

**FILED**

DEC 30 2020

INSURANCE REGULATION  
Docketed by:           



OFFICE OF INSURANCE REGULATION

DAVID ALTMAIER  
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 274673-20-CO

FHM INSURANCE COMPANY  
\_\_\_\_\_ /

CONSENT ORDER AMENDING CONSENT ORDER NO. 16750-96-C

THIS CAUSE came on for consideration as a result of discussions between FHM INSURANCE COMPANY ("FHM"), LUBA CASUALTY INSURANCE COMPANY ("LUBA"), and the FLORIDA OFFICE OF INSURANCE REGULATION ("OFFICE") regarding the ongoing business operations of FHM. To that end, LUBA and FHM have requested that the OFFICE amend Consent Order No. 16750-96-C ("Licensing Consent Order") and approve a Surplus Note currently issued by FHM to FHM MANAGEMENT CORP. ("FHM MANAGEMENT") being purchased by and re-issued to LUBA. Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the OFFICE hereby finds as follows:

1. The OFFICE has jurisdiction over the subject matter and the parties herein.
2. FHM is a Florida domestic mutual property and casualty insurer that is authorized to transact property and casualty insurance in this state through a subsisting Certificate of Authority issued by the OFFICE and is 100% owned by its policyholders. It is affiliated through common control and contractual agreements with FHM MANAGEMENT, a Florida corporation, and FHM INSURANCE SERVICES INC. ("FHM INSURANCE"), a Delaware corporation that

is a Florida insurance agency licensed by the Florida Department of Financial Services and serves as a managing general agent for FHM.

3. LUBA is a Louisiana-domiciled stock insurer that is 100% owned by LUBA MUTUAL HOLDING COMPANY (“LUBA MHC”), a Louisiana mutual holding company. As a mutual holding company, LUBA MHC is 100% owned by its policyholders.

4. LUBA, FHM, and FHM INSURANCE represent that they have entered into agreements together that will result in LUBA and FHM being under common control (“Transaction”).

5. On or around December 1, 2020, FHM filed a notice of change of personnel among the directors of FHM in accordance with Section 628.261, Florida Statutes. The filing states that the end result of this change will be to replace the current Board of Directors of FHM with the current Board of Directors of LUBA, in accordance with the provisions of FHM’s Bylaws governing such action.

6. The Licensing Consent Order was entered into by the OFFICE and FHM on September 26, 1996. Paragraph 38 of the Licensing Consent Order prohibits FHM from assuming reinsurance unless the provisions of the Licensing Consent Order are modified to do so. A true and correct copy of the Licensing Consent Order is attached hereto as Exhibit A. Because the Licensing Consent Order was issued in 1996, the terms “DEPARTMENT” and “FHMIC” are used to respectively mean the same legal entities as “OFFICE” and “FHM” as defined herein.

7. The OFFICE finds that sufficient information has been provided to support the requested modification. Further, the OFFICE finds that, based on the information provided, modifying the Licensing Consent Order to lift the restrictions preventing FHM from assuming reinsurance does not pose a risk to the interests of FHM’s policyholders or the operation of FHM

at this time and is in compliance with the applicable provisions of the Florida Insurance Code and the rules of the OFFICE. In light of these findings, Paragraph 38 of the Licensing Consent Order is hereby amended to read as follows:

38. FHMIC shall cede reinsurance only to authorized reinsurers unless prior written approval has been given by the DEPARTMENT. Furthermore, FHMIC shall within 20 days from the effective date of any reinsurance treaty for reinsurance ceded by FHMIC, submit to the DEPARTMENT a true and correct copy of the cover notes of such treaty and shall provide a true and correct copy of the entire treaty to the DEPARTMENT if so requested. Further, FHMIC shall notify the DEPARTMENT of any proposed or prospective changes in its reinsurance prior to implementing such changes.

8. Within 30 days of the execution of this Consent Order, a Surplus Note currently issued by FHM to FHM Management will be purchased by and re-issued to LUBA; FHM will enter into a reinsurance treaty with LUBA whereby LUBA will cede certain business to FHM; and the specified officers and directors of LUBA will become the officers and directors of FHM.

9. All parties to this Consent Order agree that this Consent Order shall be deemed null and void if the Transaction is not completed, or any other requisite regulatory approvals are not obtained, within 60 days of the execution of this Consent Order.

10. Within 10 business days after the Transaction is complete, LUBA or FHM shall submit, or cause to be submitted, to the OFFICE all documents evidencing completion of said Transaction not already provided to the OFFICE, including, but not limited to, the fully executed agreements, and evidence of the Surplus Note being reissued by FHM to LUBA. Further, LUBA,

FHM, FHM INSURANCE, or LUBA MHC shall notify the OFFICE within 3 business days of a final determination that the Transaction shall not occur.

11. All parties to this Consent Order acknowledge that consummation of the Transaction is subject to obtaining all appropriate regulatory approvals in addition to satisfying other terms and conditions of the agreements filed with the OFFICE. Accordingly, if LUBA fails to receive any other requisite regulatory approvals, the provisions of this Consent Order shall terminate automatically and have no effect.

12. Any prior orders, consent orders, or corrective action plans that FHM has entered into with the OFFICE prior to the issuance of this Consent Order shall apply and remain in full force and effect for FHM, except where provisions of such orders, consent orders, or corrective action plans have expired; have been superseded by subsequent orders, consent orders, or corrective action plans; or are inconsistent with this Consent Order.

