

# Sheriff



**Larry Ashley, Okaloosa County Sheriff**

1250 Eglin Parkway • Shalimar, Florida 32579-1234  
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Information Request: January 7, 2011

Ref: OCSO Insurance Coverage Declarations and Recap Documents. UPDATE

**On January 7, 2011 Mr. Michael Barnes clarified the request for public records for OCSO Liability Insurance Records. The requested information and documents are below.**

Major Peacock: I appreciated your prompt response on my 01/06/11 request. For clarification of my request, please provide the current copy of the basic agreement and actual wording for two OCSO coverage declarations of the Florida Sheriff's Self-Insurance Fund ("Fund"). Specifically, please provide the basic Fund agreement and the wording that explains terms, limits, definitions, regulations, conditions, exclusions, and limitation of Coverage (A) Law Enforcement Liability and Public Officials Liability of the Fund and Coverage (I) Employee Dishonesty Bond of the Fund agreement which actual affords coverage. Thank you. —MJB—

**See attached documents.**



The Okaloosa County Sheriff's Office is accredited by the  
Commission for Florida Law Enforcement Accreditation.

"The Okaloosa County Sheriff's Office provides equal access and equal  
opportunity in employment and services and does not discriminate"

## **EMPLOYEE DISHONESTY BOND**

FSSIF, in consideration of the payment of the annual contribution, and subject to the Amendatory Endorsement made a part hereof, the General Agreement, Conditions, and Limitations and other terms of this Bond, agrees in accordance with such of the Coverage Agreements hereof as are specifically designated to indemnify the Obligees for the use and benefit of the Covered Member for:

### **COVERAGE AGREEMENTS**

#### **Honesty Blanket Bond Coverage**

1. Loss sustained by the Covered Member through any fraudulent or dishonest act or acts committed by any of the "Employees", acting alone or in collusion with others, during the Bond Period, to an amount not exceeding in the aggregate the amount stated in the Limits of Liability on the Amendatory Endorsement.

#### **Honesty Blanket Position Bond Coverage**

2. Loss sustained by the Covered Member through any fraudulent or dishonest act or acts committed by any of the "Employees" acting alone or in collusion with others, during the Bond Period, the amount of indemnity on each of such "Employees" not exceeding in the aggregate the amount stated in the Limits of Liability on the Amendatory Endorsement.

#### **Faithful Performance Blanket Bond Coverage**

3. Loss caused to the Covered Member through the failure of any of the "Employees", acting alone or in collusion with others, to perform faithfully his duties or to account properly for all monies and property received by virtue of his position or employment during the Bond Period to an amount not exceeding in the aggregate the amount stated in the Limits of Liability on the Amendatory Endorsement.

#### **Faithful Performance Blanket Position Bond Coverage**

4. Loss caused to the Covered Member through the failure of any of the "Employees", acting alone or in collusion with others, to perform faithfully his duties or to account properly for all monies and property received by virtue of his position or employment during the Bond Period, the amount of indemnity on each of such "Employees" not exceeding in the aggregate the amount stated in the Limits of Liability on the Amendatory Endorsement.

### **GENERAL AGREEMENT**

#### **Loss Under Prior Bond**

If the coverage of a Coverage Agreement of this Bond is substituted for any prior bond carried by the Covered Member or by any predecessor in interest of the Covered Member which prior bond is terminated, cancelled, or allowed to expire as of the time of such substitution, the FSSIF agrees that such Coverage Agreement applies to loss sustained by, or caused to, the Covered Member, as the case may be, prior to or during the Bond Period, provided that such loss is "discovered" after the beginning of the Bond Period and prior to the expiration of three years from the cancellation of this Bond as an entirety and that such

loss would have been recoverable by the Covered Member or such predecessor under such prior bond except for the fact that the time within which to bring suit, action, or proceeding of any kind thereunder had expired.

## **CONDITIONS AND LIMITATIONS**

The foregoing Coverage Agreements and General Agreement are subject to the following conditions and limitations:

### **Definitions**

"Employee" as used in Coverage Agreements 1 and 2 means a person while in the employ of the Covered Member during the Bond Period who is not required by law to give bond conditioned for the faithful performance of his duties and who is a member of the staff or personnel of the covered Member but does not mean any Treasurer or Tax collector by whatever title known.

"Employee" as used in Coverage Agreements 3 and 4 means a person while in the employ of the Covered Member during the Bond Period who is not required by law to furnish an Individual Bond to qualify for office and who is a member of the staff or personnel of the Covered Member but does not mean any Treasure or Tax Collector by whatever title known.

"Discover" or "discovered" means the time when you first become aware of facts which would cause a reasonable person to assume that a loss of a type covered by this insurance has been or will be incurred, regardless of when the act or acts causing or contributing to such loss occurred, even though the exact amount or details of loss may not then be known.

"Occurrence" means: 1) An individual act; 2) The combined total of all separate acts whether or not related; or 3) A series of acts whether or not related; committed by an "employee" acting alone or in collusion with other persons, "discovered" during the Coverage Period shown in the Amendatory Endorsement.

### **Unidentifiable Employee**

In case a loss is alleged to have been caused to the Covered Member through acts or defaults by an Employee covered under an applicable Coverage Agreement of this Bond, which such Coverage Agreement is in full force and effect and the Covered Member shall be unable to designate the specific Employee causing such loss, the Covered Member shall nevertheless have the benefit of such Coverage Agreement provided that the evidence submitted reasonably establishes that the loss was in fact caused by such Employee through such acts or defaults and provided, further, that regardless of the number of such Employees concerned or implicated in such loss, the aggregate liability of the FSSIF for any such loss shall not exceed the amount stated on the Amendatory Endorsement.

### **Exclusion**

This Bond does not cover any loss sustained by, or caused to, the Covered Member under circumstances whereby and to the amount which the Obligee or the Covered Member voluntarily undertakes or is obligated by law to exonerate or indemnify any of the Employees against liability incurred by them in the performance of their duties.

