

**Bylaws of**  
**Excess Insurance Organization, Inc.**

**As Adopted**  
**June 27, 2016**

**Bylaws of  
Excess Insurance Organization, Inc.**

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**Bylaws of  
Excess Insurance Organization, Inc.**

**ARTICLE I – PURPOSES**

**Section 1.01 Name and Organizational Structure.** Excess Insurance Organization, Inc. is a nonprofit corporation organized and existing under the Utah Revised Nonprofit Corporation Act, Chapter 6a of Title 16 of the Utah Code of 1953, as amended.

**Section 1.02 Tax Status and Purpose.** In accordance with the status of the corporation as an entity which may exclude its income from gross income under Section 115 of the Internal Revenue Code of 1986, as amended (or corresponding provisions of any future United States internal revenue law) (the “Code”), the corporation is organized and shall be operated exclusively for the purposes set forth in the corporation’s Articles of Incorporation.

**ARTICLE II – OFFICES**

**Section 2.01 Offices.** The principal office of the corporation may be located at any place within the State of Utah, as designated in the corporation’s most current Annual Report filed with the Utah Division of Corporations and Commercial Code. The corporation may have such other offices, either in or outside the State of Utah, as the board of directors may designate or as the business of the corporation may require from time to time. The corporation shall maintain at its principal office a copy of certain records, as specified in Section 16-6a-1601 of the Utah Revised Nonprofit Corporation Act.

**Section 2.02 Registered Office.** The registered office of the corporation, required by Section 16-17-101, et seq., of the Model Registered Agents Act, shall be located in the State of Utah and may be, but need not be, identical with the corporation’s principal office (if located in the State of Utah). The address of the registered office may be changed from time to time.

### ARTICLE III – MEMBERS

**Section 3.01 Annual Meeting.** The corporation shall hold an annual meeting of members at such time, date and place as the board of directors shall determine, or in the event there is a sole shareholder, as the sole shareholder shall determine, for the purpose of electing directors and for the transaction of such other business as may come before the meeting.

**Section 3.02 Special Meeting.** The corporation shall hold a special meeting of the members at such time, date and place as the board of directors, or in the event there is a sole shareholder, as the sole shareholder shall determine:

(i) on call of its board of directors, the chairman of the board of directors or the president; or

(ii) if the holders of shares representing at least ten percent (10%) of all the votes entitled to be cast on any issue that is proposed to be considered at a special meeting sign, date and deliver to the corporation's secretary one or more written demands for the meeting, stating the purpose or purposes for which it is to be held.

**Section 3.03 Action Without a Meeting.**

(a) **Action By Written Consent.** Any action required or permitted to be taken at a meeting of the members may be taken without a meeting and without prior notice if one or more consents in writing, setting forth the action so taken, are signed by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take the action at a meeting at which all shares entitled to vote thereon were present and voted.

**(b) Notice of Action.** Unless the written consents of all members entitled to vote have been obtained, notice of any member approval without a meeting shall be given at least ten days before the consummation of the action authorized by the approval to:

(i) those members entitled to vote who have not consented in writing;  
and

(ii) those members not entitled to vote and to whom the Utah Revised Nonprofit Corporation Act requires that notice of the proposed action be given.

The notice must contain or be accompanied by the same material that, under the Utah Revised Nonprofit Corporation Act and these Bylaws, would have been required to be sent in a notice of meeting at which the proposed action would have been submitted to the members for action.

**(c) Election of Directors.** Notwithstanding subsection (a), directors may not be elected by written consent except by unanimous written consent of all shares entitled to vote for the election of directors.

#### **Section 3.04 Notice of Meeting.**

**(a) Notice Required.** The corporation shall give notice to members of the date, time and place of each annual and special members' meeting no fewer than ten (10) nor more than sixty (60) days before the meeting date. Notice shall be deemed effective at the earlier of (i) when deposited in the United States mail, addressed to the member at his or her address as it appears on the stock transfer books of the corporation, with postage thereon prepaid; (ii) on the date shown on the return receipt if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee; (iii) when received; or (iv) 5 days after deposit in the United States mail, if mailed postpaid and correctly addressed to an address other than that shown in the corporation's current record of members.