13. LUBA, FHM, FHM INSURANCE, FHM MANAGEMENT, and LUBA MHC affirm that all information, explanations, representations, statements, and documents provided to the OFFICE, including all attachments and supplements thereto, are true and correct and fully describe all transactions, agreements, ownership structures, understandings, and control with regard to the acquisition and future operations of FHM. LUBA, FHM, FHM INSURANCE, FHM MANAGEMENT, and LUBA MHC further agree and affirm that said information, explanations, representations, statements, and documents, including all attachments and supplements thereto, are material to the issuance of this Consent Order and have been relied upon by the OFFICE in its determination to enter into this Consent Order.

14. Any deadlines, reporting requirements, other provisions, or requirements set forth in this Consent Order may be altered or terminated by written approval of the OFFICE.

15. LUBA, FHM, FHM INSURANCE, FHM MANAGEMENT, and LUBA MHC expressly waive a hearing in this matter, the making of findings of fact and conclusions of law by the OFFICE, and all further and other proceedings herein to which they may be entitled by law or rules of the OFFICE. LUBA, FHM, FHM INSURANCE, FHM MANAGEMENT, and LUBA MHC hereby knowingly and voluntarily waive all rights to challenge or to contest this Consent Order in any forum available to them, now or in the future, including the right to any administrative proceeding, state or federal court action, or any appeal.

16. LUBA, FHM, and LUBA MHC affirm that all requirements set forth herein are material to the issuance of this Consent Order.

17. LUBA, FHM, FHM INSURANCE, FHM MANAGEMENT, and LUBA MHC agree that, upon execution of this Consent Order, failure to adhere to one or more of the terms and conditions contained herein may result, without further proceedings, in the OFFICE suspending, revoking, or taking other administrative action as it deems appropriate upon FHM's Certificate of Authority in this state, in accordance with Sections 120.569(2)(n) and 120.60(6), Florida Statutes.

18. Each party to this action shall bear its own costs and fees.

19. The parties agree that this Consent Order shall be deemed to be executed when the OFFICE has signed and docketed a copy of this Consent Order bearing the signatures of the authorized representative of LUBA, FHM, FHM INSURANCE, FHM MANAGEMENT, and LUBA MHC, notwithstanding the fact that the copy may have been transmitted to the OFFICE electronically. Further, LUBA, FHM, FHM INSURANCE, FHM MANAGEMENT, and LUBA MHC agree that the signatures of their authorized representatives as affixed to this Consent Order shall be under the seal of a Notary Public.

WHEREFORE, the agreement between LUBA CASUALTY INSURANCE COMPANY, FHM INSURANCE COMPANY, FHM MANAGEMENT CORP., FHM INSURANCE SERVICES INC., LUBA MUTUAL HOLDING COMPANY, and the FLORIDA OFFICE OF INSURANCE REGULATION, the terms and conditions of which are set forth above, is APPROVED.

FURTHER, all terms and conditions contained herein are hereby ORDERED.

DONE and ORDERED this 30 day of December, 2020.



David Altmaier  
David Altmaier, Commissioner  
Office of Insurance Regulation

By execution hereof, LUBA CASUALTY INSURANCE COMPANY consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind LUBA CASUALTY INSURANCE COMPANY to the terms and conditions of this Consent Order.

LUBA CASUALTY INSURANCE COMPANY

By: Steven M. Werner

[Corporate Seal]

Print Name: Steven M. Werner

Title: CFO

Date: 12/30/20

STATE OF Louisiana

COUNTY OF East Baton Rouge

The foregoing instrument was acknowledged before me by means of ☒ physical presence

or ☐ online notarization, this 30th day of December 2020, by Steven M. Werner  
(name of person)

as CFO-Chief Financial Officer for LUBA Casualty Insurance Company  
(type of authority; e.g., officer, trustee, attorney in fact) (company name)

Myra Gamble Holstein  
(Signature of the Notary)

Myra Gamble Holstein #59757  
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known ☒ OR Produced Identification \_\_\_\_\_

Type of Identification Produced N/A

My Commission Expires At Death



By execution hereof, FHM INSURANCE COMPANY consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind FHM INSURANCE COMPANY to the terms and conditions of this Consent Order.

FHM INSURANCE COMPANY

By: [Signature]

[Corporate Seal]

Print Name: JACK B HEALAN, JR

Title: CHAIRMAN

Date: 12/30/2020

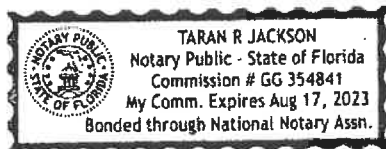
STATE OF Florida

COUNTY OF Nassau

The foregoing instrument was acknowledged before me by means of ☒ physical presence

or ☐ online notarization, this 30<sup>th</sup> day of December 2020, by Jack B. Healan, Jr.  
(name of person)

as Chairman for FHM Insurance Company.  
(type of authority; e.g., officer, trustee, attorney in fact) (company name)



[Signature]  
(Signature of the Notary)

Taran R. Jackson  
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced \_\_\_\_\_

My Commission Expires 08.17.2023



By execution hereof, LUBA MUTUAL HOLDING COMPANY consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind LUBA MUTUAL HOLDING COMPANY to the terms and conditions of this Consent Order.

