR Staff agree that they will not, during the term of this Agreement, represent or provide services to any other party in connection with:
 - (1) any matter related to the Receivership, or
 - (2) any claims or causes of action by or against the Florida Department of Financial Services, Florida's Chief Financial Officer, or any other Special Deputy Receiver.
- e. The SDR agrees to affirmatively research whether it has any potential or actual conflict of interest as to the Company, its affiliates, or its vendors and to notify the Department immediately upon discovery of any potential or actual conflict of interest which the SDR or the SDR Staff may have in connection with the SDR's duties, including but not limited to any of the items listed in Section 8.3, prior to the execution of this agreement and throughout the pendency of this agreement. The SDR agrees that the Department has the sole discretion to determine what

circumstances constitute a conflict under this paragraph. In the event that the Department determines that the SDR or an individual or entity on SDR Staff has a potential or actual conflict of interest, the Department may, at its sole discretion, terminate this Agreement or prohibit such individual or entity from providing further services in connection with this Agreement.

- f. The SDR and SDR Staff shall not use any property of the Company for their personal use. The SDR shall verify at the conclusion of this Agreement that property of the Company has been liquidated or otherwise disposed of, and that the SDR and SDR Staff have not retained any such property.
- g. The SDR shall implement a disaster recovery plan to ensure the continued operation of the Receivership in the event of a short or long-term interruption of its essential business functions, including but not limited to backing up records on computers and other media on a regular schedule, and maintaining them off-site.

3.2. LEGAL ACTIVITIES

- a. The SDR shall consult with the Department and obtain approval prior to retaining any counsel to handle legal matters on behalf of the Department as Receiver of Company ("Outside Department Counsel for Receiver of Company"). The SDR shall consider competency and cost in selecting counsel.
- b. Counsel retained by the SDR to represent the Department must be licensed in the State of Florida, with such licensure being in good standing. Counsel must also comply with the professional rules of the State Bar of Florida and be able to represent the Department in the receivership without any professional conflicts of interest.
- c. The SDR shall notify the Department of any legal opinions or other advice provided by the Department's Outside Counsel for Receiver of Company. The SDR shall consult with the Department prior to taking any legal positions which have not previously been established by the Department.
- d. The SDR must provide the Department with reasonable advance written notice before filing any lawsuit, and may proceed only if the Department approves, in writing, initiation of such suit. The SDR must provide a budget for such lawsuit, including the selection of counsel and associated fees or fee arrangements.
- e. The SDR shall advise the Department upon appointment if it wishes to utilize, in any capacity, the Department's legal staff for any legal matters required by the receivership estate.

3.3 CLAIMS

The SDR shall handle claims in a timely manner in accordance with Chapter 631, Part I Florida Statutes and any approved receivership plan, as applicable.

3.4 TAXES

The SDR shall timely file federal and state tax returns for the Receivership, including income tax returns, premium tax returns, employment and payroll tax returns.

3.5 REPORTS

The SDR will file or submit, as applicable, all reports required by Chapter 631, Part I, Florida Statutes, with the Department and the Court. Such reports shall include, but not be limited to:

- a. Quarterly report filed with the Court pursuant to Florida Rule of Civil Procedure 1.620.
- b. Reports to the Department regarding any possible fraudulent, deceptive, or unlawful conduct by any insurer, agent, or person in connection with the Receivership.
- c. Any routine motions, notices, pleadings, and orders filed with the Court in accordance with Chapter 631, Part I, Florida Statutes.
- d. A status report to the Department in a format and frequency approved by the Department.

3.6 RECORDS

The SDR will maintain all records received in connection with this Agreement in accordance with the following requirements and Florida law. Unless otherwise expressly limited in this Agreement, the term "records" includes, but is not limited to the following: books, files, policy information, documents, reports, data, emails, accounts, papers, work product (including work product of the company, the SDR and SDR Staff) or any other writing, regardless of configuration or medium, including computer software. This definition shall apply to the Company's records, as well as records created or obtained by the SDR and SDR Staff in connection with the Receivership. Consideration should be given to chain of custody procedures.

- a. The SDR will maintain a complete and accurate set of all records of the Company and the Receivership. All of such records must be maintained in the State of Florida unless the Department authorizes, in writing, out-of-state record maintenance.
- b. The SDR will maintain all computerized records of operations and finances. All such computerized records must be exportable.
- c. SDR will inventory the records according to subject matter in accordance with the Department's guidelines, and maintain a current inventory of such records at all times. The SDR will provide a copy of the inventory to the Department upon request and upon closing of the Receivership.

- d. Upon the Department's request, the SDR shall make all records available for the Department's inspection and review at the time specified by the Department, and a location designated by the Department. The Department will have the right to enter the SDR's premises to take possession and control of the records at any time.
- e. Upon termination of this Agreement, the SDR will destroy obsolete records and deliver all permanent records to a location designated by the Department within a reasonable period of time as determined by the Department.
- f. The SDR and SDR Staff will not, during or after the term of this Agreement, directly or indirectly use for personal benefit any records or other information acquired in connection with the Receivership or made confidential by law, including, but not limited to, work product, attorney-client communications, and claim or policy information, or disclose any such records or other information unless the release of such information is required by law or an order or subpoena from a court of competent jurisdiction, and then only with reasonable advance notice to the Department.
- g. The SDR and SDR Staff will not, during or after the term of this Agreement, disclose to anyone, directly or indirectly, any information obtained from the Company, the Department or OIR, or any other information to which the SDR obtains access in the course of its performance under this Agreement, if such information is designated or construed as confidential, or subject to restrictions on disclosure under applicable law ("Confidential Information"). This prohibition does not apply to information required to be disclosed by law, legal process, and applicable professional standards, provided reasonable advance notice is given to the Department.
- h. The SDR will refer to the Department any public records request or subpoena received directly by the SDR for information to which the SDR has access as a result of or in the course of performance under this Agreement within at least three (3) days of receipt of the request.

Notwithstanding any provisions of this Agreement to the contrary, the SDR understands that the Department is bound by the provisions of the Florida Public Records Law and the SDR agrees to comply with the terms and conditions of the Public Records Requirements Addendum A that is hereby incorporated by reference and cooperate with the Department to the extent necessary to comply with the Florida Public Records Law. References to the "Contractor" in Addendum A are understood by the Parties to refer to the SDR.

3.7 DATA

- a. Data Centers: Except as otherwise provided in Addendum B, Data Security Requirements, or, if applicable, its Exhibit 1, the Contractor shall only use data centers located in the United States when processing and storing Non-Open Data under this Contract. For purposes of this paragraph, "Non-Open Data" means any data that is in the possession or under the control of the State or the Contractor that is confidential information exempt from

public disclosure pursuant to chapter 119, F.S.; personal information enumerated in section 501.171(1)(g), F.S.; and/or any data that is restricted from public disclosure based on federal or state laws and regulations, including, but not limited to, those related to privacy, confidentiality, security, personal health, business or trade secret information, and exemptions from state public records laws. Non-Open Data also includes data that any state agency, the Department of Legal Affairs, the Department of Financial Services, or the Department of Agriculture and Consumer Services is statutorily authorized to assess a fee for its distribution.

- b. Requirements of Section 501.171, F.S. If the Department shares data that is covered by section 501.171, F.S., with the Contractor in the process of fulfilling this Contract, the Contractor is responsible for fulfilling the requirements placed on the Department by section 501.171, F.S., at the Contractor's expense, if the Contractor is responsible for a breach of this data. Notwithstanding any limitations on liability addressed in the Contract, if the Contractor fails to fulfill the requirements placed on the Department by section 501.171, F.S., the Contractor shall reimburse the Department for all costs incurred in fulfilling such requirements.

3.8 WEBSITE

The SDR shall establish a website for the Receivership, providing the SDR's name, mailing and e-mail addresses, and telephone number(s); the notice of receivership and claims filing procedures; quarterly financial statements; any other reports and/or documents as directed by the Department; and contacts with relevant guaranty associations, if applicable. The website shall be limited to information regarding the Receivership, and shall not contain promotional or other information regarding the SDR's business. In the event of a termination of the SDR prior to the entry of an order closing the Receivership and discharging the Department, the SDR will transfer to the Department control of the website established for the Receivership. The Department may, in its sole discretion, prohibit or require specified website content.

3.9 FIDUCIARY BOND

The SDR will obtain and maintain a bond acceptable to the Department as follows:

- a. At the SDR's sole cost and expense, the SDR will obtain a bond in a form approved by the Department in an amount no less than \$1 million dollars for the sole benefit of the Department, providing for the faithful performance of the SDR's duties and the proper accounting for all assets and records held by the SDR in accordance with Chapter 631, Part I, Florida Statutes.
- b. The SDR must make an application for the bond within two business days of Court approval of the SDR contract and submit evidence of such bond within 10 days of application. The Department may require that the amount of the bond be increased or the form of the bond be changed at its discretion. The SDR must maintain this bond at or supplement it to an amount set by the Department and keep premiums thereon current until such time as the SDR has accounted for all assets coming into

its possession to the Department's satisfaction, and all of its duties under this Agreement are completed, as determined by the Department. The SDR must include the Department, Division of Rehabilitation and Liquidation, as a named beneficiary or certificate holder and immediately report any change in the status of the bond to the Department.