## **Limits of Liability**

Indemnification by the FSSIF for any loss under Coverage Agreement 1 or 3 shall not reduce the FSSIF's liability for other losses under the applicable Coverage Agreement, whenever sustained; provided, however that the FSSIF's total liability under each such Coverage Agreement for any loss caused by any "Employee" or in which such "Employee" is concerned or implicated is limited to the applicable amount of indemnity specified on the Amendatory Endorsement.

Indemnification by the FSSIF for any loss under Coverage Agreement 2 or 4 shall not reduce the FSSIF's liability for other losses under the applicable Coverage Agreement, whenever sustained; provided however the FSSIF's total liability under each such Coverage Agreement as to each "Employee" is limited to the applicable amount of indemnity specified on the Amendatory Endorsement.

Regardless of the number of years this Bond shall continue in force and the number of contributions which shall be payable or paid, the limit of the FSSIF's liability as specified in the Amendatory Endorsement shall not be cumulative from year to year or period to period, and shall be based on the "occurrence" of a covered act.

## **Cancellation**

This Bond shall be deemed cancelled as to any Employee:

- (1) Immediately upon "discovery" by the Obligee or the Covered Member of any act on the part of such "Employee" which would constitute a liability of the FSSIF under the applicable Coverage Agreement covering such "Employee";
- (2) Upon the death, resignation, or removal of such "Employee"; or
- (3) At 12 o'clock midnight upon the effective date specified in a written notice mailed to the Obligee and the Covered Member. Such date shall be not less than thirty days after the date of mailing. The mailing by the FSSIF of notice as aforesaid to the Obligee and the Covered Member shall be sufficient proof of notice. Delivery of such written notice by the FSSIF shall be equivalent to mailing.

This Bond may be cancelled by the Obligee or the Covered Member by mailing to the FSSIF written notice stating when thereafter the cancellation shall be effective. This Bond may be cancelled by the FSSIF by mailing to the Obligee and the Covered Member written notice stating when, not less than thirty days thereafter, such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. Delivery of such written notice either by the Obligee or the Covered Member or by the FSSIF shall be equivalent to mailing. If the Obligee or the Covered Member cancels, earned contributions shall be computed in accordance with the customary short rate table and procedure. If the FSSIF cancels, earned contributions shall be computed pro rata. Contribution adjustments may be made at the time cancellation is effective or as soon as practicable after cancellation becomes effective, but payment or tender of unearned contributions is not a condition of cancellation.

If any of the cancellation provisions set forth in either or both of the foregoing paragraphs of this section are prohibited or made void by any law controlling the construction of the Bond, such provisions to the extent they are so prohibited or made void shall be deemed to be nullified and of no effect.

## **Legal Proceedings**

No suit, action, or proceeding of any kind to recover on account of loss under this Bond shall be brought after the expiration of three years from the cancellation of this Bond as an entirety provided, however, that if such limitation for bringing suit action, or proceeding is prohibited or made void by any law controlling the construction of this Bond, such limitation shall be deemed to be amended so as to be equal to the minimum period of the limitation permitted by such law.



**AMENDATORY ENDORSEMENT FSSIF-I**

THIS COVERAGE ENDORSEMENT IS EFFECTIVE OCTOBER 1, 2010. IN CONSIDERATION OF THE ANNUAL CONTRIBUTION, IT IS HEREBY UNDERSTOOD AND AGREED THAT COVERAGE UNDER THE FLORIDA SHERIFFS' SELF-INSURANCE FUND IS AMENDED TO INCLUDE THE FOLLOWING COVERAGE:

**EMPLOYEE DISHONESTY BOND**

**Covered Member:** Okaloosa County Sheriff's Office

**Principal Address:** 1250 N. Eglin Pkwy, Shalimar, FL 32579-1234

**Coverage Period:** October 1, 2010 to October 1, 2011

<u>Limits of Liability</u>	<u>Deductible</u>	<u>Coverage Description</u>	<u>Annual Contribution</u>
\$25,000	\$200 each loss	See Attached Endorsement	Included

It is agreed that the FSSIF shall not be liable under Coverage Agreement I on account of any loss through acts or default committed at any time, whether before or after this rider is effective, by an employee or in which such employee is concerned or implicated, unless the amount of such loss, after deducting the net amount of all reimbursement and recovery obtained or made by the Obligee or the Covered Member.

Fund of such loss shall exceed in the aggregate the sum of Two Hundred and no/100 (\$200.00) herein called the DEDUCTIBLE AMOUNT.

If the Obligee or the Covered Member shall sustain any loss covered by this bond which exceeds the amount of indemnity provided by this bond, plus the deductible amount, the Obligee or the Covered Member shall be entitled to all recoveries made after payment by the FSSIF of loss covered by this bond, less the actual cost of effecting such recoveries, until reimbursed for such excess loss and any remainder, or if there be no such excess loss, any such recoveries shall be applied first in reimbursement of the FSSIF and thereafter in reimbursement of the Obligee or Covered Member for that part of such loss within such deductible amount.

THIS COVERAGE IS SUBJECT TO THE LIMITS OF LIABILITY, TERMS, AND CONDITIONS AS CONTAINED IN THE FLORIDA SHERIFFS' SELF-INSURANCE FUND AGREEMENT TO WHICH THIS ENDORSEMENT IS ATTACHED.

**DATE:** October 1, 2010

# FLORIDA SHERIFFS' SELF-INSURANCE FUND AGREEMENT

## I. AGREEMENT

WHEREAS, the Sheriffs of the State of Florida have been unable to procure adequate law enforcement professional liability insurance in the open market place; and

WHEREAS, the Sheriffs of the State of Florida hope to effect considerable savings of the funds they are currently expending to purchase liability insurance from private carriers by joining together and creating a self-insurance fund; and

WHEREAS, the participants to this Agreement as duly authorized and serving Sheriffs of their respective counties desire to self-insure against liability for their acts and the acts of their deputies and employees under the provisions of Chapter 768, Florida Statutes, as now in force or as hereafter amended; and

WHEREAS, each of the participating Sheriffs is an agency or subdivision of the State of Florida as contemplated in Chapter 768, Florida Statutes; and

WHEREAS, pursuant to the provisions of Chapter 111, Florida Statutes, as now in force, the Sheriffs of the State of Florida are authorized to be indemnified and to indemnify their deputies and employees for civil suits arising out of the performance of their official duties;

NOW, THEREFORE, the Sheriffs of the State of Florida participating in this Agreement do hereby create a self-insurance fund subject to the following terms, conditions and agreements.