LUBA MUTUAL HOLDING COMPANY

By: Steven M. Werner

[Corporate Seal]

Print Name: Steven M. Werner

Title: CFO

Date: 12/30/20

STATE OF Louisiana

COUNTY OF East Baton Rouge

The foregoing instrument was acknowledged before me by means of ☒ physical presence

or ☐ online notarization, this 30th day of December 2020, by Steven M. Werner  
(name of person)

as CFO-Chief Financial Officer for LUBA Mutual Holding Company  
(type of authority; e.g., officer, trustee, attorney in fact) (company name)

Myra Gamble Holstein  
(Signature of the Notary)

Myra Gamble Holstein #59757  
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known ☒ OR Produced Identification \_\_\_\_\_

Type of Identification Produced N/A

My Commission Expires At Death



By execution hereof, FHM INSURANCE SERVICES INC. consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind FHM INSURANCE SERVICES INC. to the terms and conditions of this Consent Order.

FHM INSURANCE SERVICES INC.

By:

Print Name:

Title:

Date:

[Corporate Seal]

STATE OF

COUNTY OF

The foregoing instrument was acknowledged before me by means of ☒ physical presence

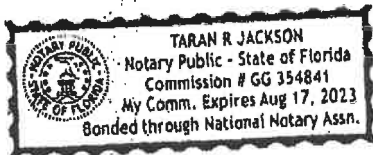
or ☐ online notarization, this 30<sup>th</sup> day of December 2020, by Jack B. Healan, Jr.  
(name of person)

as

(type of authority; e.g., officer, trustee, attorney in fact)

for

(company name)



(Signature of the Notary)

(Print, Type or Stamp Commissioned Name of Notary)

Personally Known ☒ OR Produced Identification

Type of Identification Produced

My Commission Expires

By execution hereof, FHM MANAGEMENT SERVICES CORP. consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind FHM MANAGEMENT SERVICES CORP. to the terms and conditions of this Consent Order.

FHM MANAGEMENT ~~SERVICES~~ CORP.

By: *Jack B. Healan, Jr.*

[Corporate Seal]

Print Name: JACK B HEALAN, JR

Title: CHAIRMAN

Date: 12/30/2020

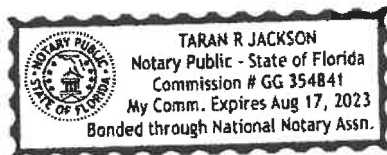
STATE OF Florida

COUNTY OF Nassau

The foregoing instrument was acknowledged before me by means of ☒ physical presence

or ☐ online notarization, this 30<sup>th</sup> day of December 2020, by Jack B. Healan, Jr.  
(name of person)

as Chairman for FHM Management Corp  
(type of authority; e.g., officer, trustee, attorney in fact) (company name)



*Taran R. Jackson*  
(Signature of the Notary)

Taran R. Jackson  
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known ☒ OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

My Commission Expires 08.17.2023

By execution hereof, FHM MANAGEMENT SERVICES CORP. consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that they have the authority to bind FHM MANAGEMENT SERVICES CORP. to the terms and conditions of this Consent Order.

FHM MANAGEMENT SERVICES CORP.

By:

[Corporate Seal]

Print Name:

Title:

Date:

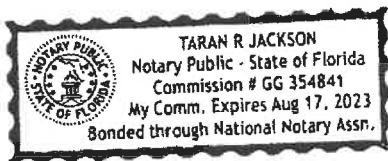
STATE OF Florida

COUNTY OF Nassau

The foregoing instrument was acknowledged before me by means of ☒ physical presence

or ☐ online notarization, this 30<sup>th</sup> day of December 2020, by Jack B. Healan Jr  
(name of person)

as Chairman for FHM Management Services Corp  
(type of authority; e.g., officer, trustee, attorney in fact) (company name)



(Signature of the Notary)

(Print, Type or Stamp Commissioned Name of Notary)

Personally Known ☒ OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

My Commission Expires 08.17.2023

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**FILED**

**SEP 26 1996**

THE TREASURER OF THE STATE OF FLORIDA  
DEPARTMENT OF INSURANCE

Docketed by: DB

BILL NELSON

**IN THE MATTER OF:**

**FLORIDA HOTEL-MOTEL  
SELF INSURERS FUND;  
FLORIDA HOTEL-MOTEL  
INSURANCE COMPANY;  
AND  
FHM MANAGEMENT  
CORP.**

**CASE NO. 16750-96-C**

**CONSENT ORDER**

**THIS CAUSE** came on to be considered upon an application with attachments (Collectively referred to herein as the "APPLICATION") filed on behalf of APPLICANT, Florida Hotel-Motel Self Insurers Fund with the Florida Department of Insurance (the "DEPARTMENT") on or about May 31, 1996, for the conversion of the APPLICANT to the Florida Hotel-Motel Insurance Company ("FHMIC") as an authorized domestic mutual insurer, pursuant to Section 624.463 and Chapter 628, Part I, Florida Statutes. After a complete review of the entire record, and upon consideration thereof and being otherwise fully advised in the premises, the Treasurer and Insurance Commissioner, as head of the DEPARTMENT, finds as follows:

1. The Treasurer and Insurance Commissioner, as head of the DEPARTMENT, has jurisdiction over the subject matter and of the parties herein.
2. The proposed conversion of APPLICANT from a group self-insurance fund to an authorized domestic mutual insurer, FHMIC, is in compliance with and approved pursuant to

**EXHIBIT A**

Section 624.463 and Chapter 628, Part I, Florida Statutes, subject to and contingent upon compliance with the terms of this Consent Order.