**(b) Contents of Notice.**

(i) The notice of every members' meeting must state the place, day and time of the meeting.

(ii) Notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called, except for those matters specified by law or these bylaws for which specific notice must be given.

(iii) Notice of a special meeting must include a description of the purpose or purposes for which the meeting is called.

### **Section 3.05 Waiver of Notice.**

(a) **Written Waiver.** A member may waive notice of any meeting before or after the date and time of the meeting stated in the notice. Except as provided in subsection (b), below, the waiver must be in writing and signed by the member entitled to notice. The waiver shall be delivered to the corporation for filing with the corporate records, but delivery and filing are not conditions to its effectiveness.

(b) **Waiver by Attendance.** The attendance of a member at or participation in a meeting waives any required notice to the member of the meeting unless the member at the beginning of the meeting, or promptly upon the member's arrival, objects to the holding of the meeting or the transacting of business at the meeting because of lack of notice or defective notice, and does not thereafter vote for or assent to action taken at the meeting.

### **Section 3.06 Record Date for Meetings and other Actions.**

(a) **Fixing of Record Date.** The board of directors by resolution may fix a record date in order to determine the members entitled to receive notice of a members' meeting, and to determine the members who are entitled to take action without a meeting, to demand a special meeting, to vote, or to take any other action. Such record date may not be more than seventy (70) days before the meeting or action requiring the determination of members.



**(b) Default Record Date.** If the board of directors does not fix a record date, the record date for determining members entitled to notice of and to vote at an annual or special members' meeting is the close of business on the date before the first notice is delivered to members.

**Section 3.07 Vote Required to take Action for Other than Election of Directors.** If a quorum exists, action on a matter, other than the election of directors, is approved if the votes cast favoring the action exceed the votes cast opposing the action, except where a greater number of affirmative votes is otherwise required by law.

**Section 3.08 Quorum.** A majority of the shares issued and outstanding constitutes a quorum for the transaction of business at any meeting of the members.

**Section 3.09 Conduct of Meetings.** The board of directors may adopt by resolution such rules and regulations for the conduct of meetings of members as it shall deem appropriate. Except to the extent inconsistent with such rules and regulations adopted by the board of directors, the chair of any meeting of members shall have the right and authority to prescribe such rules, regulations and procedures and to all such acts as, in the judgment of the chair, are appropriate for the conduct of the meeting. Such rules, regulations and procedures, whether adopted by the board of directors or prescribed by the chair, may include, without limitation, the following: (a) the establishment of an agenda or order of business for the meeting, (b) rules and procedures for maintaining order at the meeting and the safety of those present, (c) limitations on attendance at or participation in the meeting to members of record, their duly authorized and constituted proxies or such other persons as the chair of the meeting shall determine, (d) restrictions on entry to the meeting after the time fixed for commencement thereof, and (e) limitations on the time allotted to questions or comments by participants. Unless and to the extent determined by the board of directors or the chair of the meeting, meetings of members shall not be required to be held in accordance with the rules of parliamentary procedure.

#### **ARTICLE IV – BOARD OF DIRECTORS**

**Section 4.01 General Powers.** The business and affairs of the corporation shall be managed under the direction of its board of directors.

**Section 4.02 Number.** The number of directors of the corporation shall be not less than three (3) nor more than seven (7), with the exact number of directors within such parameters to be set by resolution of the board of directors from time to time; provided that no decrease in the number of directors shall have the effect of shortening the term of any incumbent director.

**Section 4.03 Election.** Each director designated in the corporation's Articles of Incorporation shall be deemed to be elected as such as of the time of filing such Articles of Incorporation to serve until his or her replacement is duly elected and qualified. The directors shall be elected at each annual meeting of the members. If the directors are not elected at an annual meeting, or if an annual meeting is not held, then the directors may be elected at any special meeting of the members held for that purpose.