## II. TERMS AND CONDITIONS

1. The self-insurance plan and fund created by this Agreement shall be known as the Florida Sheriffs' Self-Insurance Fund, (hereafter referred to as the FUND).

2. The FUND shall be subject to the control of the Sheriffs who participate in the FUND by subscribing to this Agreement and those Sheriffs who subsequently agree to participate in the FUND.

3. The day-to-day operation of the FUND shall be controlled by seven Sheriffs elected as Managers by majority vote of the Sheriffs participating in the FUND, each of whom shall be elected for a staggered term of four years. Terms of office shall be staggered in such a manner that there shall be annual elections in January of two (2) Managers, except that in presidential years only one Manager shall be elected.

4. The Managers elected by a majority vote of the Sheriffs participating in the FUND shall serve at the will and pleasure of the majority of the Sheriffs now or hereafter

participating in the FUND. Any Manager who shall fail to attend three consecutive meetings shall automatically be removed from such position.

5. The Managers may adopt, by majority vote of the entire Board of Managers, by-laws to govern the operation of the FUND. Upon the adoption of such by-laws by the Managers, they shall be subject to confirmation by a majority of the Sheriffs participating in the FUND present at the meeting. Said by-laws may be amended from time to time by the Managers and shall be subject to repeal, amendment or modification by a majority of the participants in the FUND present at the meeting.

6. The Sheriffs participating in this Agreement and FUND shall meet not less than twice annually. The Chairman of the Managers may call such other meetings of the participants as he deems necessary upon such notice as he deems adequate. The Managers elected under this Agreement shall meet upon the call of the Chairman. At any meeting of the participants or at any meeting of the Managers no votes shall be taken on any matter in the absence of a quorum. A quorum shall consist of four (4) Managers present at the meeting.

7. Upon the death, legal incapacity or disability, resignation or removal of any Manager elected under the terms of this Agreement, a successor Manager may be elected by majority vote of the Managers then holding office. The successor Manager thus elected shall hold office until the next meeting of the Sheriffs participating in the FUND, at such time the action of the Managers in electing the successor Manager shall be either confirmed by majority vote of the Sheriffs participating in the FUND or a different successor Manager shall be elected by a majority vote of the Sheriffs participating in the FUND.

8. The Managers elected by a majority of the Sheriffs participating in the FUND may appoint a Chairman, Vice-Chairman and such other officers and committees as deemed necessary. Such committees when appointed shall perform such functions as shall be deemed necessary and expedient by the Managers.

9. The Managers elected by a majority of the Sheriffs participating in the FUND shall have the power, authority and duties set forth in this Agreement subject always to majority vote of the Sheriffs participating herein. Further, the Managers may, at their discretion, contract with third parties, including but not limited to, administrators, accountants, actuaries and attorneys, and delegate such power, authority and duties set forth in this Agreement to said third parties.

10. The Managers shall have the authority to invest and reinvest any funds and to operate any property or business that shall come into their possession.

11. The Managers shall have the authority to make such purchases, for such prices, in such manner, and upon such other terms and conditions as the Managers shall deem advisable, and to invest and reinvest in such securities, mortgages, insurance on the life of any person, leases, commodities, or other evidences of rights, interests or obligations, secured or unsecured, or such other property, real, personal or mixed as the Managers shall deem advisable.

12. The Managers shall have the authority to pay or reserve sufficient funds to pay all expenses of management and administration of the FUND, including the compensation of all authorized employees of the FUND, including consulting fees, legal fees, or any other fees and expenses deemed advisable by said Managers.

13. All the rights, powers, authorities, privileges and duties given to the Managers by this Agreement shall continue until amendment or termination of this Agreement as provided herein.

14. This Agreement may be amended from time to time by majority vote of the Sheriffs then participating in the FUND.

15. This Agreement may be terminated at any time by majority vote of the Sheriffs then participating in the FUND, provided, however, that the assets accumulated by the FUND shall be invested upon revocation in such a manner as to provide for the present and future liabilities of the FUND pursuant to this Agreement. After payment of said liabilities and expenses, any excess funds remaining shall be disbursed, on a pro rata basis, to the Sheriffs participating in the FUND at the time the Agreement is revoked or terminated.

16. By a vote of five (5) of the seven (7) Managers elected pursuant to the terms of this Agreement an individual Sheriff may be removed from participation in this Agreement for cause at any time.

17. Upon the voluntary or involuntary termination of a Sheriffs participation in this FUND, the Sheriff shall not be entitled to the refund of any monies paid into this FUND.

18. The Sheriffs participating in this FUND reserve to themselves by majority vote, all rights not specifically delegated to the Managers provided for in this document as it now exists or may hereafter be amended.

19. If a Sheriff participating in this FUND ceases to hold office, his successor shall be automatically entitled to the benefits of this Agreement, subject to the same terms, liabilities and conditions as his predecessor.

20. This Agreement initially became effective on midnight, September 30, 1978 with respect to those Sheriffs who originally subscribed to this Agreement prior to that date, and continues from year to year thereafter until terminated. Renewal of a Sheriffs participation in the FUND, or execution of a duplicate Agreement by a new participating Sheriff, shall become effective each renewal year at 12:01 a.m., October 1, and shall be effective from that time until 12:01 a.m., October 1, of the following year.

21. Each Sheriff participating in this FUND shall pay designated sums in accordance with the then effective rates, which rates may be changed by vote of the Managers as may be necessary and desirable for the advancement of the FUND. The established amounts due shall be paid utilizing one of the then effective payment options established by vote of the Managers. Sheriffs who join the Fund as a participating member at any time other than October 1 shall pay

amounts due within 90 days of the date they join as a participating member. Failure to pay said sums may preclude self-insurance benefits under this Agreement.