3. The proposed formation of FHMIC is in compliance with and approved pursuant to applicable provisions of Chapter 628, Part I, Florida Statutes including Section 628.161, Florida Statutes, subject to and contingent upon compliance with the terms of this Consent Order.

4. Pursuant to APPLICANT'S APPLICATION, including the plan of conversion and reorganization and the plan of operation, APPLICANT will convert from a group self insurance fund to an authorized domestic mutual insurer. As consideration for the exchange of membership interests in APPLICANT, the APPLICATION provides for the elimination of any liability the members may have for future assessments and a grant of membership in FHMIC. Further, in accordance with the plan of conversion and reorganization and the plan of operation and pursuant to the provisions of Section 628.161(6)(d), Florida Statutes, FHMIC shall hold all of APPLICANT's members harmless from any assessment for liabilities of APPLICANT before the effective date. The hold harmless and elimination of members' contingent liability for assessment is provided for pursuant to the terms of Section 628.161(6)(d), Florida Statutes. Section 628.161(6)(d), Florida Statutes provides that:

The mutual insurer resulting from the reorganization of the self-insurer's fund retains ownership of all of the assets of the self-insurer's fund, retains all of the liabilities of the self-insurer's fund, and agrees to hold all fund members harmless from any assessment for liabilities of the self-insurer's fund before the date of reorganization.

Upon approval of the plan by the department, any contingent liability of the members or former members of the self-insurer's fund for assessment for losses of the self-insurer's fund is considered satisfied, and all liability for any such contingent assessment is extinguished as of the date the self-insurer's fund

becomes an authorized mutual insurer and retains all of the assets and liabilities of the self-insurer's fund.

This Consent Order is not intended to and does not affect the liability of Applicant for assessment pursuant to Chapter 631 Part V except to the extent that it provides for the assumption of such liability by FHMIC pursuant to Section 628.161(6)(d), Florida Statutes. Subject to the requirements imposed by this Consent Order, the Plan of Conversion of APPLICANT has been determined to be equitable to the members of APPLICANT pursuant to Section 624.463 and Chapter 628, Part I, Florida Statutes.

5. APPLICANT has submitted to, and the Department has relied upon, as part of the APPLICATION, the following:

a) the final version of the Plan of Conversion and Reorganization of APPLICANT to FHMIC, including the proposed Articles of Incorporation and Bylaws of FHMIC;

b) the final version of the Plan of Operation of FHMIC.

6. The Department conducted a public hearing in Tallahassee, Florida at 10:00 A.M. on Friday September 20, 1996 pursuant to notice in the Florida Administrative Weekly. Further, Applicant has represented, and the Department has relied upon said representation, that notice of the public hearing was sent by U.S. Mail to each current policyholder of APPLICANT in advance of the public hearing and in the form presented to the Department at the public hearing. Pursuant to the notice, the Department elicited testimony from representatives of APPLICANT describing the proposed transactions and accepted comments, testimony, and evidence concerning the APPLICATION from those in attendance. The



information received has been considered by the Department in determining to enter into this Consent Order.

7. APPLICANT has retained ALLEN C. EWING & COMPANY ("EWING & CO."), to review the fairness of the consideration to be paid under the Plan of Conversion and Reorganization of APPLICANT to the members of APPLICANT in exchange for their membership interests, and from a financial point of view, to render its opinion to APPLICANT and the Board of Incorporators of FHMIC. The written opinion has been filed with, and relied upon by, the DEPARTMENT. EWING & CO.'s written opinion finds "that the terms of the proposed Plan or Reorganization dated as of August 22, 1996, are fair, from a financial point of view, to the Policyholders of the....[APPLICANT]."

8. APPLICANT has retained the accounting firm of KPMG PEAT MARWICK, LLP to render its opinion as to the Federal income tax consequences of the APPLICATION and the transactions contemplated by the APPLICATION. The written opinion has been filed with, and relied upon by, the DEPARTMENT and by EWING & CO. KPMG PEAT MARWICK, LLP's written opinion concludes that "the transaction is a tax-free reorganization....[and] the Federal income tax consequences of the....[APPLICANT] converting to a mutual insurance company,....[FHMIC], would be no gain or loss recognition by the....[APPLICANT] as a result of the transaction....[and] no gain or loss recognition to the members of the....[APPLICANT] as a result of the transaction."

9. APPLICANT has retained the accounting firm of MEEKS, ROSS, PAULK & ASSOCIATES, P.A. to render its opinion as to the financial forecasts for FHMIC after the implementation of the APPLICATION and the transactions contemplated by the

APPLICATION. The written opinion has been filed with, and relied upon by, the DEPARTMENT and by EWING & CO. MEEKS, ROSS, PAULK & ASSOCIATES, P.A.'s written opinion concludes that the forecasted financial statements "are presented in conformity with guidelines for presentation of forecasts established by the American Institute of Certified Public Accountants, and the underlying assumptions provide a reasonable basis for... [APPLICANT's] forecasts."

