

**NEW JERSEY INTERGOVERNMENTAL
INSURANCE FUND
BYLAWS**

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**NEW JERSEY INTERGOVERNMENTAL INSURANCE FUND
BYLAWS INDEX**

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NEW JERSEY INTERGOVERNMENTAL INSURANCE FUND

BYLAWS

WHEREAS: N.J.S.A. 40A:10-36 et seq permits local units to join together to form a joint insurance fund;
and

WHEREAS: Said statute was designed to give local units the opportunity to use alternative risk management techniques, providing they are based on sound actuarial principles;

WHEREAS: The New Jersey Intergovernmental Insurance Fund, hereinafter the Fund, was established effective February 1, 1991 pursuant to said statutes,

WHEREAS: The following public entities agreed to form said joint insurance fund:

1. Borough of Bloomingdale
101 Hamburg Turnpike
Bloomingdale, New Jersey 07403
2. Borough of Kinnelon
130 Kinnelon Road
Kinnelon, New Jersey 07405
3. Township of Little Falls
35 Stevens Avenue
Little Falls, New Jersey 07424
4. Borough of North Haledon
103 Overlook Drive
North Haledon, New Jersey 07508
5. Township of Pequannock
530 Newark Pompton Turnpike
Pompton Plains, New Jersey 07444
6. Borough of Ringwood
60 Margaret King Avenue
Ringwood, New Jersey 07456
7. Borough of Riverdale
91 Newark Pompton Turnpike
Riverdale, New Jersey 07457
8. Borough of Teterboro
Route 46
Teterboro, New Jersey 07608
9. Borough of Upper Saddle River
376 West Saddle River Road
Upper Saddle River, New Jersey 07458
10. Borough of Wanaque
579 Ringwood Avenue
Wanaque, New Jersey 07465
11. Township of Wayne
475 Valley Road
Wayne, New Jersey 07470
12. Township of West Caldwell
30 Clinton Road
West Caldwell, New Jersey 07006
13. Township of West Milford
1480 Union Valley Road
West Milford, New Jersey 07480
14. Borough of West Paterson
McBride Avenue & Brophy Lane
West Paterson, New Jersey 07424

WHEREAS: Revisions to said statute and the regulations promulgated by the Department pursuant thereto require the Fund to revise its existing bylaws.

NOW THEREFORE, the membership of the Fund hereby adopts the following bylaws:

ARTICLE I DEFINITIONS

1.01 For purposes of these Bylaws, unless the context requires otherwise, the following words and phrases shall have the meanings indicated. If no definition is given hereunder and a definition appears within N.J.A.C. 11:15-2.2, then such additional definitions shall be deemed to be incorporated hereunder.

“Actuary” means a person who is a Fellow in good standing of the Casualty Actuarial Society with three years recent experience in loss reserving; an associate in good standing of the Casualty Actuarial Society with five years recent experience in loss reserving; or an associate in good standing of the American Academy of Actuaries who has been approved as qualified for signing casualty loss reserve opinions by the Casualty Practice Council of the American Academy of Actuaries and who has seven years recent experience in loss reserving.

“Administrator” means a person, partnership, corporation or other legal entity engaged by the joint insurance fund commissioners or executive committee, as defined herein, to act as Executive Director to carry out the policies established by the joint insurance fund commissioners or executive committee and to otherwise administer and provide day-to-day management of the joint insurance fund. The Administrator may also be the lead agency, an employee of the Fund, a Fund member, or an independent contractor. .

“Allocated Claims Expense” means attorneys fees’, expert witness fees (i.e. engineering, physicians, etc.), medical reports, professional photographers’ fees, police reports and other similar expenses.

“Automobile and Equipment Liability” means liability resulting from the use or operation of motor vehicles, equipment or apparatus owned by or controlled by the local unit or owned by or under the control of any subdivisions thereof, including its departments, boards, agencies, commissioners or other entities which the local unit may provide coverage for under N.J.S.A. 40A: 10-2.

“Bureau” means the Compensation Rating & Inspection Bureau, 60 Park Place, Newark, N.J. 07102.

“Chairperson” means the Chairperson of the Fund commission, elected by the commission pursuant to N.J.S.A. 40A: 10-37.

“Commissioner” means the Commissioner of Banking and Insurance.

“Crime and Fidelity” means loss or theft of monies or securities, including blanket bond coverage of certain county or municipal officers and employees for faithful performance and discharge of their duties as provided under section 1 of P.L. 1967, c.283 (C.40A:5-34.1).

“Department” means the Department of Banking and Insurance.

Employer’s Liability” means the legal liability of a public employer to pay damages because of bodily injury or death by accident or disease at any time resulting therefrom sustained by an employee arising out of and in the course of his or her employment by the public employer, which is not covered by a workers’ compensation law.

“Excess Carrier” means an insurer that provides excess insurance or reinsurance to a Fund.

“Excess Insurance” means insurance purchased from an insurance company authorized or admitted in the State of New Jersey or deemed eligible by the Commissioner of the Department as a surplus lines insurer, or from any other entity authorized to provide such coverage in this State pursuant to law, covering losses in excess of an amount established between the joint insurance fund and the insurer up to limits of coverage set forth in the insurance contract on a specific per occurrence, or per accident, or annual aggregate basis.

“Executive Committee” means a committee of Insurance Fund commissioners, as provided in P.L. 1983, c. 372 N.J.S.A. 40A:10-36 et seq.

“Fiscal Year” or **“Fund Year”** means the calendar year January I through December 31.

“Fund” means the New Jersey Intergovernmental Insurance Fund.

“General Liability” means any and all liability which may be insured under the laws of the State of New Jersey, excluding workers compensation and employers’ liability.

“Hazardous Financial Condition” means that, based on its present or reasonably anticipated financial condition, a Fund, although not yet financially impaired or insolvent, is unlikely to be able:

1. To meet obligations to claimants with respect to known claims and reasonably anticipated claims; or
2. To pay other obligations in the normal course of business.