3.10 INSURANCE

At all times during this Agreement, the SDR, at its sole expense, or its subcontractors, at their sole expense, if any, shall maintain insurance coverage of such types and with such terms and limits as are commercially reasonable given the undertakings of this Agreement. The limits of coverage under each policy shall not be interpreted as limiting the liability and obligations under this Agreement. All insurance policies shall be through insurers licensed and authorized to write policies in Florida. Unless otherwise noted, insurance shall be maintained as follows:

- a. Insurance for professional liability, errors, omissions, negligence, and fidelity arising in connection with the SDR's duties under this Agreement in the amount of at least \$3,000,000 for each occurrence, or such other amount approved by the Department. Such insurance: (i) must cover the SDR's activities in the Receivership; (ii) must not be restricted to a specific professional service; and (iii) must not exclude coverage for causes of actions by the Department. Such coverage must be maintained by the SDR during the entire term of this Agreement, and must be paid by the SDR. Should the professional liability, errors and omissions policy procured by the SDR be a claims made policy versus an occurrence policy, then the SDR must also procure appropriate tail (or extended reporting) coverage that will provide the same amount and type of coverage for the SDR and include the Department as an additional insured for the pertinent statute of limitations time period after the primary claims made coverage expires.
- b. Workers' compensation insurance covering any employees of the SDR who are to perform services under the SDR Agreement with minimum limits of \$500,000 per occurrence, and \$1,000,000 policy aggregate. Such coverage must be maintained during the entire period of time that the SDR has employees providing services under this Agreement. Such coverage will be paid by the SDR.
- c. Property insurance, commercial general liability insurance and standard workers' compensation insurance as necessary to protect Receivership employees. The requirement for such insurance will be based upon the circumstances, and is subject to the approval of the Department. The cost of such coverage approved by the Department will be paid from the Receivership. Insurance covering property or employees of the SDR shall not be paid from the Receivership.
- d. Proof of insurance covering subcontractors for professional liability, errors, omissions or negligence in connection with their duties under this Agreement, including but not limited to, insurance covering legal and accounting services. Such insurance shall be in the amount of at least \$1,000,000 for each occurrence, or such other amount approved by the Department. Should the professional

liability, errors and omissions policy procured by the subcontractor be a claims made policy versus an occurrence policy, then the subcontractor must also procure appropriate tail (or extended reporting) coverage that will provide the same amount and type of coverage for the subcontractor and include the Department as an additional insured for the pertinent statute of limitations time period after the primary claims made coverage expires. Such coverage must be maintained during the entire period of time that a subcontractor provides services under this Agreement and will be paid by the subcontractor. The Department may waive the requirement for such insurance in the event that the work assigned to the subcontractor does not warrant insurance coverage.

- e. The SDR must provide the Department with proof of insurance prior to the effective date of this Agreement in one of the following forms:
 - 1. a current binder of coverage;
 - 2. a current policy of insurance; or
 - 3. a current certificate of insurance.
- f. The SDR must provide documentation that all insurance policies reflect the Department as an additional insured, and that the policy contains endorsements providing that the Department will be notified in writing at least thirty (30) days in advance of any notice of policy cancellation or material change in the policy.
- g. The Department shall have sole discretion in approving the adequacy of the insurance required under this Agreement. Unless otherwise permitted by the Department, all coverage required by this Agreement must be with an insurance company or carriers licensed to do business in the State of Florida and having an A.M. Best rating of at least "A," or the substantial equivalent from another rating agency. Lapse of any insurance coverage required herein shall be considered a breach of contract, and this Agreement may be canceled by the Department effective at the time and on the date of the lapse. Alternatively, the Department may, in its sole discretion, acquire, if possible, the required insurance for the SDR and hold the SDR responsible for such expense, which may be offset by the Department against compensation, if any, owed to the SDR.

IV. COMPENSATION

4.1 BILLING AND PAYMENT

The SDR shall provide a detailed billing of services and expenses to the Department on a monthly basis. Compensation and expenses of the SDR and SDR Staff shall be paid in accordance with the Department's Travel Guidelines, Exhibit "D". Billings will be reviewed by the Department, and disallowances of any bill, or portion thereof, will be handled in accordance with the Department's policies and procedures. The SDR understands that payment for all compensation and expenses of the SDR and their Staff shall be derived solely from the assets of the Receivership unless sufficient funds are not available from the Receivership, in which event payment may be made from the Insurance

Regulatory Trust Fund upon approval of the Chief Financial Officer and of the Legislative Budget Commission pursuant to Chapter 216, Florida Statutes, of an appropriated sum that is sufficient to cover the unreimbursed costs.

- a) Vendor Rights. The SDR should be aware of the following time frames:
- i. The SDR may be paid for reasonable fees and costs incurred prior to court approval of the contract provided that such reasonable fees and costs are directly related to the anticipated services necessary for implementing a plan for receivership immediately upon court approval. Such fees and costs shall be limited to no more than \$25,000.00.
 - ii. Upon receipt, the Department has five (5) working days to inspect and approve the services and expenses, unless Attachment A specifies otherwise.
 - iii. The Department's Contract Manager then has twenty (20) days from the latter of the date the invoice is received or the date the services and expenses are approved to request payment.
- b) Ombudsman. A Vendor Ombudsman has been established with the Department of Financial Services. The duties of this individual include acting as an advocate for vendors who may be experiencing problems in obtaining timely payment(s) from a State agency. The Vendor Ombudsman may be reached at (850) 413-5516.

4.2 RATES

Compensation of the SDR and SDR Staff will be in accordance with Exhibit "B" of this Agreement. The rates of the SDR and SDR Staff must be approved by the Court in accordance with §631.141(9)(a), Florida Statutes. The SDR shall submit in writing any proposed changes in any rates to the Department, and shall not file any application for rate increases under §631.141(9)(a) unless such rate is approved by the Department in writing. Such request shall not be submitted earlier than 2 years from the date of execution of the contract. The SDR is not authorized to make any payment based on an increased rate until the rate is approved by the Department and any necessary approval is obtained by the Court in accordance with §631.141(9)(a). After such approval is obtained, Exhibit "B" shall be amended to reflect the change in the rate.

4.3 TAXES

- a. Any federal, state, and local taxes on payments to the SDR and the SDR's Staff under this Agreement are the responsibility of the SDR and SDR Staff, as applicable. Payment of these taxes will not be made from the assets of the Receivership.
- b. The Department is exempted from payment of State sales and use taxes and Federal Excise Tax. The Contractor, however, will not be exempted from paying State sales and use taxes to the appropriate governmental agencies or for payment by the

Contractor to suppliers for taxes on materials used to fulfill its contractual obligations with the Department. The Contractor shall not use the Department's exemption number in securing such materials. The Contractor shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Contract. The Contractor shall provide the Department its taxpayer identification number upon request.

4.4 REIMBURSABLE EXPENSES

The SDR may charge the following expenses to the Receivership:

- a. Direct costs for postage incurred in connection of the administration of the Receivership.
- b. Direct costs for maintenance of inactive records of the Company, subject to the Department's approval of a cost-benefit analysis.
- c. Direct costs for the maintenance of the Receivership website.
- d. Travel expenses of the SDR and SDR Staff will be reimbursable subject to the terms of the Department's Travel Guidelines attached as Exhibit "D" to this Agreement, at rates which do not exceed those rates set for state employees and per diem as prescribed by §112.061, Florida Statutes.

4.5 NON-REIMBURSABLE EXPENSES

The payment of the SDR's office expenses, including but not limited to rent, utilities, equipment, and supplies, will be the responsibility of the SDR, and such expenses will not be paid directly from the Receivership, except as provided in Paragraph 4.4, Reimbursable Expenses.

V. STAFF

5.1 RESPONSIBILITY

The SDR will be primarily responsible for administering duties and responsibilities under this Agreement.

5.2 AUTHORIZED STAFF

The SDR shall use SDR Staff listed in Exhibit "B" as necessary to perform the SDR's duties, except as otherwise provided herein. The SDR will be solely responsible for supervision and performance of all duties assigned by the SDR to SDR Staff and subcontractors. The SDR, and not the Department, shall be the employer or contractor of SDR Staff and subcontractors and the SDR shall be responsible for all obligations resulting from employment or contracts with such persons or entities.

5.3 APPROVAL OF ADDITIONAL STAFF

- a. In the event the SDR determines that it is necessary to utilize an individual who is not listed in Exhibit "B", the SDR must obtain prior written approval from the Department, in addition to the Court, if necessary. After such approval is obtained, Exhibit "B" shall be amended to include such individual. The SDR must consider competency and cost when retaining additional SDR Staff.
- b. The rate for any individual added to Exhibit "B" must fall within the rate(s) already approved by the Court for that individual's area of expertise. If the rate of any individual to be added to the Exhibit "B" exceeds previously Court-approved rates, the SDR must seek approval from the Court pursuant to §631.141(9)(a), Florida Statutes.

5.4 REDUCTIONS IN STAFFING

In the event that any of the SDR Staff listed in Exhibit "B" become unavailable, are not performing services called for under this Agreement, or are no longer needed to perform services under this Agreement, the SDR must advise the Department immediately.

5.5 COMPANY EMPLOYEES AND CONTRACTORS

The SDR may utilize the Company's employees and contractors as necessary to continue the operation of the Company or fulfill policy obligations pursuant to Chapter 631, Florida Statutes. The SDR must receive Department approval regarding the extended use of the Company's employees or contractors, or the addition or substitution of such individuals or entities.