10. APPLICANT has submitted financial forecasts which the DEPARTMENT has relied upon in conjunction with the outside opinions to determine that APPLICANT has satisfied the requirements of section 628.161(6)(a), Florida Statutes. The forecasts indicate that the APPLICANT will meet the minimum capital and surplus requirements of section 624.408, Florida Statutes and the writing ratio requirements of section 624.4095, Florida Statutes once APPLICANT has converted to a mutual insurer and throughout the three year forecast.

11. APPLICANT has retained the actuarial firm of INSURANCE INDUSTRY CONSULTANTS, INC. to render its opinion as to the December 31, 1995 statutory-basis loss and loss adjustment expense reserves for APPLICANT. The written opinion has been filed with, and relied upon by, the DEPARTMENT and by EWING & CO. INSURANCE INDUSTRY CONSULTANTS, INC.'s written opinion concludes that "funding to the total actuarial loss reserve level together with the specific reinsurance will be sufficient to cover the...[APPLICANT's] outstanding claims obligations together with applicable excess insurance on the ceded portion."

12. APPLICANT has retained the actuarial firm of INSURANCE INDUSTRY CONSULTANTS, INC. to render its opinion on the solvency and reinsurance position of APPLICANT after its conversion to FHMIC. The written opinion has been filed with, and relied upon by, the DEPARTMENT and by EWING & CO. INSURANCE INDUSTRY CONSULTANTS, INC's written opinion concludes that "Given the solvency position resulting from the attached analysis, current excess of loss coverage and the availability of a quota share treaty, it is my opinion that solvency will be sustained for the periods under consideration. The basis of this opinion hinges upon the security of invested assets and the fair estimation of claims liabilities (reserves). In as much as approximately 90% of the secured assets are invested in United States Treasury Notes, the assets are considered solid. In addition, the claims liabilities are considered to have been fairly stated as provided in the actuarial report evaluating outstanding claims as of December 31, 1995. The pro forma also shows that there will be a sufficiency of revenues over expenses (including claims cost). Therefore, operations are expected to enhance the current solvency position."

13. APPLICANT and FHMIC hereby knowingly and voluntarily waive all rights of any kind to challenge or to contest this Order, in any forum now available, including the right to any administrative proceeding, Circuit or Federal Court action, or any appeal.

IT IS THEREFORE ORDERED:

14. Subject to the terms and conditions contained herein, the Treasurer and Insurance Commissioner hereby approves the transactions contemplated by the APPLICATION including the proposed conversion of APPLICANT to FHMIC.

15. APPLICANT shall remove any officer or director determined to be unacceptable by the Treasurer and Insurance Commissioner, pursuant to paragraphs 39 and 40 of this Consent Order.

16. FHMIC shall file with the DEPARTMENT all premium growth reports as required by section 624.4243, Florida Statutes, in a complete and timely manner.

17. FHMIC shall report Unearned Premiums on all of its financial statements in compliance with section 625.051, Florida Statutes.

18. FHMIC shall follow the guidelines of the NAIC Practices & Procedures Manual and the NAIC Annual Statement Instructions for Property & Casualty Companies when accounting for retrospective premiums and when accounting for return premiums on all of its financial statements.

19. FHM Management Corp. shall file annual financial statements with the DEPARTMENT no later than June 1st of each year. Such statements must be audited by a certified public accountant. In addition, FHM Management Corp. shall provide the DEPARTMENT with access to its books and records, if so requested.

20. Approval of this application does not alter or vacate any existing Consent Orders which have been entered into by the DEPARTMENT and the APPLICANT. FHMIC shall have all obligations under such Orders which were previously the obligations of APPLICANT. In an attempt to avoid potential policyholder confusion as a result of the transactions contemplated by the APPLICATION, and to avoid unnecessary impediments to those transactions, FHMIC may utilize the current rates and rating plans of APPLICANT through December 31, 1997. After such time, FHMIC shall file rates with the

DEPARTMENT for its written approval unless using rates not requiring such approval under the Florida Insurance Code or applicable rules of the Department. FHMIC shall obtain the prior written approval of the DEPARTMENT for the use of all forms or endorsements to existing forms. Policies issued with effective dates on or after January 1, 1998 shall be written only on forms and with rates approved for use by the Department by written approval obtained after the filing of this Consent Order.

21. FHMIC shall not have or enter into any service contract with an affiliated entity - other than a contract approved in writing by the DEPARTMENT prior to its execution or a contract disclosed to the DEPARTMENT and existing at the time of the APPLICATION. Fees payable under any such contract with an affiliated entity, including the Management Services Agreement entered into between FHM Management Corp. and FHMIC, shall not be materially increased without the prior written approval of the DEPARTMENT. No such contract shall contain any minimum fee provision. FHMIC shall provide written notice to the DEPARTMENT and receive its written approval prior to executing any material amendment to any such contract. Approval for execution of contracts disclosed to the DEPARTMENT and existing at the time of the APPLICATION, including the Management Services Agreement entered into between FHM Management Corp. and FHMIC, is granted hereby, subject to the requirement that such contracts shall be revised prior to execution to delete any minimum fee provisions and the revised contracts are to be supplied to the Department for approval of the modifications prior to execution.