“Incurred Claims” means claims which occur during a Fund year including claims reported or paid during the later period.

“Indemnity and Trust Agreement” means a written contract signed by and duly adopted by each member of the Fund under which the member agrees to jointly and severally assume and discharge the liabilities of each and every party to such agreement arising from the participation in the Fund.

1. The agreement shall also create a trust and govern the operation thereof, under which monies shall be held by the Fund commissioners as fiduciaries for the benefit of Fund claimants.

2. Where the Fund shall provide for the retention on a self-insured basis of any or all of the risks or liabilities specified in I through V below, the agreement shall require and provide for the establishment of separate trust accounts from which monies shall be disbursed solely for the payment of claims, allocated claim expenses and excess insurance or reinsurance premiums for each such risk or liability:

- I. Workers Compensation and employers’ liability;
- II. Liability, other than motor vehicles;
- III. Property damage, other than motor vehicles;
- IV. Motor vehicle.
- V.. Environmental Liability

“Vote of Full Membership of the Fund commissioners” or similar language in these by-laws which require a vote of all Commissioners of the NJIIF – shall mean a vote based upon the full membership of the Fund Commissioners in attendance at any public meeting where such vote is required to be taken.

“Insolvent Fund” means a joint insurance fund which has been determined by a court of competent jurisdiction to be unable to pay its outstanding lawful obligations as they mature in the regular course of business, as it may be shown either by an excess of its required reserves and other liabilities over its assets or by its not having sufficient assets to reinsure all of its outstanding liabilities after paying all accrued claims owed by it, or for which, or for the assets of which, a receiver or liquidator, however entitled, has been appointed by a court of competent jurisdiction and authority, after the effective date of this subchapter.

“Insurer” means any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd’s insurer or other person engaged in the business of insurance pursuant to Subtitle 3 of Title 17 of the Revised Statutes.

“Intertrust fund transfer” means an actual transfer of funds from one claim or loss retention fund account in a fiscal year to another account within the same fiscal year.

“Interyear fund transfer” means the transfer of funds from a claim or Loss retention trust account for a fiscal year, to a claim or loss retention trust account of similar risk or liability for a different fiscal year.

“Joint Insurance Fund” means a group organized by two or more local units of government to establish an insurance fund for the purposes of insuring and/or self-insuring against liability, property damage, and worker’ compensation, or for the sole purpose of insuring against bodily injury and property damage claims arising from environmental impairment liability and legal representation thereof, to the extent and for coverages approved by the Commissioner pursuant to the authority of N.J.S.A. 40A:10-36 et seq, and this subchapter.

“Joint Insurance Fund commissioners” means local unit representatives chosen to represent those units in the Fund, as provided in N.J.S.A. 40A:10-36 et seq.

“Lead Agency” means a member of the joint insurance fund responsible for the custody and maintenance of the assets of the Fund and such other duties as may be designated by the joint insurance fund commissioners. The duties performed by a lead agency may include duties that may be performed by an administrator or servicing organization.

“Local Unit of Government” or **“Local Unit”** means a county, municipality, county school (pursuant to N.J.S.A. 18A:18B-8 and 40A:10-50), county college (pursuant to N.J.S.A. 18A:64A-25.40 and 40A:10-51), any contracting unit as defined in N.J.S.A. 40A:11-2 or boards of education of certain school districts, to the extent permitted pursuant to N.J.S.A. 40A:10-52 through 57.

“Manual Premium” means the Workers’ Compensation premium computed by applying the manual rates established for appropriate classifications to the appropriate payrolls by classification in accordance with the “Manual” of the ‘Bureau’.

“Member” means the governing body of any Local Unit who has, by resolution or ordinance, agreed, and has executed the appropriate Resolution and Indemnity and Trust Agreement, to join the Fund pursuant to the requirements of Article II (“Membership”) of these Bylaws.

“Membership Term” means the period of time during which the member, pursuant to the Indemnity and Trust Agreement, shall remain a member of the Fund.

“Motor Vehicular and Equipment Liability” means liability resulting from the use or operation of motor vehicles, equipment or apparatus owned by or controlled by the participating municipality, or owned by or under the control of any subdivision thereof including its departments, boards, agencies or commissions for which an Insurance Fund may be established as authorized under N.J.S.A. 40A:10-36.

“Net Current Surplus” or **“Surplus”** means the amount of monies in a trust account established pursuant to N.J.A.C. 11:15-2.6(b)10 that is in excess of all costs, earned investment income, refunds made pursuant to N.J.A.C. 11:15-2.21, incurred losses and loss adjustment expenses and incurred but not reported reserves, including the associated loss adjustment expenses attributed to the fund net of any recoverable per occurrence or aggregate excess insurance or reinsurance for a particular year.

“Occurrence” means an accident, including continuous or repeated exposure to conditions which results in injury or damage neither expected nor intended from the standpoint of participant within the Fund.

“Probable Net Cost” means the estimated ultimate undiscounted cost of claims incurred during a Fund year plus the cost of allocated claims expense and other costs of operating the fund until all claims incurred during the Fund year are settled.

“Producer” means any person engaged in the business of an insurance agent, insurance broker or insurance consultant as defined in N.J.S.A. 17:22A-1 et seq.

“Property Damage” means any loss or damage, however caused, on property, motor vehicles, equipment or apparatus owned by the local unit or owned by or under the control of any of its departments, boards, agencies, commissions, or other entities which the local unit may provide coverage for under N.J.S.A. 40A:10-2.

“Secretary” means the secretary of the fund commission elected by the commission pursuant to N.J.S.A. 40A:10-37.

“Servicing Organization” means an individual, partnership, association or corporation, other than the administrator, that has contracted with the Fund to provide, on the Fund’s behalf, any function as designated by the Fund commissioners including, but not limited to, actuarial services, claims administration, cost containment services, loss prevention/safety engineering services, legal services, auditing services, financial services, compilation and maintenance of the Fund’s underwriting file, coordination and preparation of coverage documents, risk selection and pricing, excess insurance or reinsurance producer services, which include producer negotiations on behalf of the Fund for excess insurance or reinsurance from an insurer, member assessment and fee development, report preparation pursuant to N.J.S.A. 40A:10-36 et seq and this subchapter, and such other duties as designated by the Fund.