VI. ACCOUNTS

6.1 AUTHORIZED USE OF ACCOUNTS

The SDR shall establish an account to pay approved expenses of the Receivership, which shall be funded with assets of the Receivership. The SDR shall be responsible for requesting additional funds as necessary to pay approved expenses. The Department shall not be responsible for providing funding for the SDR under this Agreement except as expressly provided herein.

6.2 PROHIBITED ACTIONS

Under no circumstances shall the SDR commingle assets or accounts of the Receivership with assets or accounts of the SDR, other receiverships, individuals or entities.

VII. OVERSIGHT AND AUDITS

7.1 SUPERVISION OF SDR BY DEPARTMENT

The SDR shall not take any action contrary to the Department's direction. The Department shall have the authority to review all actions taken by the SDR and SDR Staff, and the Department may nullify or countermand any such actions at its discretion.

7.2 APPROVALS

- a. On those occasions where this contract requires the written approval of the Department, such approval may be given by the Department's Contract Manager(s) or by their designee(s).
- b. The Contract Manager(s) designee(s) may include, but are not limited to, individuals with subject matter expertise, such as Senior Managers for each section of the Division of Rehabilitation and Liquidation.
- c. Written approval may include, but is not limited to, emails between the Department and the SDR.

7.3 REVIEW OF EXPENSES

The Department shall have the authority to review all charges and expenses submitted by the SDR for payment under this Agreement, and may disallow any charges and expenses that are excessive, unnecessary, or not in compliance with the terms of this Agreement.

7.4 AUDITS

The SDR will make the books, records and accounts of the Receivership available to the Department for audit and will fully cooperate with any audit requested by the Department or ordered by the Court. In addition, the SDR understands its duty, pursuant to section 20.055(5), Florida Statutes, to cooperate with the Inspector General in any investigation, audit, inspection, review or hearing. The SDR will comply with this duty and ensure that SDR Staff and/or subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its subcontractors.

VIII. WARRANTIES OF THE SDR

The SDR warrants and represents the following:

8.1 QUALIFICATIONS AND LICENSES

The SDR and SDR Staff listed in Exhibit "B" have the expertise and facilities necessary to administer the Receivership in a cost effective and timely manner. The SDR and SDR Staff have, and will maintain at no expense to the Receivership, all licenses necessary for the performance of the SDR's obligations under this Agreement.

8.2 DELINQUENCIES

The SDR is not delinquent with respect to the payment of any monies due and owing the State of Florida, or any department, subdivision or unit thereof, including but not limited to the payment of taxes, employee benefits, and will not become delinquent during the term of this Agreement.

8.3 CONFLICTS OF INTEREST

The SDR agrees to notify the Department immediately upon discovery of any potential or actual conflict of interest which the SDR or its Staff may have in connection with the SDR's duties. The SDR agrees that the Department has the sole discretion to determine what circumstances constitute a conflict under this paragraph. In the event that the Department determines that the SDR or an individual or entity on SDR Staff has a potential or actual conflict of interest, the Department, may, at its discretion, terminate this Agreement, or prohibit such individual or entity from providing further services in connection with this Agreement.

The Department shall have sole discretion to determine whether an actual or potential conflict of interest can be waived.

8.4 EMPLOYMENT OF STATE EMPLOYEES

During the term of this Agreement, the SDR shall not knowingly employ or subcontract with any person (including any nongovernmental entity in which such person has any employment or other material interest as defined in section 112.312(15), Florida Statutes), in connection with this Agreement, who is employed by the Department.

8.5 AGREEMENT TO TERMS BY SDR STAFF

The SDR Staff have been informed of and understand the terms of this Agreement and have agreed to comply with all applicable terms of this Agreement.

8.6 NO REPRESENTATIONS

The Department and the SDR each represent that they have carefully read and understand the scope and effect of the provisions of this Agreement. Neither party has relied upon any representations or statements made by the other party hereto which are not specifically set forth in this Agreement.

8.7 CONVICTED VENDOR LIST AND DISCRIMINATORY VENDOR LIST

The following restrictions are placed on the ability of persons placed on the Convicted vendor list (287.133, F.S.) or the Discriminatory vendor (287.134, F.S.) list maintained by the Florida Department of Management Services:

- a. **Public Entity Crime.** A person or affiliate who has been placed on the Convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity;

may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

- b. **Discriminatory Vendors.** An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

The SDR shall notify the Department if it or any of its suppliers, subcontractors, or consultants have been placed on the Convicted Vendor List or the Discriminatory Vendor List during the life of the Agreement.

8.8. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS

- a. **Regulations.** The SDR and SDR Staff shall comply with all federal, state and local laws and regulations, including, but not limited to, those relating to nondiscrimination, wage and hours, social security, unemployment compensation, workers' compensation, licenses, and registration requirements.
- b. **Employment Eligibility Verification.** The Contractor shall register with and use the E-Verify System as defined in section 448.095, F.S., to verify the work authorization status of all newly hired employees. The Contractor shall comply with the requirements for contractors set forth in section 448.095(2), F.S. Pursuant to section 448.095(2)(c)1., F.S., if the Department has a good faith belief that the Contractor has knowingly violated section 448.09(1), F.S., the Department shall terminate the Contract. If the Department terminates the Contract pursuant to section 448.095(2)(c), F.S., the Contractor shall reimburse the Department for any additional costs the Department incurs as a result of terminating the Contract.
- c. **Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- d. **Rehabilitation Act.** If applicable, the SDR shall ensure that, as to its products and services it develops for the Department, electronic and information technology accessibility requirements of the Rehabilitation Act Amendments, 29 U.S.C. section 794 (and comparable state or local law or regulation) are met. Section 508 of the Rehabilitation Act Amendments, 29 U.S.C. section 794, compliance information on the supplies and services in this Agreement are available on a website indicated by the SDR. The Electronic and Information Technology

standard can be found at: <http://www.section508.gov/>.

- e. Scrutinized Companies. The following paragraph applies regardless of the dollar value of the goods or services provided:

By entering into this Agreement, the SDR certifies that it is not participating in a boycott of Israel. At the Department's option, the Agreement may be terminated if the SDR is placed on the Quarterly List of Scrutinized Companies that Boycott Israel (referred to in statute as the "Scrutinized Companies that Boycott Israel List") or becomes engaged in a boycott of Israel.

- i. The State Board of Administration maintains the "Quarterly List of Scrutinized Companies that Boycott Israel" at the following link: <https://www.sbafla.com/fsb/FundsWeManage/FRSPensionPlan/GlobalGovernanceMandates.aspx>

- ii. The following paragraph applies only when the goods or services to be provided are \$1 million or more:

By entering into this Agreement, the SDR certifies that it is not on the Scrutinized List of Prohibited Companies (referred to in statute as the "Scrutinized Companies with Activities in Sudan List" and the "Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List") and, to the extent that it is not preempted by Federal law, that it has not been engaged in business operations in Cuba or Syria. At the Department's option, the Agreement may be terminated if such certification (or the certification regarding a boycott of Israel) is false, if the SDR is placed on the Scrutinized List of Prohibited Companies; or, to the extent not preempted by Federal law, if the SDR engages in business operations in Cuba or Syria.

- iii. The State Board of Administration maintains the "Scrutinized List of Prohibited Companies" under the quarterly reports section at the following link: <https://www.sbafla.com/fsb/PerformanceReports.aspx>

IX. INDEMNIFICATION

9.1 SDR'S INDEMNIFICATION OBLIGATIONS

- a. The SDR shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the Department, and its officers, agency and employees, from suits, actions, damages, and costs of every name and description arising from or relating to:
 - i. personal injury or damage to real or personal tangible property alleged to be caused in whole or in part by SDR, its agents, employees, partners, or

subcontractors; provided, however, that the SDR shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the Department;

- ii. the SDR's breach of this Agreement or the negligent acts, misconduct, or omissions of the SDR;
- iii. violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right; provided, however, that the foregoing obligation shall not apply to a Department misuse or modification of the SDR's products or a Department's operation or use of SDR's products in a manner not contemplated by the Agreement.

b. The SDR's obligations under the preceding paragraph with respect to any legal action are contingent upon the Department's giving the SDR (1) written notice of any action or threatened action; (2) the opportunity to take over and settle or defend any such action at SDR's sole expense; and (3) assistance in defending the action at SDR's sole expense.

c. No provision in this Agreement shall require the Department to hold harmless or indemnify the SDR, insure or assume liability for the SDR's negligence, waive the Department's sovereign immunity under Chapter 631 and the laws of Florida, or otherwise impose liability on the Department for which it would not have otherwise been responsible. Any provision, implication or suggestion to the contract is null and void.

9.2 LIMITATION OF LIABILITY

The Department will not assume any liability for the acts, omissions to act, or negligence of the SDR, its agents, servants, and employees, nor will the SDR disclaim its own negligence to the Department. The SDR may allege that pursuant to Fla. Stat. 631.392 it is immune for actions within the scope of this agreement as a special agent of the Department as to third party actions. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. If the Department consents to a subcontract, the SDR will specifically disclose that this Agreement does not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Agreement.

X. RELATIONSHIP OF PARTIES

10.1 INDEPENDENT CONTRACTORS

The SDR and SDR Staff are performing their duties hereunder as independent contractors and shall not be considered agents, except to the extent they are special agents pursuant to Fla. Stat. 631.14(9)(a), or employees of the Department.

10.2 NON-EXCLUSIVE AUTHORITY

This Agreement is non-exclusive, and the Department may, without limitation and without recourse from the SDR, take any action or utilize its own personnel or contractors to perform any duties assigned to the SDR. In such an event, the Department shall provide notice by any method to the SDR of the action taken or the duties performed.