22. FHMIC and FHM Management Corp. shall, for the three year period following the Effective Date, give advance notice to the DEPARTMENT of any material proposed

change in: (i) the Excess of Loss Reinsurance Agreement entered into between and FHMIC and Continental Casualty Company, (ii) the Agreement for Services entered into between FHM Management Corp., and Poe & Brown, Inc., d/b/a United Self Insured Services, and (iii) the Managing General Agent Agreement entered into between FHM Management Corp. and Sam R. Boone, Jr., and shall receive written approval from the DEPARTMENT prior to implementing any such change. After the expiration of the three year period following the Effective Date, FHMIC and FHM Management Corp. shall notify the DEPARTMENT within twenty days of any material change to any of the agreements described in this paragraph.

23. FHMIC shall not use any type of discounting when computing its loss reserves and shall not report discounted loss reserves on any of its financial statements, except for the discounting of loss reserves allowed by section 625.091, Florida Statutes.

24. APPLICANT by signing this Consent Order authorizes the transfer of all security and collateral deposits now being held by the DEPARTMENT's Collateral Securities Division from the name of APPLICANT to the name of FHMIC. APPLICANT and FHMIC agree to sign all necessary documents and render other assistance as necessary to effectuate such transfer. These funds shall be designated deposits pursuant to Section 624.411, Florida Statutes.

25. For the three year period following the Effective Date, FHMIC shall, for purposes of financial examinations, be classified as an insurer which is required to be examined in accordance with Section 624.316(2)(f), Florida Statutes. Thereafter, FHMIC shall remain subject to other applicable provisions of Section 624.316, Florida Statutes.

26. FHMIC, no later than the time of filing of its 1996 Annual Statement, shall disclose to its members/policyholders, compensation of any kind paid to trustees, officers, and directors in a manner consistent with NAIC Requirements.

27. FHMIC shall not include the following assets on any financial statement filed with the DEPARTMENT, as such assets shall not be admitted for purposes of determining FHMIC's compliance with the requirements of the Florida Insurance Code: (i) Any amount representing ceded reinsurance loss that is disputed by the reinsurer; (ii) Any amount representing the prepayment for Income Taxes shall be non-admitted; (iii) Any amounts representing assets that are allowed for self-insurance funds or assessable mutual insurers that are not assets under accounting standards for domestic insurers under Florida law; and (iv) Any assets that are hypothecated, pledged, or otherwise encumbered, excluding real estate and mortgages on such held in the normal course of business, shall be non-admitted.

28. Any surplus from the transfer of all of the assets and liabilities of APPLICANT to FHMIC under the Plan of Conversion and Reorganization submitted to the DEPARTMENT shall be considered contributed surplus up to the amount necessary to meet the requirements of Section 624.407, Florida Statutes and shall be reported as such on all financial statements of FHMIC. APPLICANT and FHMIC acknowledge that such contributed surplus is not refundable to members/policyholders except through dividends which, pursuant to paragraph 36 below, are subject to the prior written approval of the DEPARTMENT for the three years immediately following the Effective Date.

29. FHMIC shall maintain all assets physically in the State of Florida in accordance with Section 628.271, Florida Statutes or in compliance with Section 628.511, Florida Statutes, for as long as FHMIC is a domestic insurer.

30. For the three year period following the Effective Date, any material deviation from the Plan of Conversion and Reorganization and the Plan of Operation submitted as part of the APPLICATION must be approved in advance and in writing by the DEPARTMENT. APPLICANT and FHMIC shall substantially comply with the Plan of Conversion and Reorganization and the Plan of Operation as submitted as part of the APPLICATION for the three year period following the Effective Date. If the DEPARTMENT determines that the APPLICANT or FHMIC is not acting in substantial compliance with the Plan of Conversion and Reorganization or the Plan of Operation or has materially deviated from the Plan of Conversion and Reorganization or the Plan of Operation without prior written approval from the DEPARTMENT, the DEPARTMENT may take administrative action as appropriate, including, but not limited to, requiring APPLICANT and FHMIC to bring their activities into substantial compliance with the Plan of Conversion and Reorganization and the Plan of Operation and eliminate any material deviation from the Plan of Conversion and Reorganization or the Plan of Operations and imposing penalties for the violation of this Consent Order. In any proceeding resulting from the DEPARTMENT's administrative action, APPLICANT and FHMIC shall have the burden of proving substantial compliance and absence of material deviation by a preponderance of evidence.

31. The Effective Date of the APPLICATION and the transactions contemplated by the APPLICATION shall be the date on which all transactions contemplated by the



APPLICATION will be performed, including the conversions and the management, service, and reinsurance contract executions contemplated by the APPLICATION. The anticipated date of the Effective Date is October 1, 1996, but may be altered, without prior approval of the DEPARTMENT, to any date within sixty days of the entry of this Consent Order. Each transaction contemplated by the APPLICATION shall follow immediately the prior transaction without delay and all transactions contemplated by the APPLICATION, including the conversion and contract executions contemplated by the APPLICATION, shall be effectuated in a single day. Notwithstanding any of the above, if the transactions contemplated by the APPLICATION have not been effectuated by December 31, 1996, this Order shall be null and void and the APPLICANT shall remain a group self insurance fund pursuant to section 624.4621, Florida Statutes.