**Section 4.04 Term.** The terms of the initial directors of the corporation expire at the first members' meeting at which directors are elected. The terms of all other directors expire at the next annual members' meeting following their election. Despite the expiration of a director's term, the director shall continue to serve until the election and qualification of a successor or until there is a decrease in the number of directors, or until such director's earlier death, resignation or removal from office.

**Section 4.05 Qualifications.** At all times the corporation shall have at least one director that is a resident of the State of Utah; the remaining directors need not be residents of the State of Utah and none of the directors need be members of the corporation. Each director shall be a natural person who is 18 years of age or older.

**Section 4.06 Resignation.** Any director of the corporation may resign at any time by giving written notice to the corporation. A resignation is effective when the notice is received by the corporation unless the notice specifies a later effective date.

**Section 4.07 Annual Meetings.** An annual meeting of the board of directors shall be held without other notice than this bylaw immediately after, and at the same place within the State of Utah as, the annual meeting of members. By resolution, the board of directors may

determine the time and place, either within or without the State of Utah, for the holding of additional regular meetings without other notice than such resolution.

**Section 4.08 Special Meetings.** Special meetings of the board of directors may be called by or at the request of the chairman of the board, the president or any two (2) directors. The person or persons authorized to call special meetings of the board of directors may fix any place, either within or without the State of Utah, as the place for holding any special meeting of the board of directors called by them.

**Section 4.09 Action Without a Meeting.** Any action required or permitted to be taken at a meeting of the board of directors may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the directors. Such consent has the same force and effect as a unanimous vote of the directors. Action taken under this provision is effective at the time the last director signs a writing describing the action taken, unless, prior to that time, any director has revoked a consent by a writing signed by the director and received by the secretary or any other person authorized by the bylaws or the board of directors to receive the revocation, or unless the consent specifies a different effective time.

**Section 4.10 Notice of Special Meetings.** Notice of any special meeting shall be given at least three (3) days prior to the date of the meeting. Notice must be in writing unless oral notice is reasonable under the circumstances. Notice may be communicated in person, by any form of electronic communication, or by mail or private carrier. The notice need not describe the purpose of the special meeting, unless otherwise required by law or these bylaws. Notice shall be effective at the earliest of the following:

- (i) when received;
- (ii) five days after it is mailed;
- (iii) on the date shown on the return receipt if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

#### **Section 4.11 Waiver of Notice.**

(a) **Written Waiver.** Any director may waive notice of any meeting before or after the date and time of the meeting stated in the notice. Except as provided in subsection (b), below, the waiver must be in writing and signed by the director entitled to notice. The waiver shall be delivered to the corporation for filing with the corporate records, but delivery and filing are not conditions to its effectiveness.

(b) **Waiver by Attendance.** The attendance of a director at or participation in a meeting waives any required notice to the director of the meeting unless the director at the beginning of the meeting, or promptly upon the director's arrival, objects to the holding of the meeting or the transacting of business at the meeting because of lack of notice or defective notice, and does not thereafter vote for or assent to action taken at the meeting.

**Section 4.12 Quorum.** A majority of the number of directors fixed by Section 4.02 of these bylaws constitutes a quorum for the transaction of business at any meeting of the board of directors.

**Section 4.13 Manner of Acting.** The act of a majority of the directors present at a meeting at which a quorum is present is the act of the board of directors. Voting by proxy is not permitted.

**Section 4.14 Meetings by Telecommunication.** The board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may hear each other during the meeting. A director participating in a meeting by this means is considered present in person at the meeting.