“Term of Office” shall be one year unless otherwise specified in these documents.

“Unpaid Claims” or “Unpaid Losses” means case reserves and reserves for incurred but not reported claims attributed to the fund net of any recoverable per occurrence or aggregate excess insurance or reinsurance for a particular year.

“Workers’ Compensation Law” means the provisions of N.J.S.A. 34:15-7 et seq.

**ARTICLE II
MEMBERSHIP**

2.01 AGREEMENT TO JOIN THE FUND:

- A. Pursuant to N.J.S.A. 40A:10-36, the governing body of any local unit of government may, by resolution or ordinance as appropriate, agree to join the Fund.
 - 1. The resolution or ordinance shall provide for execution by the local unit of the Fund's Indemnity and Trust Agreement and specifically accepting the Fund's Bylaws as approved and adopted pursuant to N.J.S.A. 40:10-39.
 - 2. The Indemnity and Trust Agreement shall specify the extent of the local unit's participation in the Fund with respect to the types of insurance coverage to be provided by the Fund and shall include the duration of the Fund membership, which in no event shall exceed three years, pursuant to N.J.S.A.40A:11-15(6).
- B. The Indemnity and Trust Agreement shall also specify that the member has never defaulted on claims if self-insured and has not been canceled for non-payment of insurance premiums for a period of at least two years prior to the application.
- C. The Fund commissioners or executive committee, if an executive committee is established, may approve the application by two-thirds vote of the full membership based on the following criteria:
 - 1. The applicant's five (5) year claims history shows safety performance consistent with the Fund's objectives and the applicant's physical location and makeup indicates a prospective likelihood of satisfactory future claim performance.
 - 2. A safety inspection and evaluation conducted by the Fund's designated safety consultant at the expense of the applicant shows the applicant meets the Fund's safety standards including, but not limited to, an evaluation of physical plant, personnel, and operating procedures.
 - 3. The Fund has the administrative capability to absorb additional memberships without undue inconvenience or strain. Membership is limited to local units within the State of New Jersey.
- D. If the applicant is approved by the Fund, it shall within 15 days of approval be concurrently filed with the Department and the Department of Community Affairs and shall be accompanied by such amendments to the Fund's Budget and Plan of Risk Management as well as any other documents required pursuant to N.J.A.C. 11:15-2 et seq.
- E. If a non-member is not approved for membership, the Fund shall set forth in writing the reasons for disapproval and send the reasons for disapproval to the non-member. The Fund shall retain a copy of all membership application disapprovals for five years.

2.02 (SUBSEQUENT MEMBERSHIP) APPROVAL OF NON MEMBERS:

- A. Any Local Unit, including any contracting unit as defined in Section 2 of P.L. 1971, c.198 (C.40A:11-2) seeking membership after the Fund's initial approval by the Commissioner of the Department and the Commissioner of the Department of Community Affairs shall submit an application for membership to the Fund on a form acceptable to the Commissioner of the Department and Fund commissioners or executive committee as applicable. The application shall include in addition to the documentation required under section 2.01 above;
 - 1. The name and address of the new member.
 - 2. The effective date of coverage.
 - 3. The name of the new member's risk manager.
 - 4. The name of the fund commissioner and alternate in accordance with N.J.A.C.11:15-2.6(a).
 - 5. The lines of coverage in which the new member participates.

- B. The Fund commissioners or executive committee, if an executive committee is established, may approve the application by two-thirds vote of the full membership based on the following criteria:
 - 1. The applicants five (5) year claims history shows safety performance consistent with the Fund's objectives and the applicant's physical location and makeup indicates, a prospective likelihood of satisfactory future claim performance.
 - 2. A safety inspection and evaluation conducted by the Fund's safety consultant at the expense of the applicant shows the applicant meets the Fund's safety standards including, but not limited to, an evaluation of physical plant, personnel, and operating procedures.
 - 3. The Fund has the administrative capability to absorb additional memberships without undue inconvenience or strain.

- C. If the application is approved by the Fund, it shall within 15 days of approval be concurrently filed with the Department and the Department of Community Affairs and shall be accompanied by a revised budget with assessment detail, if otherwise required pursuant to N.J.A.C. 11: 15-2.9, an actuarial statement regarding the adequacy of the member's assessment to cover anticipated losses; and any amendments to the fund's bylaws and plan of risk management as may be necessary.

2.03 CONDITIONS OF MEMBERSHIP: As a condition of initial and continued membership, each member shall:

- A. Form a safety committee and actively participate in all Fund sponsored safety programs and agree to comply with safety and management procedures as required by the Fund;

- B. Promptly comply with the requirements of the Fund; whether established under its Indemnity and Trust Agreement, its Bylaws, its Resolutions or otherwise.

- C. Promptly pay all assessments charged to it;

- D. Hire a Consultant having qualifications established by the commissioners or executive committee if required by the Fund commissioners or executive committee to assist the municipality on matters relating to the Fund's operations and coverages.