10.3 SOLE BENEFIT

This Agreement is for the sole benefit of the parties to this Agreement, and in no event will this Agreement be considered to be for the benefit of any third party, except as expressly provided herein. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. If the SDR subcontracts, the SDR will specifically disclose that this Agreement does not create any third party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Agreement.

10.4 ASSIGNMENT

Unless otherwise required by law, the SDR shall not sell, assign or transfer any of its rights, duties or obligations under the Agreement, or under any purchase order issued pursuant to this Agreement, without the prior written consent of the Department. In the event of any assignment, the SDR remains jointly and severally liable with the assignee for performance of the Agreement, unless the Department expressly modifies, waives, or discharges the SDR from such liability. The Department may assign the Agreement with prior written notice to the SDR of its intent to do so.

10.5 CHANGE OF OWNERSHIP

In the event of any change of ownership of SDR or a change of its officers or directors, the SDR shall immediately inform the Department. The SDR shall be responsible for demonstrating, to the Department's satisfaction, that such change will not adversely impact the performance of the SDR's duties. If the Department determines that such change will adversely impact the performance of the SDR's duties, the Department may terminate this Agreement as provided in Paragraph 14.2.

10.6 USE OF SUBCONTRACTORS

- a. The SDR may not subcontract any of the services required under this Agreement to any persons or entities not listed on Exhibit "B" without the prior written consent of the Department. Subcontractors must comply with all applicable requirements of this Agreement. The SDR is prohibited from conveying, assigning or otherwise disposing of its rights or obligations under this Agreement to any other person, corporation or entity without the previous consent and written approval of the Department.
- b. The SDR will ensure that the services rendered by any subcontractors comply with all requirements of this Agreement as if such services were rendered by the SDR.

The use of subcontractors does not relieve the SDR of their responsibility and obligation to meet all the requirements of this Agreement.

- c. The SDR must provide the Department with a copy of any subcontractor agreements upon execution of the subcontractor agreement.

XI. MERGER AND SAVINGS CLAUSE

11.1 ENTIRE AGREEMENT

This Agreement, including the attached exhibits and addenda, constitutes the entire Agreement of the parties, and the parties expressly agree that this Agreement supersedes any other contract, or agreement or understanding between them with respect to the Receivership.

11.2 AMENDMENTS

- a. Exhibits "A" and "C" may be amended by the Department as provided therein. Otherwise, this Agreement, including its Exhibits, can be modified only by a mutual written amendment signed by both parties. This Agreement may not be amended so as to conflict with the laws of the State of Florida. To the extent the laws of the State of Florida require the Department to include additional language in this Agreement, the SDR agrees to amend this Agreement, and to cooperate in the execution of any contract amendments necessary to effectuate such state law.
- b. A change of Contract Managers by either the Department or the SDR does not require a written amendment to the contract.

11.3 SEVERABILITY

If a court of competent jurisdiction deems any term or condition herein void or unenforceable, the other provisions are severable to that void provision and shall remain in full force and effect.

XII. RIGHTS AND REMEDIES

12.1 CONTROLLING LAW

This Agreement is governed by and construed in accordance with the laws of the State of Florida. Venue for any action or proceeding related to or arising out of this Agreement shall be proper only in Leon County, Florida. The SDR agrees that jurisdiction is proper in Leon County for any actions or proceedings related to or arising out of this Agreement.

12.2 WAIVER

The execution of this Agreement by the Department or any other conduct of any representative of the Department relating to this Agreement shall not be considered or construed as a waiver of immunity or of any rights, privileges, defenses or immunities available to the Department. A delay in the enforcement of any rights by the Department

will not constitute a waiver of such rights or a basis for estoppel. The Department does not waive any rights, privileges, defenses or immunities that are not stated in this Agreement.

12.3 REMEDIES

The Department expressly reserves the right to pursue any available remedies, in law or equity, for any breach or violation of any terms and conditions of this Agreement.

12.4 FORCE MAJEURE

The SDR shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the SDR or SDR Staff contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the SDR's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the SDR. In case of any delay the SDR believes is excusable, the SDR shall notify the Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten days after the cause that creates or will create the delay that first arose, if the SDR could reasonably foresee that a delay could occur as a result; or (2) if delay is not reasonably foreseeable, within 5 days after the date the SDR first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE SDR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Department. The SDR shall not be entitled to an increase in the Agreement price or payment of any kind from the Department for direct, indirect, consequential, impacts or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the SDR shall perform at no increased cost, unless the Department determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to the Department, in which case the Department may (1) accept allocated performance or deliveries from the SDR, provided that the SDR grants preferential treatment to Department with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the SDR for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Agreement quantity, or (3) terminate the Agreement in whole or in part.

12.5 DISPUTE RESOLUTION

In the event that a dispute arises under this Agreement, and if the SDR and the Department are unable to resolve the disputed issues, the parties shall attempt within thirty (30) days to resolve said disputed issues informally. In the event of a failure to informally resolve the disputed issues, the parties agree to engage in mediation before a certified Second Judicial Circuit Court mediator selected by the parties. If no agreement can be reached between the parties as to a mediator, the parties agree to use a mediator chosen by receivership court. The SDR shall pay its costs for the mediation from its own funds and not from receivership

[estate] funds. Such mediation shall be a pre-requisite to and condition of the filing of any complaint or petition regarding the disputed issues in any court having original jurisdiction located in Leon County, Florida.

XIII. CONSTRUCTION

13.1 HEADINGS

The section and paragraph headings used herein are descriptive only, and shall have no legal force or effect.

13.2 CONFLICTS

This Contract and any referenced attachment or other addendum embodies the entire agreement of the parties. This Contract supersedes all previous oral or written communications, representations, or agreements on this subject. In any conflict between this Contract and any referenced or attached addendum and exhibits, the terms and conditions of this Contract shall take precedence and govern.

XIV. COMMENCEMENT AND TERMINATION

14.1 EFFECTIVE DATE

Appointment as Special Deputy Receiver shall be effective on the date the court approves this Agreement. If SDR fails to obtain a bond as required herein or otherwise fails to qualify as the SDR, this Agreement will be terminated, unless the Department permits an extension of the date by which the SDR is required to obtain a bond.

14.2 TERMINATION BY DEPARTMENT

In the Department's sole discretion, the Department may terminate this Agreement with 30 days' written notice, with or without cause, and without penalty to the Department. This Agreement may also be terminated immediately by the Department in the event that the law governing the terms of this Agreement is amended so as to make this Agreement unenforceable or unnecessary.

14.3 TERMINATION BY MUTUAL CONSENT

If the Department and the SDR consent to the termination in writing, this Agreement shall terminate at a time agreed upon by the parties.

14.4 TERMINATION BASED ON INSUFFICIENCY OF FUNDS

If the SDR demonstrates to the Department's satisfaction that the assets of the Receivership are insufficient to permit the SDR to administer the estate, and the Department determines that funds for the payment of expenses should not be advanced in accordance with § 631.141(9)(b), or are not available from any other sources, this Agreement may be

terminated. Unless otherwise agreed upon by the parties, the termination shall be effective thirty (30) days after the Department determines that an insufficiency of assets exists.

14.5 TERMINATION BY SDR

The SDR may terminate this Agreement for reasons other than those described in Paragraph 14.3 or Paragraph 14.4 by providing written notice to the Department. In such an event, the Agreement shall terminate sixty (60) days after such notice unless otherwise agreed upon by the parties.

14.6 RETURN OF PROPERTY UPON TERMINATION

In the event that this Agreement is terminated prior to the SDR's completion of its duties under this Agreement, the SDR, at its sole expense, will immediately deliver all books, records, accounts and assets of the Receivership to the Department, including all records created or maintained by the SDR in connection with the services provided under this Agreement.

14.7 TERMINATION UPON COMPLETION OF DUTIES

Unless terminated as otherwise specified herein, this Agreement will remain in effect until 1) the SDR has obtained a Court order closing the Receivership and discharging the SDR and Department, and 2) all records or other assets of the Receivership have been delivered to the Department.

14.8 REIMBURSABLE EXPENSES AFTER TERMINATION

In the event that this Agreement is terminated prior to the entry of an order closing the Receivership and discharging the SDR and Department, the SDR shall be entitled to payment as provided in this paragraph. Fees and expenses incurred before the effective date of termination shall be handled in accordance with Paragraph IV of this Agreement. The SDR may be reimbursed only for the following fees and expenses incurred after the effective date of termination:

- a. Reasonable and necessary fees and expenses for services requested by the Department.
- b. Reasonable and necessary expenses incurred in transferring any records or other assets to the Department if the termination is made by the Department.

Any fees or expenses described in Subparagraphs A and B above shall be subject to the review and approval by the Department. The SDR shall not be entitled to reimbursement for any other fees and expenses incurred after the effective date of termination. The SDR shall be responsible for any legal expenses it incurs in connection with a termination of this Agreement.