22. Each participating Sheriff shall yearly pay the sum specified in the preceding paragraph and shall yearly supply the Managers a current and accurate count of all Covered Members to be covered by the Fund. Failure of a Sheriff to supply the information specified herein or to properly list a Covered Member shall be grounds for the Managers denying the Sheriff and/or Covered Member any self-insurance benefits as to any claim for that year involving the Covered Member not properly listed with the Managers.

23. Compliance by the Sheriff with all of the terms and conditions of this Agreement is a condition precedent to the receipt of benefits from the FUND. It is hereby understood and agreed that for the purposes of the giving or the receiving of notices provided for under the terms and conditions of this Agreement the Managers are authorized to act on behalf of the Sheriff

24. A Covered Member, upon knowledge of any occurrence which might give rise to a claim hereunder, or upon receipt of a claim or a verbal or written inquiry or request for information relating to an occurrence which might give rise to a claim, shall give immediate written notice to the Managers or their designees and such notice shall be given within thirty (30) days from receipt of such information. This notice shall be furnished prior to any information being provided to the potential claimant or their investigator or lawyer. Any Covered Member who receives or has served upon him a summons, complaint or other legal document or pleading relating to a claim against him shall immediately notify the FUND of said summons, complaint or other legal document or pleading and immediately forward a copy of all documents received to the FUND. Any Covered Member against whom a claim is asserted shall cooperate fully and completely with the FUND and/or counsel assigned by the FUND to defend such claim, shall confer with counsel upon reasonable request, shall furnish all information reasonably requested by the FUND and/or counsel, and shall personally appear at all court proceedings when advised by counsel. Notification of a claim, inquiry or request should be provided the FUND no later than thirty (30) days after said occurrence or receipt of the claim, inquiry or request. Notification of a summons, complaint or other legal document or pleading, and copies of any documents received, should be provided the FUND no later than five (5) days after receipt of the summons, complaint or other legal document or pleading. Notification in either event shall be in writing and shall be furnished to the FUND prior to any information being provided to the potential claimant his investigator or attorney. The time limits outlined are guidelines to be followed, although there may be excusable reasons why such a guideline cannot be met from time to time. In the event said guidelines are not met on specific claims, the failure to timely report said claims may result in a reservation of rights as to coverage for those claims in the event the position of the FUND and defense of the claims are jeopardized by said delay. Further, continued failure to meet reporting guidelines or to cooperate with defense counsel appointed by the FUND may result in denial of coverage and/or denial of payment of any benefits otherwise payable hereunder. Continual or inexcusable failure to meet reporting guidelines and failure to cooperate with defense counsel appointed by the FUND shall also be grounds for termination of a Sheriff from participation in the FUND.

25. The Managers shall be permitted but not obligated to inspect the Sheriffs' property and operations at any time. Neither the Managers' right to make inspections, nor the making thereof, nor any report thereon, shall constitute an undertaking, on behalf of or for the benefit of the Sheriff or others, to determine or warrant that such property or operations are safe.

26. The Managers may examine and audit the Sheriffs' books and records at any time during the time the Sheriff is participating in the FUND or receiving benefits therefrom and within four years after the final termination of this Agreement, as far as they relate to the subject matter of this Agreement.

27. Notice to any Manager or Covered Member participating herein or knowledge possessed by any such person or by any other person shall not effect a waiver or a change in any part of this Agreement or stop the FUND from asserting any right under the terms of this Agreement; nor shall the terms of this Agreement be waived or changed, except by amendment.

28. No Covered Member shall assign any rights under this Agreement absent specific written approval of the Managers.

29. If any person is a Covered Member at the time of an incident which later gives rise to a Claim covered under this Agreement and at the time the claim is made that person is no longer a Covered Member, is deceased and/or legally incapacitated, the coverage afforded by this Agreement shall extend to and apply to that former Covered Member or that person's estate as if the estate, the personal representative of the estate, and/or the guardian of the Covered Member and his property were Covered Members.

30. In the event of any payment under this Agreement, the Managers of the FUND shall be subrogated to all the Covered Member's rights of recovery therefore against any person or organization and the Covered Member shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Covered Member shall do nothing after loss to prejudice such rights.

31. It is agreed and understood that none of the Sheriffs participating in this Agreement have any individual liability to the FUND or to the other participants of the FUND and that Sheriffs sole financial liability under this Agreement is limited to deposit of the sums specified in the applicable paragraph of this Agreement. It is further agreed and understood that each Sheriff participating in the FUND hereby releases the FUND, the other participants and the employees and agents of the FUND from any and all liability for any and all acts except those specifically covered under this Agreement. The liability of the FUND under this Agreement is limited to the available assets of the FUND and the FUND shall not be liable for any benefits to a Covered Member if assets of the FUND have been exhausted for any reason.

32. If any disagreement shall arise as to the amount or existence of any benefits due to a Covered Member under this Agreement, the Managers may refer the dispute to an arbitration committee appointed by a majority of the participating Sheriffs. The decision of said arbitration committee shall be advisory only and upon failure of either the Managers or the aggrieved

Sheriff to accept the recommendation of the arbitration committee, the matter shall be brought before all participating Sheriffs for final resolution. Any such decision shall not be judicially reviewable.

33. It is agreed that the FUND and its attorneys will raise the defense of sovereign immunity to which a Covered Member may be entitled under Florida law as now in force or as hereafter in force. The FUND shall provide benefits under this Agreement subject to limits subsequently outlined in applicable excess or reinsurance agreements obtained by the FUND, which limits shall be defined each year by the FUND in its Coverage Declarations pages provided to FUND Members. It is understood and agreed that the limits set forth in any such Coverage Declarations pages apply only to the extent that coverage over and above the applicable self-insured retention of the FUND is collectable from reinsurers or excess carriers covering over this Agreement.

34. It is agreed and understood that once a Sheriff has agreed to participate in the FUND pursuant to the terms of the preceding paragraphs, that he need only remain current with premium payments in order to continue participating in the FUND, subject, however, to compliance with all other provisions of this Agreement.