2.04 MEMBERSHIP RENEWALS, TERMINATION OR WITHDRAWAL OF FUND MEMBERS:

- A. Membership Renewals:
1. Members may renew their participation by execution of a new agreement to rejoin the Fund, as provided for in 2.01 above.
 2. The Fund commissioners (or executive committee) must act upon any renewal application no later than forty-five (45) days prior to the expiration of the member's term. Otherwise, the renewal application is automatically approved.
 3. In order to deny a renewal application, the Fund shall find by majority vote of the Fund membership that the applicant has failed to fulfill its responsibilities as a member or no longer meets the Funds written safety standards or other objective criteria duly adopted.
 4. If a member's renewal application is rejected, the Fund shall comply with subsections B, C and D below.
 5. Non-renewal of a Fund member does not relieve the member of responsibility for claims incurred during its period of membership.
- B. Members must remain in the Fund for the full term of membership unless earlier terminated by a majority vote of the Fund for non-payment of assessments or continued noncompliance after written notice to comply with these Bylaws or other obligations set forth in 2.03 above or other reasons approved by the Commissioner. However, such participating member shall not be deemed terminated for any reason until:
1. The Fund gives by registered mail to the member a written notice of its intention to terminate the member in thirty (30) days; and
 2. like notice shall be filed with the Department and Department of Community Affairs, together with a certified statement that the notice provided for above has been given; and
 3. thirty (30) days have elapsed after the filing required by 2 above.
- C. A member of the Fund that does not desire to continue as a member after expiration of its membership term, as said term is established in the member's Indemnity and Trust Agreement shall give written notice of its intent to terminate ("Termination Notice") to the NJIIF , in the manner described in this Section 2.04 (C), no less than ninety (90) days before the expiration of the term period. Termination Notice shall be deemed to have been properly given upon timely delivery to the NJIIF's Administrator and Registered Agent of a resolution of the member via certified mail, which resolution shall state that the member "hereby serves notice of its termination in the NJIIF". Following timely receipt of an effective Termination Notice, the Fund shall immediately notify the Department and the Department of Community affairs that the member has given notice to cease membership in the Fund. In the event a member fails to serve sole option, may deem said member's term of membership to have been extended for additional period of three years.
- D. A member that has been terminated or does not continue as a member of the Fund shall remain jointly and severally liable for claims incurred by the Fund and its members during the period of its membership, including, but not limited to being subject to and liable for supplemental assessments. It is understood and agreed that a separate and independent trust fund exists for each type of coverage offered or to be offered and that the liability of a member exists only as respects those trust funds and types of coverage in which it is a participant.

- E. The Fund shall immediately notify the Department and the Department of Community Affairs if the termination or withdrawal of a member causes the Fund to fail to meet any of the requirements of N.J.S.A. 40A: 10-36 et seq or any other law or regulation of the State of New Jersey. Within fifteen (15) days of such notice, the Fund shall advise the Department and the Department of Community Affairs of its plan to bring the Fund into compliance.

- F. A Fund member is not relieved of the claims against it during its period of participation in a type of coverage offered by the Fund except through payment of those claims by the designated Trust Account of the Fund or by the Fund member.

- G. A Fund member that does not provide proper notice of its intention not to renew, as set forth in Section 2.04(c) hereof, shall be subject to a withdrawal penalty in the amount of twenty percent (20%) of its most recent annual premium, or \$5,000, whichever is greater (the "Late Notice Penalty"). The Fund, at its sole discretion, may (I) use some or all of any Refund due to a Member pursuant to Section 8 hereof to satisfy that Member's Late Notice Penalty obligation to the Fund, and (ii) retain some or all of any Refund due to a Member pursuant to Section 8 hereof until the Fund's Actuary recommends (and NJDOI approved that the Fund Years during which the Member participated in the Fund and its associated claims can be closed out, [or (iii) employ other remedies available pursuant to these Bylaws, the Indemnity & Trust Agreement, any statute or regulation or at law)..

- H. Any Member who terminates is membership in the fund prior to expiration of the Membership Term shall be obligated to pay the Fund for its full premium due for the full Membership Term. The Fund, at its sole discretion, may (I) use some or all of any Refund due to a Member pursuant to Section 8 hereof to satisfy that Member's payment obligation to the Fund under this Section (H), and (ii) retain some or all of any Refund due to a Member pursuant to Section 8 hereof until the Fund's Actuary recommends (and NJDOI approves) that the Fund Years during which the Member participated in the Fund and its associated claims can be closed out [or (iii) employ other remedies available pursuant to these Bylaws, the Indemnity & Trust Agreement, any statute or regulation or at law).

ARTICLE III
ORGANIZATION

3.01 COMMISSIONERS

A. Appointment:

- 1) Commissioners: In the manner generally prescribed by law, each member shall appoint one commissioner and one alternate commissioner to the Fund. Each participating municipality shall select either a member of its governing body, or one of its municipal employees as Fund commissioner. Each member may also appoint an alternate Insurance Fund commissioner who shall either be a member of the governing body or an employee of the Local Unit.
- 2) Special Commissioner: In the event that the number of participating municipalities is an even number, one (1) additional commissioner shall be appointed by a participating municipality on a rotating basis determined alphabetically. The special commissioner shall be a member of the governing body, or an employee of the Local Unit.
- 3) The member's privilege to appoint the special commissioner shall remain with that member for one entire Fund year and the subsequent admission to the Fund of a member with a preceding alphabetical prefix shall not deprive any member already a member of the Fund of its prerogative to appoint a special commissioner during a current Fund year.

B. Terms of Office and Vacancy:

- 1) All terms of office shall expire on January 1st or when a successor is duly appointed and qualified.
- 2) Commissioners, other than the special commissioner, who are members of the appointing member's governing body shall hold office for two (2) years or for the remainder of their term of office as a member of the governing body, whichever shall be less.
- 3) Commissioners who are employees of the appointing member shall hold office at the pleasure of the member and can be removed by the member at any time without cause.
- 4) The special commissioner, if any, shall serve until January 1st of the year following appointment, provided, however, that if the special commissioner is an employee of the appointing member, such special commissioner may be removed by the appointing member at any time without cause.
- 5) The unexpired term of a commissioner other than the special commissioner shall be filled by the appointing member in the manner generally prescribed by law.
- 6) In the event of a vacancy of the special commissioner caused by reason other than the expiration of the term of office, the member which appointed the commissioner or alternate shall appoint the replacement for the unexpired term.

C. Responsibilities:

- 1) The commissioners are hereby authorized and empowered to operate the Fund in accordance with these Bylaws and appropriate state laws and regulations.
- 2) Each commissioner shall have one vote, provided, however, that the special commissioner, if any, shall only vote in the event of a tie.