14.9 CONTINUING OBLIGATIONS AFTER TERMINATION

Termination of this Agreement does not terminate the following obligations:

- a. The delivery of all books, records, accounts and assets; and
- b. Continued Performance. Each party agrees to continue performing its obligations under this Agreement while a dispute under section 12.5 is being resolved, except to the extent the issue in dispute precludes performance (dispute with the Department over compensation shall not be deemed to preclude performance) and without limiting either party's rights to terminate this Agreement for convenience or default.
- c. The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Contract, including without limitation, the obligations regarding confidentiality, proprietary interests, post-termination reimbursements, Exit Transition Services, records retention, public records, and provision of tail or continuing insurance coverage will survive termination, cancellation, or expiration of this Contract.
- d. Professional liability, errors and omissions policy appropriate tail (or extended reporting) professional liability coverage as required in section 3.10 for the pertinent statute of limitations time period after the primary claims made coverage expires.

XVI. NOTICES

15.1 NOTICES AND COMMUNICATIONS

The SDR shall direct all communications in connection with its duties under this Agreement to the designated Department's Contract Manager, or as otherwise directed. The designated Contract Manager for this contract for the Department is: Miriam Victorian and/or Yamile Benitez-Torviso. The designated Contract Manager for the SDR is Patrick H. Cantilo.

Unless otherwise provided in this Agreement or by the Department, all notices required under this Agreement shall be in writing and sent by hand delivery, facsimile, electronic mail, or United States mail, postage paid, and addressed as follows:

Name & Address of SDR


Patrick H. Cantilo
Cantilo & Bennett, L.L.P.
11401 Century Oaks Terrace, Suite 300
Austin, TX 78758
Phone: (512) 478-6000
Fax: (512) 404-6550
Email: phcantilo@cb-firm.com

Page 23 of 42

Miriam [Lorrie] Arterburn, Director
Miriam O. Victorian, Chief Attorney
Division of Rehabilitation and Liquidation
325 John Knox Road, The Atrium Building, Suite 101
Tallahassee, Florida 32301
Phone: (850) 413-4492
Fax: (850) 413-3992
Email: Lorrie.Arterburn@MyFloridaCFO.com


Each party to this Agreement will notify the other of any changes in its mailing address.

IN WITNESS WHEREOF, the Department and the SDR have caused this Agreement to be executed on the date indicated below.


The Florida Department of Financial Services, as Receiver
of Weston Property and Casualty Insurance Company

Date:

Aug 4 2022


Cantilo & Bennett, L.L.P.
As Special Deputy Receiver of
Weston Property and Casualty Insurance Company

Date:

Aug 3, 2022

SPECIAL DEPUTY RECEIVER AGREEMENT EXHIBIT "A"

STANDARDS OF PERFORMANCE AND DELIVERABLES

In performing its obligations under the Special Deputy Receiver Agreement, the SDR and the SDR Staff shall comply with the following standards. The Department may unilaterally amend these standards of performance in conformity with applicable statutes or rules, and with the written policies or procedures established by the Department. If any of the tasks described herein are not applicable or required, the SDR shall advise the Department prior to the deadline for performing the task. The SDR shall not be responsible for any actions required by the Standards of Performance that have been completed prior to appointment.

A. General Conduct

1. The SDR and SDR Staff shall comply with all terms of the Special Deputy Receiver Agreement, the Insurers Rehabilitation and Liquidation Act, and all applicable federal, state and local laws, regulations, and ordinances.
2. The SDR and SDR Staff shall comply with the Department's Standards of Ethics and Conduct for Special Deputy Receivers.
3. The SDR and SDR Staff shall conduct themselves in a professional manner in connection with the work performed under the Special Deputy Receiver Agreement and shall deal with all interested parties and the public in a courteous manner.
4. The SDR shall promptly handle claims filed against the Receivership, and, if a Guaranty Association becomes responsible for paying covered claims, shall promptly refer claims that may be covered to the appropriate Guaranty Association for processing.
5. The SDR shall promptly identify and collect assets belonging to the Receivership in a cost effective manner.
6. The SDR shall timely investigate any potential claims that the Receivership may have against responsible parties.
7. The SDR shall take necessary action to complete tasks in compliance with the applicable statute of limitations and within the timelines approved by the Department, and identify and address any issues that might delay or impede the completion of such tasks.
8. The SDR shall provide complete and accurate information in all applications, reports, cost-benefit analyses and responses, and shall submit such documents in a timely manner or by the deadlines designated by the Department's Contract Manager.

9. The SDR shall inform the Department of developments or material changes in status in the Receivership in a timely manner, and shall promptly advise the Department of any situations requiring approval.
10. The SDR shall be thoroughly prepared for, and ensure all of its sub-contractors and experts are thoroughly prepared for all case management conferences, hearings, status conferences, depositions, and any other activity regarding the Receivership or any litigation related to the Receivership.
11. The SDR shall assign tasks to SDR Staff qualified to perform the task at the lowest billing rate.
12. The SDR shall monitor the time billed by SDR Staff and subcontractors to ensure that tasks are performed in a cost-effective manner.
13. The SDR shall review all invoices submitted by SDR Staff, and ensure that charges conform to the rates allowed in the Special Deputy Receiver Agreement.
14. The SDR shall maintain detailed billings for all amounts charged, and adopt and implement the accounting and reporting systems required by the Department.
15. The SDR shall maintain all records in accordance with Chapter 631, Florida Statutes, and the Records Retention Policy promulgated by the Department, and shall review, categorize, and purge records in a timely manner, as appropriate.
16. The SDR shall promptly notify the Department of any material changes in status or personnel in the SDR's organization.

B. Takeover Activities

The SDR shall perform the following duties within the specified times set forth in this Agreement. Unless otherwise indicated, the time periods commence upon the SDR's appointment. The Department may extend or waive the deadlines, provided that requests for extensions or waivers are submitted in writing and approved prior to the deadline. If a duty has been fully performed prior to the SDR's appointment, the SDR shall verify and report its completion. The SDR shall report the performance of each of the following duties upon completion:

1. Within 24 hours of the SDR's arrival at the company site, the SDR shall establish security of all offices and facilities with active records. If the SDR determines that a security service is necessary, the SDR shall retain a bonded security service. If it is impossible to provide such security within the given time frame, interim security may be established through changing the locks, combinations and key card access to prevent entry onto the premises of such offices and facilities and to provide for safekeeping of assets.
2. Within 24 hours of the SDR's arrival at the company site, the SDR shall provide a briefing to the company's employees either in person or via remote means. Such briefing should explain the SDR's role, the receivership process, the status of the proceeding, the procedures for handling company functions, and other relevant subjects.

3. Within 24 hours the SDR shall assess the IT environment to assure that all electronic records are secure, that external access has been terminated and that an initial backup of all records is completed and stored in a secure off-site location.
4. Within 24 hours the SDR shall terminate any practices to over-write or otherwise obliterate computer backup media.
5. Within 48 hours, the SDR must make an application for the bond and shall submit evidence of the bond to the Department within 10 business days as required in Section 3.8 of this Agreement.
6. Within 48 hours, the SDR shall identify, locate, inventory and secure all liquid assets and securities owned by the company, including but not limited to cash and investment accounts, stocks, bonds, options, and Certificates of Deposit.
7. Within 48 hours, the SDR shall deliver a copy of the receivership order to all banks maintaining company accounts and convert signature card authorizations to designated Department or SDR staff.
8. Within 48 hours, the SDR shall establish procedures approved by the Department to respond to inquiries from interested parties (e.g., policyholders, creditors, and legal counsel) or the general public. All press inquiries should be directed to the Department's Press Office.
9. Within 48 hours, the SDR shall determine the cash needs of the company and whether any existing accounts that are to remain open are sufficient to continue the payment of anticipated expenses.
10. Within 48 hours, the SDR will establish an operating account for the Receivership. The SDR shall use the operating account to pay operational expenses of the estate and may maintain 124% of the average monthly expenses in the account. The remaining funds of the estate shall be held by the Department and received upon Department approval for estate expenses and SDR billings or expenses as necessary.
11. Within 72 hours, the SDR shall identify and cancel all unprocessed claim drafts and examine associated claim files.
12. Within 72 hours, the SDR shall make application or verify all insurance coverage (e.g., commercial liability, theft, fire, auto, etc.) reasonably necessary to insure all receivership property, including valuable documents, against risk of loss, and provide the Department with evidence of such insurance coverage within 10 business days.
13. Within 72 hours, the SDR shall review the company website, Twitter, Facebook, Instagram and any other social media accounts, to determine whether they should be continued, and whether they provide accurate and current information, and make changes if appropriate. The SDR shall ensure that the company's website and social media accounts, if maintained, contain accurate and current information at all times.
14. Within 5 business days the SDR shall provide notices pursuant to Section 631.341, F.S.