35. It is specifically understood that duplicates of this Agreement are being prepared for execution by the participants and that the various duplicates shall be treated as original and shall have the same force and effect as the signing of the original Agreement.

36. The FUND provides certain of its participating Sheriffs with Public Officials coverage, the terms and conditions of which are outlined in an endorsement attached hereto. The Coverage Declarations sheet provided each participant in the FUND upon renewal shall indicate whether that Sheriff is being provided said Public Officials coverage.

37. Notwithstanding anything to the contrary, provided in this Agreement, it is specifically understood that the FUND shall not be liable for more than \$100,000.00 for defense costs and legal expenses for any claims brought against a Sheriff arising out of jail or prison facility deficiencies or conditions or other class action suits asking for corrections of such deficiencies or conditions in such jail or prison facility. Any amount expended hereunder shall not reduce the annual aggregate limit of any Sheriff.

### III. DEFINITIONS

1. The following definitions shall be applicable to this Agreement and the operation of the FUND:

- a) “**Automobile**” means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any machinery or apparatus attached thereto.
- b) “**Bodily Injury**” means bodily injury, sickness or disease sustained by any person, including death at any time resulting therefrom.

c) **“Damages”** includes damages for death and for care and loss of service resulting from bodily injury and damages for loss of use of property resulting from property damage.

d) **“Occurrence”** means an accident or incident, including any continuous or repeated exposure to substantially the same general harmful conditions, which happens initially during an annual agreement period and includes, in addition to the coverages more specifically described throughout this Agreement, injurious exposure to conditions resulting in bodily injury or death, or property damage. For purposes of claims which involve continuous exposure to substantially the same general harmful conditions, the date of loss for such claims shall be the first identifiable date of such continuous or repeated exposure.

e) **“Property Damage”** means an injury to or destruction of tangible property, including partial or total loss through the disappearance thereof, by theft or other means, all of the foregoing being subject to further limitations contained elsewhere in this Agreement.

f) **“Sheriff”** means the duly elected or appointed Sheriff of a County in the State of Florida who elects to participate in the FUND.

g) **“Managers”** means the Sheriffs properly elected to the Board of Managers of the FUND.

h) **“Covered Member”** means the Sheriff and all his deputies, officers and employees who fall within the definitions of High Hazard, Medium Hazard and Low Hazard as outlined herein.

i) **“Annual Agreement Period”** means any one-year period beginning 12:01 a.m., October 1st, and ending 12:01 a.m., October 1st, the following year.

j) **“High Hazard”** means a Sheriff, his deputies, officers, volunteers and employees whose regular duties relate directly to the enforcement of the criminal law, including, but not limited to, those persons who (1) conduct crime-preventive control, investigate allegations of criminal violations and make arrests; (2) furnish legal advice; (3) issue criminal process; (4) prosecute or adjudicate criminal charges; and (5) detain persons prior to arraignment or detain, control, correct or rehabilitate individuals, whether incarcerated or not. High Hazard shall also include any attorney employed as full time legal advisor to the Sheriff and who has no outside legal practice; any nurse and/or physician's assistant who is an employee of and paid by the Sheriffs Office; under certain conditions, physicians who are either employed by, or under contract with, a Sheriff to render medical care to inmates in the custody of that Sheriff; and dogs used for patrol, criminal/suspect apprehension, guarding of persons or property, building searching etc., subject to having met the FUND's guideline requirements. Physicians shall be included within this definition only under the following conditions: 1) such Physician shall have a Medical Malpractice Insurance Policy with minimum limits of \$750,000 which is

generally applicable to the services being provided the Sheriff; 2) a copy of said policy, Certificate of Insurance, or other acceptable form or proof of coverage shall be provided each year to the FUND's Administrator and shall contain a provision requiring that the FUND Administrator be notified within thirty (30) days of cancellation or replacement of said policy; 3) and the coverage provided by the FUND shall only extend to civil rights claims not otherwise covered by said Physician's Medical Malpractice policy.

k) **“Medium Hazard”** means deputies, officers, volunteers and employees of a Sheriff whose regular duties do not involve direct enforcement of the criminal laws, including, but not limited to, those persons who (1) serve civil rather than criminal process; and (2) act as auxiliary officers, whether paid or unpaid, but who have some law enforcement responsibility, including, but not limited to, special deputies or police, jeep or horse posse, and search or rescue squads.

l) **“Low Hazard”** means volunteers and those persons employed or appointed by a Sheriff whose primary duties relate only indirectly to the enforcement of criminal laws. Such employees include, but are not necessarily limited to, persons who perform (1) clerical, stenographic and record-keeping duties; (2) laboratory, photographic and radio dispatching; (3) licensing examinations; (4) fingerprinting, (5) bailiff duties; (6) food service, maintenance and custodial tasks not having direct control over inmates; and (7) polygraph operators, but only while performing their duties on behalf of the covered Sheriff.

m) **“Ultimate Net Loss”** means the maximum amount, in the aggregate, for all claims, settlements, judgments, payments and legal costs, expenses and fees which will be paid under this Agreement, on account of any one Sheriff for all claims which occurred during any one annual coverage period between 12:01 am., October 1, and 12:01 am. the following October 1st.

n) **“Claim”** or **“Claims”** means: (1) a demand for damages, money, satisfaction, action; (2) notice from any person, or person's representative indicating an intent to make such a demand; or (3) notice in writing from a Covered Member of an incident or occurrence (which may become a claim at some future date); however, claim does not mean payment of costs or expenses necessitated by actions for jail or prison facility improvement or correction of deficiencies in such jail or prison.

#### IV. COVERAGES, DEFENSE AND SETTLEMENT

1. The assets of the FUND shall be used to provide self-insurance benefits to the participating Sheriffs, subject to the following terms and conditions.