### **ARTICLE V – OFFICERS**

**Section 5.01 Number.** The corporation shall have such officers as may be determined by the board of directors, and may include a president, a vice president, a secretary, and a treasurer, each of whom shall be appointed by the board of directors. One or more additional vice presidents (the number to be determined by the board of directors) and

such other officers and assistant officers and agents as may be deemed necessary may also be appointed by the board of directors. The board of directors may delegate to any officer of the corporation or any committee of the board of directors the power to appoint, remove and prescribe the duties of such other officers, assistant officers, agents and employees. Any two or more offices may be held by the same person, provided that there shall always be at least two natural persons serving as officers.

**Section 5.02 Appointment and Term of Office.** The officers of the corporation shall be appointed by the board of directors or by any officer to whom or committee of the board of directors to which the power of appointment has been delegated. Each officer shall hold office until such officer's successor has been appointed or until such officer's death or until such officer shall resign or shall have been removed in the manner provided below. The appointment of an officer shall not itself create any contract rights with the corporation.

**Section 5.03 Removal.** Any officer, assistant, agent or employee may be removed, with or without cause, at any time by the board of directors, or by any officer to whom or committee of the board of directors to which such power of removal has been delegated, but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

**Section 5.04 Resignation.** An officer may resign at any time by giving written notice of resignation to the corporation. A resignation of an officer is effective when it is received by the corporation, unless the notice specifies a later effective date. An officer's resignation does not affect the corporation's contract rights, if any, with the officer.

**Section 5.05 Vacancies.** A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the board of directors or by any officer to whom or committee of the board of directors to which such power has been delegated.

**Section 5.06 Compensation.** The compensation of the officers shall be fixed from time to time by the board of directors and no officer shall be prevented from receiving such compensation by reason of the fact that he or she is also a director of the corporation.

**Section 5.07 The President.** The president, unless otherwise specified by the board of directors, shall be the chief executive officer of the corporation and, under the direction of the board of directors, shall in general supervise and control all the business and affairs of the corporation. The president shall, when present, preside at all meetings of the members and, in the absence of the chair of the board, at meetings of the board of directors. The president may hire, prescribe the duties of, and fire employees, and may delegate such authority in whole or in part to any other officer or employee. The president may sign, with the secretary or any other proper officer of the corporation thereunto authorized by the board of directors, certificates for shares of the corporation, and any deeds, mortgages, bonds, contracts, or other instruments which the board of directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the board of directors or by these bylaws to some other officer or agent of the corporation, or shall be required by law to be otherwise signed or executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the board of directors from time to time.

**Section 5.08 The Vice President.** In the absence of the president, or in the event of the president's death, inability or refusal to act, the vice president (or in the event there is more than one vice president, the vice presidents in the order designated at the time of their election, or in the absence of any designation, then in the order of their election) shall perform the duties of the president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the president. Any vice president may sign, with the secretary or an assistant secretary, certificates for shares of the corporation; and shall perform such other duties as from time to time may be assigned to him or her by the president or by the board of directors.

**Section 5.09 The Secretary.** The secretary shall (a) keep the minutes of the members' and of the board of directors' meetings; (b) see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the corporation and affix such seal to documents when authorized; (d) keep a register of the address of each member which shall be furnished to the secretary by such member; (e) sign with the president, or a vice president, certificates for shares of the corporation, the issuance of which shall have been authorized by resolution of the board of directors; (f) have general charge of the stock transfer books of the corporation;

(g) maintain the records required under Section 16-6a-1601 of the Utah Revised Nonprofit Corporation Act, and (h) in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him or her by the president or by the board of directors. In the absence of a secretary and any assistant secretaries, the president shall perform these duties.

**Section 5.10 The Treasurer.** If required by the board of directors, the treasurer, or its designee, shall give a bond for the faithful discharge of his or her duties in such sum and with such surety or sureties as the board of directors shall determine. The treasurer, or its designee, shall: (a) have charge and custody of and be responsible for all funds and securities of the corporation; (b) receive and give receipts for moneys due and payable to the corporation from any source whatsoever, and deposit all such moneys in the name of the corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Section 8.04 of these bylaws; and (c) in general perform all of the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him or her by the president or by the board of directors. In the absence of a treasurer, the secretary shall perform such duties.