3.02 OFFICERS:

- A. As soon as possible after the beginning of each year, the commissioners shall meet to elect the officers of the Fund from their own membership including a Chairperson and a secretary who shall be elected annually. Fund officers shall serve until January 1st of the following year, or until a successor is duly elected and qualified.
1. Chairperson: The Chairperson shall preside at all meetings of the commissioners and shall perform such other duties provided for in these Bylaws and the laws and regulations of the State of New Jersey.
 2. Secretary: The Secretary shall preside over the meetings of the commissioners in the absence of the Chairperson, maintain minutes of its meetings, retain all books, records, files and other documents of the Fund, and shall perform such other duties as provided for in these Bylaws and the laws and regulations of the State of New Jersey. The Secretary shall have the responsibility to maintain the books and records of the Fund at the office of the Fund as from time to time designated by the Fund commissioners, to which office the Secretary shall have free access. The responsibilities of the Secretary to retain and maintain the documents of the Fund may be assigned in part by contract to the Fund's professionals.
- B. In the event of a vacancy in any of the officer positions caused by other than the expiration of the term of office, the commissioners shall, by majority of vote, fill the vacancy for the unexpired term.
- C. Any officer can be removed without cause at any time by a two-thirds vote of the full membership of the Fund commissioners. In this event, the full membership of the Fund commissioners shall fill the vacancy for the unexpired term.
- D. The Chairperson and the Secretary shall serve without compensation.

3.03 APPOINTED AGENCIES AND OFFICIALS:

As soon as possible after the beginning of each year, the commissioners or executive committee if one is established shall meet and by majority vote select Agencies and Officials to serve in the following appointed positions. All of these Agencies and Officials are retained on a contractual basis pursuant to the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq). The Fund commissioners or executive committee shall notify the Department and the Department of Community Affairs within ten (10) days of any determination to terminate or nonrenew any agreement with a servicing organization.

A. Administrator:

- I. The Administrator shall be experienced in risk management matters and shall not be a commissioner of the Fund.

2. The administrator, its employees, officers, or directors, shall not have either a direct or indirect financial interest in a servicing organization of the Fund or the insurance producer that may be appointed unless notice of such interest has been provided to the Fund commissioners and members.
 3. The administrator shall have the following duties and responsibilities:
 - a) The administrator shall carry out the policies of the commissioners to provide for the day-to-day management of the Fund.
 - b) The administrator shall advise the commissioners on risk management matters and shall prepare a draft risk management plan.
 - c) The administrator shall maintain underwriting data and if required, assist the Fund in the purchase of excess insurance.
 - d) The administrator shall prepare draft bid specifications for services such as claims administration, safety engineering, and actuarial projections as necessary.
 - e) The administrator shall monitor the performance of the service companies.
 - f) The administrator shall review and analyze statistics and prepare an analysis, including assessment, loss and expense reports.
 - g) The administrator shall write a draft budget for review by the commissioners.
 - h) The administrator shall perform such other duties as provided for by the Fund commissioners, these Bylaws, and in the laws and regulations of the State of New Jersey.
 4. The administrator shall purchase a fidelity bond protecting the Fund in a form and amount annually acceptable to the Commissioner. The Administrator shall also purchase errors and omissions coverage protecting the Fund as provided by N.J.A.C. 11:15-2.
- B. Actuary:** The Actuary shall certify the actuarial soundness of the Fund and shall provide such actuarial reports as required by the Department. The Actuary shall also certify that the Fund's annual budget is actuarially sound with respect to funding for the claim or loss retention accounts (N.J.A.C. 11:15-2.4(04)).
- C. Auditor:** The auditor shall be an independent certified public accountant (CPA) and not a commissioner. The auditor shall conduct the annual audit of Fund in accordance with N.J.S.A. 40A: 10-36 and N.J.A.C. 11:15-2.24 and shall perform such other duties as provided for by the Fund commissioners, these Bylaws and in the laws and regulations of the State of New Jersey.
- D. Counsel:**
1. The Fund counsel shall be admitted to the Bar of the State of New Jersey, shall not be a Fund commissioner, and shall not be general counsel to any member.

2. The Fund counsel shall have the following responsibilities:

- a) The Fund counsel shall advise the Fund on legal matters and the appropriateness of claim settlements recommended by the claims administrator. However, the Fund Counsel shall not defend any claim which is the responsibility of the Fund without prior approval by the Executive Committee on a case by case basis.
- b) The Fund counsel shall, in conjunction with the insurer and administrator, assign and supervise defense counsel from a list of defense counsel approved by the Fund Commissioners or Executive Committee to represent the Fund in defense of claims. Such defense counsel may represent one or more of the members in other capacities other than as general counsel.
- c) Fund counsel shall serve on sub-committees as required by the Executive Committee.
- d) The Fund counsel shall perform such other duties as provided for by the Fund commissioners, these Bylaws, and in the laws and regulations of the State of New Jersey.

E. **Custodian of Funds:** The custodian shall be a certified municipal finance officer and not a commissioner with the following duties;

- 1) Custodian of Fund assets and maintenance of various trust funds.
- 2) Approval of receipts, disbursements & financial records.
- 3) Preparation of cash management plan and investment of funds.
- 4) Other related duties as designated by the Fund commissioners in accordance with the Bylaws and laws and regulations of the State of New Jersey.

F. **Service Agent:** The Fund shall designate and appoint an agent in New Jersey to receive service and process on behalf of the Fund.

G. In the event of a professional's inability to complete the contract, a new contract with a successor is required.

H. Compensation for appointed agencies and officials shall be pursuant to written fee guidelines addressed and made a part of the Fund's contracts with its professionals and submitted annually and approved by a majority of the commissioners or executive committee, if one is established, prior to appointment.