2. Pursuant to the terms of this Agreement, the assets of the FUND may be used by the Managers to pay on behalf of a Covered Member claims expenses and all sums which the Covered Member shall become legally obligated to pay as damages because of (a) bodily injury, or (b) property damage caused by an occurrence and arising out of the Sheriffs' occupancy, maintenance or use of official premises and/or the Sheriffs' operations in the performance of his

official duties during the effective period of this Agreement. The assets of the FUND shall be used to defend any suit against a Covered Member seeking damages on account of such bodily injury or property damage, even if any or all of the allegations of the suit are groundless, false or fraudulent, and the Managers may make such investigation and settlement of any claim or suit as the Managers deem expedient, but the FUND shall not be obligated to pay any claim, claims expenses or judgment or to defend any suit after the applicable limit of the FUND's liability or aggregate liability has been exhausted by payment of judgments, settlements or claims expenses. On or after December 1, 1981, the assets of the FUND shall also be used to provide damages assessed against a Covered Member, as punitive damages unless determined by a court to be contrary to public policy.

3. Subject to the terms, conditions and limitations of this Agreement, the FUND assets may be used to pay on behalf of a Covered Member all sums which a Covered Member shall become legally obligated to pay as damages or claims expenses because of claims for false arrest, assault and battery, false imprisonment, malicious prosecution, false or improper service of process, libel or slander, intentional infliction of emotional distress, defamation of character, violation of property rights, wrongful eviction, wrongful entry, humiliation and invasion of the rights of privacy and violation of constitutional rights, growing out of the law enforcement duties of a Covered Member. Notwithstanding, there is no coverage for any Covered Member who commits, or is alleged to have committed, any of the above claims which involve sexual assault or sexual battery.

4. Claims expenses, includable in the FUND's limits of liability more specifically described in Section V, 1 and Section II, 33 of this Agreement, means:

a) Fees charged by an attorney designated by the FUND; all other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a claim if incurred by the FUND; fees charged by any attorney designated by the Covered Member with the written consent of the FUND; claimants' attorneys fees and costs assessed by court order or agreed upon through settlement. However, claims expenses does not include salary charges of regular employees or officials of the FUND; and

b) Premiums on appeal bonds required in any such suit, premiums on bonds to release attachments in any such suit for an amount not in excess of the applicable limit of liability of this Agreement; and

c) Reasonable expenses incurred by a Covered Member for first aid to others at the time of the accident for bodily injury to which this Agreement applies. But this paragraph shall not act to increase the total limit of liability of the FUND for any benefits or aggregate limits of liability.

5. The assets of the FUND may also be used to pay any costs (which expression shall mean all investigations, adjustments and legal expenses) incurred in the investigation, adjustment and defense of any claims, suits or proceedings which may be brought against a Covered Member within the purview of this Agreement, even if such claims, suits or proceedings

are groundless, false or fraudulent. Any such amounts paid out of FUND assets under this section are payable only as part of the applicable limits of the benefits under this Agreement.

6. With respect to benefits enumerated in the preceding paragraph, costs shall not include any operational expenses of the Sheriff. Nor shall the provisions of said paragraph operate to increase the total benefits available under this Agreement.

7. In the event of a claim occurring likely to involve the assets of the FUND, the Covered Member shall not make any payment, assume any liability or incur any expense without the consent of the FUND being first obtained. The assets of the FUND shall be used to conduct in the name of the Covered Member the defense of any claim, and prosecute in his name for the benefit of the FUND any claim for indemnity or damages or otherwise against any third party, and the Managers shall have full discretion in the handling of any claim, and the Covered Member shall give all information and assistance as the Managers of the FUND may reasonably require.

8. The assets of the FUND shall not be called upon in contribution and are to only pay any loss if and so far as not recoverable under any insurance.

9. The insolvency or bankruptcy of a Sheriff shall not release the FUND from any obligations hereunder.

10. Pursuant to the terms of this Agreement, the assets of the FUND shall be used by the Managers to pay on behalf of a Covered Member all sums which that Covered Member may be held legally liable to pay as damages with respect to property damage to structures or portions thereof, rented or leased to said Sheriff, including fixtures permanently attached thereto, if such property damage is caused by fire as a result of the acts or omissions of the Sheriff.

- a) The limit of such property damage liability is \$50,000 each occurrence;
- and
- b) This coverage shall be excess over any valid and collectable property insurance (including any deductible portion thereof) available to the Sheriff, such as, but not limited to, Fire, Extended Coverage, Builder's Risk Coverage, or Installation Risk Coverage, and Other Insurance Conditions of this Agreement as amended accordingly.

11. Pursuant to the terms of this Agreement, the assets of the FUND shall also be used by the Managers to pay on behalf of a Covered Member all sums which that Covered Member may be held legally liable to pay as damages with respect to:

- a) Liability assumed by the Sheriff under any contract or agreement, including mutual law enforcement agency agreements between political subdivisions and contract law enforcement agencies:

- 1. So long as said contract or agreement is disclosed to and accepted by the FUND; and

2. Subject to limits of liability of \$1 million per person, per occurrence and in the aggregate, for any contract or agreement other than mutual law enforcement agency agreements between political subdivisions and contract law enforcement agencies.

b) Private duty assignments of a Covered Member, provided that any such private duty assignment has the fully informed consent of the Sheriff and said assignment is within the normal scope of duties and property jurisdiction of the Covered Member.

c) Property in the care, custody or control of the Sheriff or as to which the Sheriff is for any purpose exercising physical control. If there is other insurance against any incident loss or claim for which coverage is provided under this Section, the coverage provided under this Section shall be deemed to be excess over and above the applicable limits of all such other insurance.

## V. LIMITS OF LIABILITY

1. Limits of Liability: Regardless of the number of A) Covered Members under this Agreement; or B) persons or organizations who sustained damages payable under this Agreement; or C) claims made or suits brought on account of benefits afforded by this Agreement, the FUND's liability shall in no event exceed the amounts outlined in the Coverage Declarations page provided to each FUND Member:

a) In respect of any one claimant for any one incident, including claims expense;

b) In respect of any one incident involving more than one claimant, subject to the aforesaid limits in respect of any one claimant for any one incident, including claims expenses; and

c) The aggregate limit of the FUND's liability for all incidents and occurrences per Sheriff during any one annual policy period shall not exceed the aggregate amount stated in the applicable Coverage Declarations page, which aggregate includes claims expenses as defined herein.