32. On the Effective Date, APPLICANT and FHMIC shall take the appropriate steps to effectuate the conversion of APPLICANT to FHMIC. The Directors of FHMIC shall promptly ratify the execution of this Consent Order on their behalf by Bill Bond, Jr., a member of the Board of Organizers of FHMIC and who is anticipated to be the President of FHMIC. The Secretary of FHMIC shall immediately certify the ratification to the DEPARTMENT.

33. The Directors of FHM Management Corp. shall promptly ratify the execution of this Consent Order on their behalf by James E. Brock., a member of the Board of Organizers of FHM Management Corp. and who is anticipated to be the Chairman of the Board of Directors of FHM Management Corp. The Secretary of FHM Management Corp. shall immediately certify the ratification to the DEPARTMENT.

34. The DEPARTMENT has relied upon various unexecuted and draft documents and independent opinions submitted as part of the APPLICATION pursuant to the proposed conversion. No later than the close of business on the next business day following the Effective Date, except as otherwise provided below, APPLICANT and FHMIC shall submit and verify to the DEPARTMENT true, correct, and complete copies of the executed documents supporting the conversion. APPLICANT and FHMIC shall notify the DEPARTMENT in writing of any revisions to the documents at the time the revisions are made. If, within 30 days of submission of the executed documents, the DEPARTMENT determines that the executed documents vary in any material respect from those submitted to and reviewed by the DEPARTMENT prior to the entry of this Consent Order, the DEPARTMENT shall notify APPLICANT and FHMIC in writing of the material deviation and if the material deviation is not corrected to the DEPARTMENT'S satisfaction within ten days of the notice, the DEPARTMENT may enter a subsequent Order vacating this Consent Order. Such Order may disapprove the conversion. In addition, if necessary to protect policyholders or the public, the DEPARTMENT may enter an Immediate Final Order suspending the license of FHMIC. The DEPARTMENT'S determination as to the existence of a material variation shall be in the DEPARTMENT'S sole discretion and shall not be subject to Section 120.57, Florida Statutes. APPLICANT and FHMIC shall continue to promptly report and provide documentation to the DEPARTMENT with respect to any transactions or arrangements made or entered into for the purposes of this conversion including, but not limited to, the following documents to be supplied to the DEPARTMENT, except as otherwise indicated, by close of business on the Effective Date:

- a) A certified copy of the executed Articles of Incorporation of FHMIC as filed with the Secretary of State as well as the executed By-Laws of FHMIC.
- b) The original executed Consent and Agreement in Re Service of Process Under the Laws of Florida and Resolution Form for FHMIC.
- c) A certified copy of the executed Management Services Agreement between FHM Management Corp. and FHMIC.
- d) A certified copy of the executed Articles of Incorporation of FHM Management Corp. as filed with the Secretary of State as well as the executed By-Laws of FHM Management Company.
- e) Certified executed copy of the Excess of Loss Reinsurance Agreement entered into between and FHMIC and Continental Casualty Company, of the Agreement for Services entered into between FHM Management Corp. and Poe & Brown, Inc., d/b/a United Self Insured Services, and of the Managing General Agent Agreement entered into between FHM Management Corp. and Sam R. Boone, Jr.
- f) When available, and in any event, within 30 days of the Effective Date, certified copies of the minutes of all meetings of APPLICANT and FHMIC held on the Effective Date.

35. Except as otherwise provided in this Consent Order, upon conversion of APPLICANT to FHMIC, FHMIC shall comply with all requirements of the Florida Insurance Code relating to the reporting requirements applicable to domestic mutual insurers.

36. FHMIC shall, at and after the Effective Date, have and maintain policyholder surplus in an amount not less than that required of a domestic mutual insurer pursuant to §624.408, Florida Statutes, and shall be in and maintain compliance with the requirements of §624.4095, Florida Statutes, regarding the ratio of premium to surplus.

37. Neither APPLICANT or FHMIC shall declare, set aside or pay any dividends or make or agree to make any other distributions or payment, including premium refunds, or enter into any transaction, other than in the ordinary course of business and consistent with past practices, prior to the Effective Date. During the five year period immediately following the Effective Date, FHMIC shall not declare, set aside or pay any dividends or premium refunds, or make any other distributions of the surplus of FHMIC without the prior written approval of the DEPARTMENT. After the expiration of the five year period immediately following the Effective Date, FHMIC shall only declare, set aside or pay dividends or premium refunds, or make any other distributions of the surplus of FHMIC in accordance with applicable provisions of the Florida Insurance Code and rules of the DEPARTMENT. The term "premium refunds" as used in this paragraph does not refer to the return of premiums due under the accrued retrospective premium plans offered by APPLICANT and FHMIC.

38. FHMIC shall not assume reinsurance during the three year period immediately following the Effective Date and thereafter shall not assume reinsurance unless specifically authorized to do so by the DEPARTMENT through modification of this Consent Order. The DEPARTMENT shall not grant FHMIC's request to modify this Consent Order to allow for the assumption of reinsurance unless the DEPARTMENT determines that such a modification

would have no adverse impact on policyholders or the operation of FHMIC and would be in compliance with applicable provisions of the Florida Insurance Code and rules of the DEPARTMENT. In addition, FHMIC shall cede reinsurance only to authorized reinsurers unless prior written approval has been given by the DEPARTMENT. Furthermore, FHMIC shall within twenty (20) days from the effective date of any reinsurance treaty for reinsurance ceded by FHMIC, submit to the DEPARTMENT a true and correct copy of the cover notes of such treaty and shall provide a true and correct copy of the entire treaty to the DEPARTMENT if so requested. Further, FHMIC shall notify the DEPARTMENT of any proposed or prospective changes in its reinsurance prior to implementing such changes.