15. Within 5 business days, the SDR shall review the company's existing controls and procedures for processing and paying claims, reserve methodology, performing mandatory CMS Secondary Payor Reporting, collecting reinsurance, agents' balances, and other receivables, and handling litigation. The SDR shall address any substantive deficiencies in such procedures.
16. Within 5 business days, the SDR shall notify all affected Guaranty Associations of the Liquidation Order and if applicable, begin coordination and mapping of the company's policy and claims systems data using UDS format as described in the NAIC UDS Operations Manual. UDS submission includes but is not limited to, UDS A, G, F, I, B, C, and D records. Completed transmission to the Guaranty Funds shall occur within 30 days unless approved by the Department.
17. Within 10 business days, the SDR shall identify and document all loans to principal parties, policy loans, real estate and mortgage loans or other loans made or held by the company.
18. Within 10 business days, the SDR shall arrange for appropriate background checks necessary to comply with the Department's Standards of Ethics and Conduct for Special Deputy Receivers.
19. Within 10 business days, the SDR shall identify any litigation in which the Company or an insured is a party and ensure the appropriate Notices of Stay will be filed by the Company's counsel of record. The SDR shall ensure that any critical deadlines are met, if applicable.
20. Within 10 business days, the SDR shall review the qualifications of company staff and staffing needs, and make a recommendation to the Department regarding the retention or dismissal of employees.
21. Within 10 business days, the SDR shall deliver a copy of the Receivership order to all vendors of goods and services to the company.
22. Within 48 hours the SDR shall establish a website for the Receivership, and shall add a link from the company website to the SDR's website. The SDR shall also provide the link to the Department so it may be published on the Department's website. The SDR is responsible for updating the website on a continual basis throughout the life cycle of the estate with pertinent information regarding the estate.
23. Within 10 calendar days of the date of liquidation of the Receivership, as required by the Liquidation Order and/or Chapter 631, Florida Statutes, the SDR shall publish notice specifying the time and place fixed for the filing of claims once each week for three consecutive weeks in the Florida Administrative Register published by the Florida Secretary of State; at least once in the Florida Bar News, and in all states where the Company may have issued insurance policies, using methods of publication similar to those being used in Florida.
24. Within 14 business days, the SDR shall inventory fixtures, furniture, and equipment (FF&E) and determine the ownership interest in all FF&E.

25. Within 30 days, the SDR shall inventory claim files, and segregate pending claim files, litigation files and data for transfer to the appropriate Guaranty Association and make recommendations for storage or destruction as applicable.
26. Within 30 days, the SDR shall provide notice of the Receivership to all parties in litigation in which the Company or an insured is a party.
27. Within 30 days, the SDR shall review, analyze and document all reinsurance and agency agreements.
28. Within 30 days, the SDR shall review and document all company leases and contracts and determine appropriate action.
29. Within 30 days, the SDR shall assess the need for one or more property-management contracts for real estate.
30. Within 30 days, the SDR shall enter into a mortgage loans servicing contract for company owned mortgage loans.
31. Within 30 days, the SDR shall make a preliminary determination of any missing assets, preferential transfers, illegal transactions, fraud or malfeasance regarding the company.
32. Within 45 days, the SDR shall bring the company's financial statements current to the date of receivership and shall provide the Department with an initial inventory of assets as of the date of receivership.
33. Within 45 days, the SDR shall reconcile all agent balances and reinsurers for outstanding amounts due, and arrange to make written demand for payment.
34. Within 60 days, the SDR shall identify non-liquid assets and provide documentation of each asset including maturity dates and develop a plan for marshaling and converting these assets.
35. Within 60 days, the SDR shall appraise all company owned Furniture Fixtures & Equipment that is not needed for Company operations.
36. Within 60 days, the SDR shall complete a marketing plan for all real estate. Unless approved in writing by the Department prior to sale, the sales price shall not be less than 90 percent of the appraised value of the real estate sold as established by an independent appraisal authorized by the SDR.
37. Within 60 days the SDR shall submit financial and management reports as required by the Department and monthly thereafter.
38. Within 60 days, if the receivership date and if the receivership order does not specify a claims-filing deadline, the SDR shall file an application with the Receivership Court to set a

claims-filing deadline which should be no later than 18 months after the liquidation order, unless extended by the Receivership Court.

39. Within 90 days after the entry of the initial receivership order, the SDR shall file financial reports with the Receivership Court, unless extended by the Department.

40. Within 90 days after entry of the initial receivership order, the SDR shall file a receivership plan with the Department, unless extended by the Department.

41. The SDR shall vacate the company's premises, appraise and dispose of all remaining FF&E, return leased FF&E, and transfer the company books and records to the SDR's offices, or otherwise dispose or transfer the records, with the Department's approval. If the SDR determines that relocation is not feasible within three (3) months, the SDR shall provide the Department with a cost-benefit analysis of maintaining the company's operations, and a timeline for transferring the company books and records.

C. Administrative Activities

The SDR shall perform the following duties within the specified times:

1. The SDR shall review invoices within 14 days of submission to determine if they are reasonable and comply with the terms of the SDR Agreement and any policies of the Department and approve them for payment. Within 20 days of submission, the SDR will submit a request to the Department to fund a designated account for invoice payments. Such request shall include summary of invoices by vendor in a form approved by the Department. The SDR shall pay all approved invoices within 40 days of the date of the invoice and submit copies of the invoices to the Department in the monthly report of the Receivership's activities.
2. The SDR shall provide all information requested by the Department within 5 days, unless the Department specifies a different deadline.
3. The SDR shall prepare and submit cost-benefit analysis to the Department on all proposed activities involving anticipated costs of \$10,000 or more, or the sale is comprised of assets in excess of \$10,000 or other amount as directed by the Department. The cost-benefit analysis is due as soon as practicable before the filing of any application or performance of the activity and must allow for sufficient time for review and approval by the Department. The cost-benefit analysis should provide an explanation for any material discount or compromise on the collection of the asset.
4. The SDR shall file a motion to approve any increase in compensation and expenses, along with the proposed increases as required by § 631.141(9), Florida Statutes within 10 days of approval by the Department.
5. The SDR will promptly update the Fee Schedule, (Exhibit "B") to the Special Deputy Receiver Agreement, when required and will not allow billing for any staff or firm that has not been expressly approved by the Department and listed in the Fee Exhibit.

6. The SDR shall submit drafts of any pleadings to the Department at least 7 days before the proposed filing date. An initial draft of the Final Report, including a closing budget and exhibits, shall be submitted at least thirty (30) days before the proposed filing date with a final draft submitted at least fourteen (14) days prior to anticipated filing.
7. The SDR shall submit a financial statement and a monthly report of the Receivership's activities to the Department no later than the 15th day of each month, unless otherwise adjusted by the Department. These reports shall be filed in a format approved by the Department.
8. The SDR shall file a financial report under Rule 1.620, Florida Rules of Civil Procedure on a quarterly basis, or as otherwise ordered by the Receivership Court. The report shall be filed on the 15th day of the month following the end of the quarter, or as otherwise ordered by the Receivership Court.
9. Within 120 days after the liquidation order and at least semi-annually after that, the SDR must make a recommendation to the Department regarding early access distributions and if approved, file a motion requesting court approval.
10. The SDR shall submit a report on claims settled or determined under Section 631.182, F.S. to the Receivership Court for approval in intervals as determined by the Department.
11. The SDR shall identify and index all records that are required for retention after the closing of the receivership no less than thirty (30) days before the proposed date to file the Final Report.

SPECIAL DEPUTY RECEIVER AGREEMENT - EXHIBIT "B"
Fee Schedule

CANTILO & BENNETT, L.L.P.

NAME	POSITION	HOURLY RATE
Mark F. Bennett	Partner	\$375
Patrick H. Cantilo	Partner	\$375
Kristen W. Johnson	Partner	\$375
Josh O. Lively	Partner	\$375
Michael P. Marcini	Partner	\$375
James A. Martin	Partner	\$375
Pierre J. Riou	Partner	\$375
Susan E. Salch	Partner	\$375
Joseph N. West	Partner	\$375
Jose M. Rangel	Of Counsel	\$350
Douglass R. Coonfield	Associate	\$225
Kyle T. Osborn	Associate	\$225
Jeffrey L. Collins	Legal Assistant	\$150
Isaiah Samaniego	Legal Assistant	\$150
Sheri L. Hiroms	Practice Manager	\$115
Denise K. Doyle	Litigation Administrator	\$75
Davianne M. Baham	Legal Support Assistant	\$50
Olga Rebeles	Legal Support Assistant	\$50
Linda Thomas	Legal Support Assistant	\$50
Paul Samilpa	Document Specialist	\$50

PALOMAR FINANCIAL, LC

Brent J. Andrews	Director of Information Services	\$225
Lita Herrera	Staff Accountant	\$160
Kelly Reed	Staff Accountant	\$160
Ryan Trotter	Accountant	\$175
Nicole M. Wilkins	Director of Accounting	\$225

**SPECIAL DEPUTY RECEIVER AGREEMENT
EXHIBIT "C"**

**STANDARDS OF ETHICS AND CONDUCT
FOR SPECIAL DEPUTY RECEIVERS**

The Special Deputy Receiver (the "SDR") acts on behalf of, the Florida Department of Financial Services in its capacity as Receiver. An SDR must conduct itself at all times in a manner that promotes the utmost public confidence in its integrity, impartiality and professionalism. These Standards of Ethics and Conduct are established to provide an SDR, its employees and subcontractors with guidelines for their conduct in relation to their Receivership responsibilities.

The SDR and the SDR's employees and subcontractors must conduct themselves in accordance with these Standards of Ethics and Conduct. An SDR's breach of any of these Standards of Ethics and Conduct may subject the SDR to dismissal, at the Department's discretion. In the event that an SDR's employee or subcontractor breaches any of these Standards of Ethics and Conduct, they may be prohibited from providing services to a receivership, at the Department's discretion. The SDR must make a reasonable effort to determine that its employees and subcontractors conduct themselves in accordance with these Standards of Ethics and Conduct.