3.04 Executive Committee

- A. If the total number of commissioners exceeds seven (7), as soon as possible after the beginning of the year the Commissioners by a vote of the full membership of the Fund shall elect seven (7) commissioners to serve as the Executive Committee of the Fund including a chairperson and secretary. The commissioners may select alternate commissioners to serve on the executive committee. The commissioners may designate a specific alternate to serve in the case of absence for a specific commissioner serving on the executive committee. The executive committee shall exercise the full power and authority of the commission. All references to the “Fund” herein shall mean the Executive Committee unless expressly stated otherwise.
- B. The executive committee shall serve until January 1st of the following year, or until their successors are duly elected and qualified.
- C. Vacancies on the executive board caused by a reason other than the expiration of the term of office shall be filled by a majority vote of the full membership in attendance at a meeting called for the purpose of filling the vacancy of the Fund.
- D. Any member of the executive committee can be removed for cause by a two-thirds vote of the full membership of the Fund commissioners.

3.05 Safety Committee

- A. Membership: As a condition of membership in the Fund, each member shall be required to form and maintain a safety committee. Each member shall appoint a chairperson and secretary to the safety committee whose names and contact information shall be provided on an annual basis (and immediately upon any change in assignment during any year) to the Administrator of the Fund. Each member shall comply with the safety and loss control requirements imposed by the Fund, whether said requirements are established in these By-laws, the member’s Indemnity and Trust Agreement or otherwise.
- B. Organization: At the beginning of each year the Chairman of the Fund shall establish a safety committee and shall appoint a Chairperson and Vice Chairperson for that committee.
- C. Duties: The Fund’s safety committee shall meet monthly and shall have the following duties or responsibilities, it being understood that the safety committee may choose to assign any of the duties enumerated herein to a servicing organization or contractor that has been duly approved by the Fund’s Executive Board
 - 1) Work with the safety engineering service organization to develop a comprehensive safety and loss control program.
 - 2) Review all accident reports and monitor accident trends and frequencies.
 - 3) Coordinate the annual safety inspections and identify locations requiring more frequent inspection.
 - 4) Conduct safety education programs.
 - 5) Review the activities of each municipality’s safety committee and notify the Fund commissioners if any municipality is not conducting an active safety program.

- 6) Forward copies of minutes of safety and loss control committee meetings to commissioners.
- 7) Perform such other duties that are requested by the Fund commissioners, or are provided for by state regulation and law.

3.06 Additional Committees

At its sole discretion, the Fund may, by resolution, establish various committees to whom are assigned various duties, including but not limited to, review of financial matters, new member applications, claims coverage, legislative matters and professionals selection. The Chairman at the annual reorganizational meeting of the Fund or reasonably soon thereafter will appoint at least three Commissioners to each such committee and no more than three (3) members of the Executive Committee may serve on committee. (The duties and authority of each such committee shall be established by resolution adopted by the Fund's annual organizational meeting.)

**ARTICLE IV
OPERATION OF THE FUND**

4.01 GENERAL OPERATION:

- A. The Fund shall be subject to and operate in compliance with the provisions of the “Local Fiscal Affairs Law” (N.J.S.A. 40A:5-1 et seq.), “Local Public Contracts Law” (N.J.S.A. 40A:1 1-1 et seq.) and such other rules and regulations and statutes governing the investment and expenditure of public Funds by local units.
- B. The Fund shall be considered a local unit for purposes of the ‘Local Public Contracts Law” (N.J.S.A. 40A1 1-1 et seq.) and shall be governed by the provisions of that law in the purchase of any goods, materials, supplies and services.
- C. The Fund shall be operated with sufficient aggregate financial strength and liquidity to assure that all obligations will be promptly met. The Fund shall prepare a financial statement on a form acceptable to the Commissioner of the Department showing the financial ability of the Fund to meet its obligations. The members may, upon majority vote, request that the Commissioner of the Department order an examination of any Fund member which the Fund, commissioners or executive committee, if any, in good faith believes may be in a financial condition detrimental to other Fund members or to the public.
- D. The minimum aggregate contribution of the members for workers compensation exposure shall be at least \$250,000 for the Funds first year and at least \$500,000 for each subsequent year of operation unless otherwise approved by the Commissioner.

4.02 RISK MANAGEMENT PLAN:

- A. The Fund commissioners shall prepare or cause to be prepared a plan of risk management for the Fund. The plan shall include, but not be limited to:
 - 1) The perils or liability to be insured against.
 - 2) Limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier or reinsurance.
 - 3) The amount of risk to be retained by the Fund.
 - 4) The amount of unpaid claims to be established.
 - 5) The proposed method of assessing contributions to be paid by each member of the Fund.
 - 6) Procedures governing loss adjustment and legal fees.
 - 7) Coverage to be purchased from a commercial insurer, if any.
 - 8) Re-insurance to be purchased, if any, and the amount of premium therefore.
 - 9) Procedures for the closure of Fund years including the maintenance of all relevant accounting records.
 - 10) The assumptions and methodology used for the calculation of appropriate reserves required to be established, maintained and administered in accordance with sound actuarial principles.
 - 11) The maximum amount a certifying and approving officer may approve for payment pursuant to N.J.A.C. 11:15-2.22.

- B. There shall be a separate risk management plan for each of the categories which the Fund is authorized to insure and has agreed to insure.