2. Exhaustion of aggregate limits under the re-insurance policy/(ies) issued to the FUND which may not necessarily exhaust the FUND'S self-insured retention aggregate, shall not preclude benefits which are otherwise provided under this FUND Agreement within the limits of the FUND'S self-insured retention limits.

## VI. EXCLUSIONS

1. This Agreement, and the assets of the FUND, shall not be used and shall not apply to the following:

a) To bodily injury or property damage arising out of the ownership, maintenance, operation, use, loading or unloading of (1) any automobile, or aircraft owned or operated by or rented or loaned to the Sheriff; or (2) any other automobile, or aircraft operated by any person in the course of his employment by the Sheriff; (3) any mobile equipment while being used in any pre-arranged or organized racing, speed or demolition contest, or any stunting activity or in the practice or preparation for any such contest or activity or to the operation of any snowmobile or trailer designed for use therewith; (4) any mobile equipment while being transported by any automobile owned or operated by or rented or loaned to any Sheriff. However, this exclusion does not apply to exclude from coverage claims arising out of the ownership, operations, or use of an automobile during emergency operations of said automobile and so long as no collision with said automobile results.

b) Liability due to war, whether or not declared, civil war, insurrection, rebellion or revolution or to any act or condition incident to any of the foregoing.

c) To bodily injury or property damage for which the Sheriff or a Covered Member or their indemnity may be held liable as a person or organization engaged in the business of manufacturing, distributing, selling or serving alcoholic beverages or as an owner or lessor of premises used for such purpose by reason of the selling, serving or giving of an alcoholic beverage; (1) in violation of any statute, ordinance or regulation; (2) to a minor; (3) to a person under the influence of alcohol, or, (4) which causes or contributes to the intoxication of any person.

d) To any obligation for which the Sheriff or any insurance carrier as his insurer may be held liable under any workers compensation, unemployment compensation or disability benefits law or under any similar law.

e) To bodily injury or property damage to any Sheriff or Covered Member, unless otherwise specifically provided for under other provisions of this Agreement, arising out of and in the course of their employment or appointment.

f) To any claim of a Covered Member or any other officer, employee, agent or applicant due to demotion, discrimination, harassment, dismissal, failure to hire or promote, and/or any other labor relations matters.

g) To any claim by one Covered Member under this Agreement against any other Covered Member of this Agreement.

h) To any claim by any person related to a Covered Member by blood or marriage, or to any claim by any person residing in the household of a Covered Member

at the time of the incident or event giving rise to the claim, against any Covered Member of this Agreement except as follows:

The FUND agrees to reimburse reasonable expenses of such a person under the following circumstances:

1. The expenses are excess over any other collectible insurance; and
2. The injury to such person occurred at the home of the Covered Member as a result of a K-9 or item of equipment furnished and/or assigned to the Covered Member by a Sheriff; and
3. The expenses reimbursed shall not exceed the sum of \$25,000 any one person.
  - i) To property damage to (1) property owned or occupied by or rented to the Sheriff; and, (2) property used by the Sheriff.
  - j) To property damage to premises alienated by the Sheriff arising out of such premises or part thereof.
  - k) To property damage to the Sheriff's products arising out of such products of any part of such products.
  - l) Property damage to work performed by or on behalf of the Sheriff arising out of the work or any portion thereof or out of the materials, parts or equipment furnished in connection therewith.
  - m) To claims against the Sheriff participating herein or his Covered Members for acts or omissions of a high hazard, medium hazard or low hazard officer or employee unless such high hazard, medium hazard or low hazard officer or employee has been included under the provisions of this Agreement, pursuant to the applicable provisions hereon.
  - n) To claims against the Sheriff or any other Covered Member alleging that he has committed a fraudulent, dishonest or criminal act. This exclusion shall not apply to claims of vicarious liability against the Sheriff alleging fraudulent, dishonest or criminal acts by one or more of his deputies or employees.
  - o) To claims arising out of the discharge, disbursal, release or escape of smoke, vapors, soot, flames, acids, alkalies, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants in or upon land, the atmosphere or any water course or body of water.

p) To claims or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, whether they directly or indirectly result from a Sheriff's peril under this policy.

2. The Managers or their authorized agents, in their discretion, shall determine whether a claim arises out of or is contributed to by any of the above-noted exclusions from coverage, and should such a determination be made the Sheriff or other Covered Member shall be immediately so notified, and shall also be notified that the FUND will not, from that point forward, provide any further defense to such claim or action. Until a determination of noncoverage is made, the FUND shall provide a full defense under the terms of this agreement, with a full or partial reservation of all rights if warranted, it being understood that in certain circumstances a determination of noncoverage may not be made until final judgment or other final judicial action. A Sheriff or other Covered Member aggrieved by any determination made pursuant to this paragraph may seek relief under the provisions of Section II, paragraph 32, of this agreement.

IN WITNESS WHEREOF, the undersigned Sheriff acknowledges that he is duly authorized and empowered to execute the Florida Sheriffs' Self-Insurance FUND Agreement on behalf of his office, that he has received a copy of the FUND Agreement and agrees to abide by and comply with the terms and conditions of said agreement, and further that upon execution of renewal applications/declaration sheets in the future, he agrees to abide by and comply with the terms and conditions of said agreement, as subsequently modified, for the applicable renewal period.

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SHERIFF

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DATE

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Witnesses

PUBLIC OFFICIALS COVERAGE  
ENDORSEMENT TO  
FLORIDA SHERIFFS' SELF-INSURANCE FUND  
FUND AGREEMENT

The Florida Sheriffs' Self-Insurance FUND has determined that it is in the best interest of certain of its members to provide Public Officials liability coverage. Therefore, and notwithstanding provisions of this Agreement to the contrary, the FUND may also provide its Member Sheriffs with Public Officials liability coverage subject to the following terms and conditions:

1. The coverage provided thereunder is extended to cover claims for "WRONGFUL ACTS" as defined in paragraph 2 hereof, including defense and related costs and expenses in defending such a claims. With respect to such coverage, the FUND shall, as a part of and subject to the applicable limits of liability:

(a) Defend any claim brought against a Covered Member alleging a wrongful act, even if such claim is groundless, false or fraudulent; and the FUND has the right to investigate and negotiate any such claim and, with the consent of the participating Sheriff to settle or compromise any claim as the FUND deems expedient. If the Sheriff refuses to consent to any settlement recommended by the Managers, the Sheriff may thereafter negotiate or defend such claim independently of the FUND and the liability of the FUND shall not exceed the amount for which the claim could have been settled plus the costs and expenses incurred with the FUND's consent to the date of such refusal.