39. APPLICANT and FHMIC, hereby represent that they have, in the APPLICATION, described all material terms, conditions and transactions that will constitute the conversion of APPLICANT's corporate existence to FHMIC. The representations made in the documents, and herein, are material to the entry of this Consent Order and the APPLICANT and FHMIC shall conduct themselves in accordance with the representations and requirements of such documents.

40. That APPLICANT and FHMIC have made material representations that none of its officers and/or directors have been charged with or convicted of a felony or misdemeanor other than minor traffic violations. If the completed fingerprint cards of said officers and directors furnished to the DEPARTMENT or other sources utilized by the DEPARTMENT in its investigation process reveal otherwise, those individuals involved shall be removed as an officer and/or director of said APPLICANT and FHMIC, within thirty (30)

days after notification by the DEPARTMENT and replaced with an officer or a director acceptable to the DEPARTMENT.

41. APPLICANT and FHMIC have further represented that they have submitted complete information on each of the principals. If material information on one or more principal(s) has not been provided, and the DEPARTMENT would not have approved this APPLICATION if such information had been provided, those individuals involved shall be removed within thirty (30) days of receipt of notification from the DEPARTMENT.

42. With respect to the officers and directors identified in the APPLICATION, upon receipt of such notification from the DEPARTMENT, as described under paragraphs 39 and 40 above, if the required corrective action is not timely taken by APPLICANT and FHMIC, APPLICANT and FHMIC agree that such failure to act would constitute an immediate danger to the public and the DEPARTMENT immediately may suspend or revoke the license of FHMIC without further proceedings. APPLICANT and FHMIC further affirm that the above representations are material to the issuance of this Consent Order.

43. FHMIC shall file updates to its Holding Company Registration Statement with the DEPARTMENT as required by section 628.801, Florida Statutes, and Rule 4-143.046, Florida Administrative Code.

44. APPLICANT shall submit a revised and updated business plan to the DEPARTMENT for written approval prior to the writing of any new business in any other state.

45. Any administrative contracts entered into by FHMIC shall meet the requirements of Sections 626.091, 626.7451 and 626.7491, Florida Statutes. Any contract in

which FHMIC contracts, with a managing general agent or administrator, for services must be subject to writing limitations which may be exercised at the option of the FHMIC.

46. Upon issuance of this Consent Order, APPLICANT's and FHMIC's failure to adhere to one or more of the terms and conditions contained herein after having been provided written notice of the failure by the DEPARTMENT and thirty business days to cure the deviation (Notice and Opportunity to Cure), may result, without further proceedings, in the Treasurer and Insurance Commissioner withdrawing approval of the APPLICATION and the transactions contemplated by the APPLICATION or in the revocation of FHMIC's certificate of authority. Compliance by APPLICANT and FHMIC after being provided a Notice and Opportunity to Cure shall not foreclose the DEPARTMENT from pursuing disciplinary proceedings as appropriate. The remedy provided herein for APPLICANT's and FHMIC's failure to adhere to one or more of the terms and conditions contained herein is not exclusive and shall not foreclose the DEPARTMENT from pursuing other enforcement or disciplinary actions as provided for by law including emergency actions with immediate effect.

47. FHMIC may in the future request modification of the terms of this order and the DEPARTMENT shall consider such requests and shall have the sole discretion to grant or deny such requests for modification.

48. The parties agree that this Consent Order will be deemed to be executed when the Treasurer and Insurance Commissioner or his designee has signed a copy of this Consent Order which bears the signatures of Applicant, FHM Management Corp., and FHMIC or their authorized representatives, notwithstanding the fact that the copy was transmitted to the

agency by facsimile machine. Applicant, FHM Management, and FHMIC further agree that the original of this Consent Order with original signatures will be forwarded to the DEPARTMENT within three (3) days of its receipt from the DEPARTMENT. Failure to forward a signed original within the specified time period shall render this agreement voidable.

**WHEREFORE**, subject to the terms and conditions herein, the APPLICATION and the transactions contemplated by the APPLICATION are **APPROVED**, and **FURTHER**, all terms and conditions contained herein are hereby **ORDERED**.

**DONE and ORDERED** at Tallahassee, Florida, this 26 day of September 1996.



  
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PETE MITCHELL  
Chief Of Staff



By execution hereof, APPLICANT, FHMIC, and FHM Management Corp. consent to entry of this Consent Order, agree without reservation to all of the above terms and conditions and shall be bound by all provisions herein. The undersigned represent, that he/she has the authority to bind, APPLICANT, FHMIC, and FHM Management Corp. to the terms and conditions of this Consent Order.

FLORIDA HOTEL-MOTEL SELF  
INSURERS FUND ("APPLICANT")

By: James E. Brock  
Title: Chairman

FLORIDA HOTEL-MOTEL  
INSURANCE COMPANY

By: Kell Brock  
Title: President

FHM MANAGEMENT CORP.

By: James E. Brock  
Title: Chairman

COPIES FURNISHED TO:

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