4.03 SERVICING ORGANIZATIONS:

- A. The Fund may contract to have the following services performed:
 - 1) claims administration;
 - 2) safety engineering;
 - 3) actuarial evaluation;
 - 4) compilation of statistics and preparation of assessments, loss and expense reports;
 - 5) preparation of reports required by 40A: 10-36 et seq or regulations and/or rules of the New Jersey Department including N.J.A.C. 11:15-2.1 et seq.;
 - 6) development of members' assessments and fees.
- B. No servicing organization or producer, or their employees, officers or directors shall have either a direct or indirect financial interest in the administrator or be an employee, officer or director of an administrator unless notice of such interest has been provided to the Fund commissioners and members.
- C. The Fund may at its option contract for these services from different servicing organizations.
- D. Each service contract shall include a clause stating "unless the Fund commissioners or executive committee otherwise permit, the servicing organization shall handle to their conclusion all claims and other obligations incurred during the contract period".
 - 1. The Fund commissioners shall notify the Department and the Department of Community Affairs within ten (10) days of any determination to terminate or nonrenew any agreement with a servicing organization. The notification shall include a detailed statement that sets forth the manner and method by which claims handling and other obligations performed by the servicing organization will be provided or a statement that sets forth the reasons why the Fund commissioners believe that the particular service is no longer necessary.
 - 2. Any employee, officer or director of an administrator, servicing organization or insurance producer that may be appointed pursuant to N.J.A.C. 11:15-2.6 (c) 10 shall disclose to the Fund commissioners or executive committee, as applicable, any direct or indirect financial interest such employee, officer or director has in any other administrator, servicing organization or insurance producer.
 - 3. All officers, employees and agents of the joint insurance fund, including the administrator and servicing organization of the Fund, on the final day of their contract or employment shall surrender and deliver to their successors all accounts, funds, property, records, books and any other material relating to their contract or employment.
- E. Each servicing organization shall provide a surety bond and errors and omissions coverage in a form and amount acceptable to the Commissioner of the Department.

4.04 FINANCIAL STATEMENT AND REPORTS:

- A. The Fund shall provide its members with periodic reports concerning the activities and status of the Fund for the reporting period. Such reports shall be made at least quarterly and may be made more frequently at the discretion of the Fund commissioners or executive committee and shall include but not be limited to, the minutes, the administrators report and a summation of fund activity including comments on previously reported claims and newly reported claims and other such information required by the fund commissioners.
- B. A sworn annual report in a form acceptable by the Commissioner of the Department shall be prepared by the Fund, filed concurrently with the Department and the Department of Community Affairs and made available to each Fund member on or before June 30th of each year. The report shall be accompanied by:
 - 1. An annual audited statement of the financial condition of the Fund prepared by the auditor and performed in accordance with generally accepted accounting principles and N.J.S.A. 40A:10-46, which shall include a statement of the organization of the Fund indicating the persons who perform each function for the Fund and the relationship and interdependency of each function, and including its balance sheet and revenue and expense for the preceding year;
 - 2. Reports of outstanding liabilities showing the number of claims, amounts paid to date and current reserves for losses, claims and unearned assessments as certified by an actuary.
- C. It shall be the duty of the Fund members, commissioners, executive committee, administrator and Chairman to notify the Commissioner of any information indicating that the Fund may be insolvent or in a financial condition detrimental to the Fund's members or the public.

The Fund members, commissioners or executive committee may, upon majority vote, request that the Commissioner order an examination of the Fund.

4.05 COVERAGES: The Fund shall offer the types of coverage to the members which are allowed by statute and approved by the members in the resolutions which authorize membership in the Fund, but each type of coverage offered shall be separate and independent of each other.

ARTICLE V

MEETINGS AND RULES OF ORDER

5.01 MEETINGS:

- A. Annual Organization Meeting - On or before January 10th of each year, the commissioners shall meet to elect officers and the executive committee, if any, appoint officials and conduct such other business as is necessary. The time and place for the meeting shall be established by the Chairperson, and the secretary shall send written notice to the administrators and or clerks of participating municipalities at least two weeks in advance.
- B. Monthly Business Meetings . The commissioners (or executive committee) shall establish a schedule of monthly meetings to conduct business of the Fund. All commissioners may attend open or closed sessions of the executive committee.
- C. Special Meetings . The Chairperson, or three (3) commissioners may call a special meeting by notifying the secretary at least three (3) days in advance. The secretary shall notify the Commissioners (or members of the executive committee if such committee is established) by telephone. If the secretary is unable to reach a member seventy-two (72) hours before the meeting, the secretary shall notify the commissioners or executive committee by mailgram.

5.02 CONDUCT OF MEETINGS:

- A. All meetings of the Fund shall be subject to the rules and regulations of the Open Public Meetings Act.
- B. Unless otherwise provided in these Bylaws or in the laws or regulations of the State of New Jersey, Robert's Rules of Order shall govern the conduct of all meetings.
- C. A quorum shall be a majority of the commissioners or the executive committee, as the case may be. At least a majority vote of commissioners or executive committee if established shall be required to make any action effective. A greater number shall be required if mandated by statute or regulations promulgated by the State Department.
- D. All meeting of the Fund shall be held at any location open to the public and located within the State of New Jersey. The Annual Organization Meeting, as required under Section 5.01 of the By-laws, shall be held at facilities provided by the Township of Wayne, at which meeting a majority of the commissioners or executive committee, as the case may be, shall establish the location of all meetings of the Fund for the balance of that year. In any case where the Fund votes to conduct additional meetings or hold meetings or hearings at a location other that established as the Annual Organization Meeting, written notice of the additional or alternate hearing or meeting locations shall be provided to all Fund members at least fifteen days prior to the subject meeting of hearing.

5.03 AMENDMENTS TO THE BYLAWS:

- A. Any member may propose an amendment to the Bylaws by filing the proposed amendment in writing with the Secretary.

- B. Upon receipt of a proposed amendment, the secretary shall notify the Chairperson who shall schedule a hearing to be held not more than forty-five (45) days from the date the amendment was filed. The secretary shall notify' in writing all commissioners of the hearing date and shall send all commissioners a copy of the proposed amendment.
- C. The amendment is adopted by the Fund when the governing bodies of three-fourths (3/4ths) of the member municipalities approve by resolution the amendment within six (6) months of the hearing on the amendment. In the event section N.J.S.A. 40A:10-43 is amended, the procedure and vote required by said statute, as amended, shall control. If after six (6) months the secretary has not received written notice of approval from each municipality, the secretary shall notify the members that time has expired for the adoption of the amendment.
- D. If adopted, the amendment shall not take effect until approved by the Commissioner of the Department and the Department of Community Affairs as provided by N.J.S.A. 40A:10-43,
- E. A member of the Fund that does not approve of any amendment to the bylaws approved pursuant to N.J.S.A. 40A:10-43 and desiring to withdraw from the Fund pursuant to N.J.S.A. 40:10-43 (e) shall provide written notice of its intent to withdraw ninety (90) days prior to its withdrawal. The Fund shall immediately notify' the Department and the Department of Community Affairs of all members that have given notice of withdrawal from the Fund.