(b) Pay all expenses incurred by the FUND in any claim brought against a Covered Member alleging a wrongful act, and all interest on that part of the judgment, subject to the limit of liability, which accrues after entry of judgment and before the FUND has paid, tendered or deposited in the Court that part of the judgment which does not exceed the limit of liability.

(c) Pay premiums on appeal bonds required in any claim brought against a Covered Member alleging a wrongful act and/or premiums on bonds to release attachments for an amount not in excess of the limit of liability, but without any obligation to apply for or furnish any such bonds.

(d) Pay all reasonable expenses incurred by a Covered Member at the FUND's request.

2. For purposes of this limited Public Officials liability coverage only, the following definitions shall apply:

(a) "WRONGFUL ACT" shall mean any actual or alleged error or misstatement, omission, act of neglect or breach of duty including misfeasance,

malfeasance and nonfeasance by a Covered Member within his official capacity, or any matter claimed against him solely by reason of his having served or acted in one or more of his official capacities as an officer or employee of the Sheriff

(b) “**CLAIM**” shall mean (1) a demand for damages, money, satisfaction, action or equitable relief; (2) notice from any person or person's representative indicating an attempt to make a claim; or (3) notice in writing from a Sheriff of an incident or occurrence which may become a claim at some future date. The term "CLAIM" shall specifically encompass certain administrative proceedings or actions including for example, but not limited to, proceedings before or brought by the Equal Employment Opportunity Commission the Florida Commission on Human Relations, the Florida Public Employees Relations Commission, the U.S. Department of Labor, the Occupational Safety and Health Administration and the State of Florida Commission on Ethics. The term “**CLAIM**” shall not include, and excluded from coverage hereunder are: criminal or quasi-criminal proceedings including, but not limited to, Grand Jury and Special Prosecutor proceedings; proceedings to collect workers' compensation or unemployment compensation benefits; local career or civil service proceedings; arbitration and/or collective bargaining proceedings; petitions for constitutional writs or for declaratory or injunctive relief; and proceedings under Chapters 119 and 286, Florida Statutes as well as appeals of all such proceedings.

3. The Limits of Liability which apply to this endorsement shall not exceed the amounts outlined in the Declarations Page provided each Member Sheriff for each coverage period. It is agreed and understood that the limits set forth in any such declarations pages apply only to the extent that coverage over and above the applicable self-insured retention limits of the FUND is collectible from reinsurers or excess carriers covering over this Agreement.

4. This endorsement and extension of coverage excludes the following and coverage shall not apply to:

(a) Any claim against a Covered Member based upon or attributable to their gaining in fact any personal profit or advantage to which they were not legally entitled including remuneration paid in violation of law as determined by the Courts;

(b) Any claim brought about or contributed to by fraud, dishonesty or criminal act of any Covered Member; however, notwithstanding the foregoing, a Covered Member shall be defended under the terms of this Agreement, as to any claims made against him by reason of any alleged fraud or dishonesty or criminal act on the part of another Covered Member, unless a judgment or other final adjudication thereof adverse to such Covered Member shall establish that acts of active or deliberate dishonesty, fraud or criminal act committed by such Covered Member was material to the cause of action so adjudicated;

(c) Any claim which is insured by another valid policy or policies, or which shall be deemed uninsurable under the law pursuant to which this Agreement shall be construed;

(d) Any claim or damages whether direct, indirect or consequential, arising from, or caused by bodily injury, sickness, disease or death of any person, or for damages to, direct, indirect or consequential or destruction of any tangible property including loss thereof ;

(e) Any claim for false arrest, libel, slander, defamation, invasion of privacy, wrongful eviction, or assault or battery, unless such claim arises from an employment relationship with the Sheriff and is otherwise not excluded from this limited Public Officials liability coverage;

(f) Any claim based upon or attributable to the rendering or failure to render any opinion, treatment, consultation or service if such opinion, treatment, consultation or service was rendered or failed to have been rendered while a Covered Member was engaged in any activity for which they received compensation from any source other than the Sheriff named in Item A of the Declarations or were gratuitously engaged other than by specific direction of the Sheriff named in Item A of the Declarations;

(g) Any claim arising out of the discharge, release or escape of smoke, vapors, soot, flames, acids, alkalis, toxic chemicals, liquids or gases, waste materials or irritants, contaminants, or pollutants into or upon land, the atmosphere, or any watercourse or body of water; but this exclusion does not apply if such discharge, dispersal, release or escape is sudden and accidental;

(h) Any claim for which a Covered Member is entitled to indemnity and/or payment by reason of having given notice of any circumstances which might give rise to a claim under any policy or policies the term of which has expired prior to the inception date of this Agreement;

(i) Any claims arising out of willful misappropriation of funds, embezzlement or infidelity or arising out of a Covered Member acting in a fiduciary capacity as respects any employee benefit plan or as trustee of any employee benefit plan;

(j) Any claim for damages arising from inverse condemnation, adverse possession or dedication by adverse use;

(k) Any payment of claims or awards of back pay or wages, or liquidated or punitive damages;

(l) Any fines or penalties imposed by law or other matters which may be deemed uninsurable under the law pursuant to which this Agreement shall be construed;

5. This coverage does not extend to claims for punitive damages including, but not limited to, claims or awards of back pay or wages, liquidated damages or prejudgment interest. This provision is contrary to the general coverage provided by the FUND for Law Enforcement Professional liability claims, which does provide coverage for punitive damages.

This endorsement shall not otherwise amend, alter or change the FUND Agreement and all other terms and conditions apply. This endorsement became effective October 1, 1992.