The following activities by an SDR, or an SDR's employees or subcontractors, constitute a potential breach of these Standards of Ethics and Conduct:

1. Any conviction of, or plea of guilty or nolo contendere to: (a) a felony; (b) a misdemeanor involving embezzlement, theft, larceny, fraud, or similar crime, (c) a violation of any securities law or insurance law, or (d) any other crime involving moral turpitude.
2. Any finding by a court of fraud, breach of fiduciary duty, bad faith, conversion, or any other similar action.
3. Any entry of a civil judgment or imposition of fines or penalties in an action brought by a governmental entity against: (a) the person or (b) a business in which the person is, or was at the relevant time, an owner or principal.
4. Any situation that could create an appearance of impropriety or cast doubt on the integrity, impartiality and professionalism of the person, including any personal conduct involving or affecting the subject matter of the person's duties.
5. Any actual or potential conflict of interest with the Department.

In the event that any actual or potential conflict of interest occurs or becomes known to the SDR, the SDR must immediately make full disclosure, which may include an explanation of any mitigating factors and circumstances the SDR believes should be taken into consideration.

The Department reserves the right to determine whether any situation renders an SDR unfit to serve, or represents an actual or potential conflict of interest that cannot be waived.

These Standards of Ethics and Conduct shall not be construed as a waiver of any legal remedies available to the Department.

SDR'S ATTESTATION

I have read the above Standards of Ethics and Conduct and understand my obligation to follow them.

Peter H. Conter
Name

August 3, 2022
Date

**SPECIAL DEPUTY RECEIVER AGREEMENT
EXHIBIT "D"**

DEPARTMENT'S TRAVEL GUIDELINES

1. General Provisions

A. Scope of Policy

The term "travel expenses" as used in this Policy, shall refer to expenses for transportation, meals, lodging and other acceptable expenses.

B. Applicability of Policy

This Policy is applicable to the SDR, its staff and subcontractors.

C. Payment of Travel Expenses

Travel expenses which are reasonable and necessary to fulfill the SDR's duties may be reimbursed from the receivership estate as set forth herein. The SDR's compliance with this policy is a prerequisite to obtaining reimbursement for expenses.

2. Travel Expenses Permitted

A. Routine Travel Expenses

Reasonable routine travel expenses are allowable, subject to the terms of this Policy. The term "routine travel" as used herein shall include travel to hearings, status conferences, SDR conferences, and meetings with the Department's representatives. Travel expenses must receive prior written approval.

The SDR shall minimize travel expenses to the company's office through proper planning and coordination. The administration of the Receivership from the company's offices may continue, subject to Department's prior written approval, until the administration can be transferred to the SDR's office.

Travel expenses will be reimbursed by the Department with submission of proper documentation and actual receipts. In complying with section 112.061, Florida Statutes, these Billing & Travel Guidelines may have additional requirements than those listed in the statute. Such expenses are subject to the following requirements:

- The Department's Division Director or Contract Manager must approve all travel taken on behalf of the Department in advance, in each instance, with no exceptions.
- Airfare for travel is coach class only. Any necessary change in traveler or flight changes require prior written authorization by the Contract Manager of the estate.

Per Diem and Subsistence reimbursement:

- "Class A Travel": Continuous travel of 24 hours or more away from official headquarters as defined in *Section 112.061, F.S.*
- "Class B Travel": Continuous travel of less than 24 hours that involves overnight absences from official headquarters as defined in *Section 112.061, F.S.*
- "Class C Travel": Travel for short or day trips that do not involve overnight absences from official headquarters as defined in *Section 112.061, F.S.* A traveler shall not be reimbursed on a per diem basis for Class C travel, but shall receive subsistence as provided in this section, which allowance for meals shall be based on the following schedule:
 1. Breakfast—when travel begins before 6 a.m. and extends beyond 8 a.m.
 2. Lunch—when travel begins before 12 noon and extends beyond 2 p.m.
 3. Dinner—When travel begins before 6 p.m. and extends beyond 8 p.m., or when travel occurs during nighttime hours due to special assignment.
- An authorized traveler who is on Class A or B travel can elect to be reimbursed for the actual out-of-pocket expenses for lodging instead of per diem, subject to the limitations imposed by Section 112.061, F.S., and any others herein, whichever would result in lower cost.
- Meals for travel: allowance up to \$36.00 per day based on a "full" day of travel. "Full" day means travel beginning before 6 a.m. and extending beyond 8 p.m. (Breakfast: \$6, Lunch: \$11 and Dinner: \$19).
- "Mileage: 44.5 cents per mile in private vehicle (if travel reimbursement provision is contained in contract) for authorized travel. Private vehicles may be utilized for travel only when the use of a rental car is not feasible, and must be approved in advance by the Department.
- Rental car: Travelers are required to use "Compact" rental vehicles. Travelers will not be reimbursed for use of a car larger than the "Compact" on the rental car contract because of the size or stature of the individual unless the requirements of the ADA are met. Any upgrade to a rental car class other than "Compact" must be justified in writing as the most economical and efficient method based on the number of persons traveling together and/or the amount of equipment being transported and submitted with the travel reimbursement voucher.
- Hotels: not to exceed \$175.00 per night for Florida accommodations. Prior written approval must be provided to justify hotel rates that exceed \$175 per night. (room rate only). Out-of-state travel for hotels will vary depending on location of travel and must be approved in advance by the Department.
- Cabs, tolls, and standard garage parking. (Valet parking rates and tips are not reimbursable.)

Those items listed above are general travel expenses reimbursed by the Department for travel. Other travel expenses may be paid, but only with prior written authorization by the Department to incur the expense.

Clear, original receipts are required for all expenses over \$1.00. Credit card statements are not acceptable.

3. Prohibited Travel Expenses

A. Commuting to SDR's Office

The SDR shall not be reimbursed for travel from a place of residence to the SDR's office.

B. Conferences and Seminars

With the exception of SDR conferences and any other conferences expressly approved in writing by the Department, the SDR will not be reimbursed for any travel expenses to conferences and seminars.

In the event that an SDR retains an employee or subcontractor who will require travel over an extended period of time, the SDR may include the cost of the travel in the cost-benefit analysis for the project.

C. Billing for Travel Time

All travel time during which work is not actually being performed may not be billed at more than half the hourly rate.

D. Audit of Travel Expenses

The Department will audit SDR invoices for compliance with the foregoing guidelines. If the need for reduction or disallowance of any of the entries is found, the SDR will be notified. Failure to supply the documentation required by these guidelines may result in the delay, disallowance of payment, and/or rejection of the invoice. The guidelines were developed to aid the Department in monitoring the efficiency, progress and expense of contracted SDR services.

Reasons for disallowance of payment include, but are not limited to the following:

1. Lack of adequate invoice supporting documentation, such as clear, original receipts.
2. Duplication
3. Lack of prior approval for travel.
4. Travel time billed at more than half the hourly rate.
5. Travel expense incurred between offices without prior written approval.
6. Invoice for services rendered or reimbursable expenses incurred submitted to the Department ninety (90) days or more from the date services were rendered or reimbursable expense was incurred.

DEPARTMENT OF FINANCIAL SERVICES
Public Records Requirements

Addendum A

- 1. Public Records Access Requirements.**
 - a. If the Contractor is acting on behalf of the Department in its performance of services under the Contract, the Contractor must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by the Contractor in conjunction with the Contract (Public Records), unless the Public Records are exempt from public access pursuant to section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
 - b. The Department may unilaterally terminate the Contract if the Contractor refuses to allow public access to Public Records as required by law.

- 2. Public Records Requirements Applicable to All Contractors.**
 - a. For purposes of the Contract, the Contractor is responsible for becoming familiar with Florida's Public Records law, consisting of chapter 119, F.S., section 24(s) of Article I of the Florida Constitution, or other applicable state or federal law (Public Records Law).
 - b. All requests to inspect or copy Public Records relating to the Contract must be made directly to the Department. Notwithstanding any provisions to the contrary, disclosure of any records made or received by the State in conjunction with the Contract is governed by Public Records Law.
 - c. If the Contractor has a reasonable, legal basis to assert that any portion of any records submitted to the Department is confidential, proprietary, trade secret, or otherwise not subject to disclosure ("Confidential" or "Trade Secret") under Public Records Law or other legal authority, the Contractor must simultaneously provide the Department with a separate redacted copy of the records the Contractor claims as Confidential or Trade Secret and briefly describe in writing the grounds for claiming exemption from the Public Records Law, including the specific statutory citation for such exemption. The un-redacted copy of the records must contain the Contract name and number and must be clearly labeled "Confidential" or "Trade Secret." The redacted copy of the records should only redact those portions of the records that the Contractor claims are Confidential or Trade Secret. If the Contractor fails to submit a redacted copy of records it claims are Confidential or Trade Secret, such action may constitute a waiver of any claim of confidentiality.
 - d. If the Department receives a Public Records request, and if records that have been marked as "Confidential" or "Trade Secret" are responsive to such request, the Department will provide the Contractor-redacted copies to the requester. If a requester asserts a right to the portions of records claimed as Confidential or Trade Secret, the Department will notify the Contractor that such an assertion has been made. It is the Contractor's responsibility to assert that the portions of records in question are exempt from disclosure under Public Records Law or other legal authority. If the Department becomes subject to a demand for discovery or disclosure of the portions of records the Contractor claims as Confidential or Trade Secret in a legal proceeding, the Department will give the Contractor prompt notice of the demand, when possible, prior to releasing the portions of records the Contractor claims as Confidential or Trade Secret (unless disclosure is otherwise prohibited by applicable law). The Contractor shall be responsible for defending its determination that the redacted portions of its records are Confidential or Trade Secret. No right or remedy for damages against the Department arises from any disclosure made by the Department based on the Contractor's failure to promptly legally protect its claim of exemption and commence such protective actions within ten days of receipt of such notice from the Department.