**Section 5.11 Assistant Secretaries and Assistant Treasurers.** The assistant secretaries, when authorized by the board of directors, may sign with the president or a vice president certificates for shares of the corporation, the issuance of which shall have been authorized by a resolution of the board of directors. The assistant treasurers shall respectively, if required by the board of directors, give bonds for the faithful discharge of their duties in such sums and with such sureties as the board of directors shall determine. The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the secretary or the treasurer, respectively, or by the president or the board of directors.

## **ARTICLE VI – CERTIFICATES FOR SHARES AND THEIR TRANSFER**

**Section 6.01 Certificates for Shares.** Every holder of shares of stock of the corporation shall be a voting member and is entitled to have a certificate or certificates, in a form approved by the board of directors, certifying the number and class and series of shares of the stock of the corporation owned by such member. Such certificates shall be

consecutively numbered in the order in which they are issued. Membership shall be maintained only through the acquisition and holding of stock in the corporation.

## ARTICLE VII – INDEMNIFICATION

**Section 7.01 Indemnification.** The corporation shall indemnify each person who is or was a director, officer, employee or agent of the corporation or an individual who, while serving the indicated relationship to the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee fiduciary, or agent of another corporation or other person or of an employee benefit plan, to the fullest extent required or permitted by the Utah Revised Nonprofit Corporation Act.

**Section 7.02 Authorization of Indemnification.** The corporation shall be deemed to have authorized such indemnification whenever a determination has been made under Section 16-6a-906 of the Utah Revised Nonprofit Corporation Act that indemnification of an individual is permissible in the circumstances because the person has met the applicable standard of conduct.

**Section 7.03 Advance of Expenses.** The corporation shall accept the undertaking required by Subsection 16-6a-904(1)(b) of the Utah Revised Nonprofit Corporation Act without reference to financial ability to make repayment.

**Section 7.04 Insurance.** The corporation may purchase and maintain liability insurance on behalf of a person who is or was a director, officer, employee, fiduciary, or agent of the corporation, or who, while serving as a director, officer, employee, fiduciary, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, fiduciary, or agent of another foreign or domestic corporation or other person, or of an employee benefit plan, against liability asserted against or incurred by him or her in that capacity or arising from his or her status as a director, officer, employee, fiduciary, or agent, whether or not the corporation would have power to indemnify him or her against the same liability.

**Section 7.05 Savings Clause.** If this Article or any portion thereof shall be invalidated on any ground by any court of competent jurisdiction, then the corporation shall



nevertheless indemnify each officer and director as to expenses, including attorneys' fees, judgments, fines and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative, and whether internal or external, including without limitation a grand jury proceeding and an action or suit brought by or in the right of the corporation, to the full extent permitted by any applicable portion of this Article that shall not have been invalidated, or by any other applicable law.

#### **ARTICLE VIII – MISCELLANEOUS**

**Section 8.01 Amendments.** Unless otherwise provided in the corporation's Articles of Incorporation or these bylaws, these bylaws, or any of them, may be altered, amended or repealed, and new bylaws may be made at a meeting called for that purpose by the affirmative vote of two-thirds (2/3) of the whole number of directors; provided, however, that any such amendments shall be consistent with the corporation's status as an entity which may exclude its income from gross income under Section 115 of the Code. The company shall provide notice to the Commissioner of the Utah Insurance Department of any changes to these bylaws in accordance with R590-238-18 of the Utah Administrative Code, as such may be amended from time to time.

**Section 8.02 Affect Upon Prior Bylaws.** These Bylaws supersede in their entirety any prior bylaws of the corporation and all amendments thereto.

**Secretary's Certificate**

I, THE UNDERSIGNED, being the secretary of Excess Insurance Organization, Inc., do hereby certify the foregoing to be the bylaws of such corporation, as adopted by written consent of its board of directors effective the 27 day of June, 2016.

  
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Lorin C. Barker, Secretary