- e. If the Contractor claims that the records are "Trade Secret" pursuant to section 624.4213, F.S., and all the requirements of section 624.4213(1), F.S., are met, the Department will respond to the Public Records Request in accordance with the provisions specified in that statute.
 - f. The Contractor shall ensure that exempt or confidential and exempt Public Records are not disclosed except as permitted by the Contract or by Public Records Law.
- 3. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.**
If the Contractor is a "contractor" as defined in section 119.0701(1)(a), F.S., the Contractor shall:
- a. Keep and maintain Public Records required by the Department to perform the service.
 - b. Upon request, provide the Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119, F.S., or as otherwise provided by law.
 - c. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the Contractor does not transfer the Public Records to the Department.
 - d. Upon completion of the Contract, transfer, at no cost, to the Department all Public Records in possession of the Contractor or keep and maintain Public Records required by the Department to perform the service. If the Contractor transfers all Public Records to the Department upon completion of the Contract, the Contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the Contractor keeps and maintains Public Records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to the Department, upon request from the Department's custodian of Public Records, in a format specified by the Department as compatible with the information technology systems of the Department. These formatting requirements are satisfied by using the data formats as authorized in the Contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the Contractor is authorized to access.
- e. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT PUBLIC RECORDS AT:**

Telephone: (850) 413-4408
Email: Rehab.PublicRequest@myfloridacfo.com
Mailing Address: The Department of Financial Services
 Division of Rehabilitation and Liquidation
 Legal Section
 325 John Knox Road, Atrium Building
 Suite 101
 Tallahassee, Florida 32303

A Contractor who fails to provide the Public Records to the Department within a reasonable time may be subject to penalties under section 119.10, F.S.

DEPARTMENT OF FINANCIAL SERVICES
Data Security Requirements

Addendum B

1. Definitions.

For the purposes of this Addendum, the following terms are defined as set forth below:

- a. Cloud Computing – A service, solution, or option as defined in 60GG-4.001, F.A.C.
- b. Cloud Service Provider – Person, organization, or entity responsible for making a cloud computing service, solution, or option available to a consumer.
- c. Contractor – The entity selected to provide goods or services to the Department and its employees, officers, subcontractors, agents, representatives, distributors, and resellers.
- d. Data-at-Rest – Stationary electronic or digital Open Data and Non-Open Data stored in any digital form or medium.
- e. Department – The Department of Financial Services, an agency of the State.
- f. Breach – A confirmed event that compromises the confidentiality, integrity, or availability of information or data.
- g. Non-Open Data – Any data that is in the possession or under the control of the State or the Contractor that is confidential information exempt from public disclosure pursuant to chapter 119, Florida Statutes, (F.S.); personal information enumerated in section 501.171(1)(g), F.S.; and/or any data that is restricted from public disclosure based on federal or state laws and regulations, including, but not limited to, those related to privacy, confidentiality, security, personal health, business or trade secret information, and exemptions from state public records laws. Non-Open Data also includes data that any state agency, the Department of Legal Affairs, the Department of Financial Services, or the Department of Agriculture and Consumer Services is statutorily authorized to assess a fee for its distribution.
- h. Open Data – Any and all data meeting the definition of "Open data" in section 252.004, F.S.
- i. State – The state of Florida.

2. Data Security.

- a. The Contractor shall meet or exceed the National Institute of Standards and Technology (NIST) Framework for Improving Critical Infrastructure Cybersecurity, Version 1.1, as detailed in Rule Chapter 60GG-2, Florida Administrative Code (F.A.C.).
- b. The Contractor shall comply with section 501.171, F.S., to protect and secure Non-Open Data.
- c. The Contractor shall provide notice to the Department within twenty-four (24) hours of confirmation that a Breach of Non-Open Data has occurred or within twenty-four (24) hours of the Contractor having a reasonable belief that a Breach of Non-Open Data has occurred. Notice must be provided to the Department's Security Operations, Office of Information Technology, via email to DFS-SecurityOpsAlerts@my.floridaelect.com or via telephone at (850) 413-2231.
- d. If Non-Open Data will reside in the Contractor's system, the Department may require the Contractor to conduct, at the Contractor's expense, an annual network penetration test or security audit of the Contractor's system(s) on which any Non-Open Data resides (test/audit). But such tests/audits need not duplicate those conducted by the Contractor for other purposes if said tests/audits fulfill the Department's requirements. If this Contract duration is less than one year, the Department's right to require that the Contractor conduct said tests/audits can be exercised at any time. If the Contractor conducts the test/audit, then the Contractor shall prepare an assessment report and submit it to the Department for its review. Each assessment report shall contain, at a minimum, any exceptions or deficiencies and whether those exceptions or deficiencies are correctable. The Contractor shall ensure the Department's Contract Manager's receipt of the assessment report that resulted from the test/audit

in Adobe Acrobat PDF (.pdf) format, within ten (10) Business Days of the Contractor's completion of the report, or within ten (10) days after the Department's request of the report (if the test/audit had been conducted within the prior twelve (12) months on the Contractor's system(s) on which any of the Department's Non-Open Data resides). If any said test/audit detects any exceptions or deficiencies, the Contractor shall cooperate with the Department by responding to and promptly correcting the correctable items.

- e. If the Contractor is a Cloud Service Provider, the Contractor shall engage a certified public accounting firm on an annual basis, and at no additional cost to the Department, to perform a Statement on Standards for Attestation Engagements SSAE 18 SOC 2 Type II audit in accordance with the professional standards established by the American Institute of Certified Public Accountants (AICPA) for all systems used to comply with data security obligations under this Contract. The Contractor shall ensure the Department's Contract Manager's receipt of the annual audit report in Adobe Acrobat PDF (.pdf) format, within ten (10) Business Days of the Contractor's receipt of the report from the auditor. The Department's expectation is that all audits conducted will find the Contractor in full compliance with all data security standards. If an auditor notes any exceptions or deficiencies the Contractor shall provide its audit response and identify any correctable items to the Department.

3. Disclosure Restrictions.

The Contractor shall not divulge to any third party any Non-Open Data obtained by the Contractor in the course of performing its contracted work unless required by law or legal process, and only after notice to the Department. The Contractor will not be required to keep confidential any information that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's Non-Open Data, or information that is otherwise obtainable under State law as a public record.

4. Data Access and Storage.

- a. No Data-at-Rest will be stored outside of the continental United States of America regardless of method or medium, except as required by law or approved in writing by the Chief Financial Officer (CFO) or the CFO's designee.
- b. Access to Non-Open Data will only be available to personnel with a legitimate business need who are approved and authorized by the Department.
- c. Requests for remote access shall be submitted to the Department's Contract Manager. With approval from the Department, third parties may be granted time-limited terminal service access to IT resources as necessary for the fulfillment of related responsibilities. Remote connections are subject to detailed monitoring via two-way log reviews and the use of other tools. When remote access is no longer needed, the Contractor shall notify the Department's Contract Manager, and access shall be promptly removed.
- d. Remote access to data other than Open Data from outside of the continental United States is prohibited unless approved in writing by the CFO or the CFO's designee.
- e. If required by the Department, the Department will escort any remote support access and maintain visibility of the Contractor actions during remote support sessions.

5. Offshore Storage of Data.

If a legitimate business need exists that requires the storage of Data-at-Rest outside the continental United States of America, the Contractor may submit a request in writing to allow data to be stored offshore. If such a request is approved, it shall be in writing and signed by the CFO or the CFO's designee. Any such approval will be incorporated into the Contract as Exhibit 1 to this Addendum B, and the Contractor must comply with any additional restriction contained therein. The Department may rescind its approval for data storage outside of the continental United States of America at any time, if:

- a. The Contractor has not complied with terms of Exhibit 1 to Addendum B;
- b. The Contractor has not complied with any provision stated in this Addendum B, or

c. The CFO or the CFO's designee determines rescission is in the best interest of the State.

6. Data Encryption and Protection.

The Contractor shall encrypt all data transmissions containing Non-Open Data.

7. Breach and Liability.

The Contractor agrees to protect, indemnify, defend, and hold harmless the Department from and against any and all costs, claims, demands, damages, losses, and liabilities arising from or in any way related to the Contractor's breach of this Addendum B or Exhibit 1 to this Addendum B (when applicable) or the negligent acts or omissions of the Contractor related to this Addendum B or Exhibit 1 to this Addendum B (when applicable).

8. Separate Security Requirements.

Any Criminal Justice Information Services-specific and/or Health Information Portability and Accountability Act-specific security requirements are attached in a separate addendum, if applicable.

9. Ownership of Non-Open Data.

Non-Open Data shall be made available to the Department upon its request, in the form and format reasonably requested by the Department. Title to all Non-Open Data will remain property of the Department and/or become property of the Department upon receipt and acceptance. The Contractor shall not possess or assert any lien or other right against or to any Non-Open Data in any circumstances.

10. Cooperation with the State and Third Parties.

The Contractor agrees to cooperate with the following entities: the State, the State's other contractors, the State's agents including properly authorized governmental entities, the State's authorized third parties such as technology staff under contract with the State, and other properly authorized individuals who directly or indirectly access Non-Open Data on behalf of any of the entities listed in this section. The Contractor shall also provide reasonable access to the Contractor's Contract personnel, systems, and facilities to these same entities, when reasonably requested by the Department. The Contractor agrees to impose these same requirements on all subcontractors providing services under this Contract.