**ARTICLE VI
BUDGETS**

6.01 BUDGET PREPARATION:

- A. In November of each year, the Fund shall prepare the budget for the upcoming fiscal year. The budget shall identify the proposed items and amounts of expenditure for its operations in the aggregate and allocated by member, the anticipated amounts and sources of assessments and other income to be received during the fiscal year and the status of the self-insurance or loss retention accounts in the aggregate and allocated by member. The budget shall be prepared on a basis that does not recognize investment income or discounting of claim reserves but recognizes all anticipated or forecasted losses and administrative expenses anticipated with that fiscal year.
- B. The budget shall be reviewed by an actuary who shall comment on its adequacy and shall recommend changes as appropriate.

6.02 BUDGET ADOPTION:

- A. By the December 31st of each year, the Fund commissioners, or the executive committee, if such is established, shall adopt the budget for the coming fiscal year by majority vote.
- B. A copy of the Fund's proposed budget (as changed to reflect the actuary report) shall be sent to each member at least fifteen (15) days prior to the time scheduled for its adoption. No budget or amendment shall be adopted until a hearing has been held in accordance with N.J.S.A. 40A:4-1 et seq giving all members the opportunity to present comments or objections.
- C. An adopted budget may be amended by a majority vote [of the membership] after giving the members fifteen (15) days advance written notice and conducting a hearing on the proposed amendment.
- D. A copy of the adopted budget and any amendment which either singly or cumulatively with other adopted budget amendments changes the total budget five percent from the original or the latest filed amended budget shall be filed within thirty (30) days of its adoption with the governing body of each member, the Commissioner of the Department, and the Commissioner of the Department of Community Affairs.

**ARTICLE VII
ASSESSMENTS**

7.01 ANNUAL ASSESSMENT:

- A. By November 15th of each year, the actuary shall compute the probable net cost for the upcoming Fund year by line of coverage and for each prior Fund year. The actuary shall include all budget items in these computations.
- B. Each participating member of the Fund shall appropriate and pay to the Fund its assessments as required by the joint insurance fund. During the first year of operation of a joint insurance fund, these contributions shall be paid in full in accordance with N.J.A.C. 11:15-2.15. Subsequent years assessments shall be paid in three installments with 25% due on or before January 15, 25% due on or before May 15 and 50% due on or before August 1.
- C. Each member's annual assessment shall consist of an amount allocated for the administrative account, plus a specific assessment to establish and/or replenish the claim or loss retention trust fund account for each type of coverage provided by the Fund and in which such member participates.
- D. The total amount of each member's annual assessments to the joint insurance fund shall be certified by the joint insurance fund commissioners or the executive committee, if established, to the governing body of each participant at least one month prior to the beginning of the next fiscal year. As a condition of continued participation in the joint insurance fund, each member shall pay the amount certified at such time and in such manner provided in the Fund's Bylaws.
- E. Unless otherwise approved by the Commissioner of the Department, the annual assessment of each Fund member providing for self-insurance of workers' compensation and employers' liability coverages shall be based upon the mandatory merit rating plan on file with the Commissioner. The Commissioner of the Department may withdraw his/her approval of any assessment not based upon the members of the Fund to which it applies. In taking any action under this section, the Commissioner may seek assistance from the Fund commissioners, the executive committee or the Administrator.
- F. Nothing contained in this section shall preclude the assessment and payment of supplemental assessments as provided in N.J.A.C 11:15-2.16.

7.02 SUPPLEMENTAL ASSESSMENTS:

- A. Supplemental assessments imposed on Fund members shall be based upon each member's loss history, annual assessment or other method of allocation duly adopted by the Fund's Executive Board, or as directed by the Commissioner of the Department in order to replenish claims or loss retention or administrative accounts.
 - 1. The Fund shall assess each participating member an additional proportionate amount, as provided in the Funds Bylaws and plan of risk management, or as directed by the Commissioner of the Department, to replenish claims or loss retention or administrative accounts.

2. All members shall be given thirty (30) days advance written notice of the Fund's intention to charge an additional assessment, and the Fund shall conduct a hearing before adopting the supplemental assessment.
 3. Members shall have forty-five (45) days to pay the Fund from the date any supplemental assessment is adopted. The municipalities shall provide such additional assessments in accordance with the provisions of the Local Budget Law (N.J.S.A.40A:4-1 et seq.).
- B. The Fund shall submit to the Commissioner of the Department and the Commissioner of the Department of Community Affairs a report of the causes of the Fund's insufficiency, the assessments necessary to replenish it and the steps taken to prevent a reoccurrence of such circumstances.
- C. Insolvency and/or Bankruptcy of Fund Members: The insolvency or bankruptcy of a member does not release the Fund, or any other member, of joint and several liability for the payment of any claim incurred by the member during the period of its membership including, but not limited to, being subject to and liable for supplemental assessments.

7.03 FAILURE OR REFUSAL TO PROVIDE REQUIRED ASSESSMENTS:

- A. Should any member fail or refuse to pay its assessments or supplemental assessments said failure or refusal accruing upon a member's failure to provide payment for a period of 6 months or more, or should the Fund fail to assess monies required to meet its obligations, the Chairperson of the Fund commissioners, or, in the event of his or her failure to do so, the custodian of the Fund's assets, shall notify in writing the Commissioner of the Department and the Department of Community Affairs.
- B. Should any Fund member fail to pay any assessment, including any supplemental assessment, within 30 days of the due date as established in Article 7 herein, the CFO shall transmit a notice letter ("Notice") to such member, with a copy to the subject member's general counsel, (c/o member's Clerk or Secretary) advising of said delinquency and therein making a demand for payment and also making reference to the Fund's remedies for delinquent payment as set forth in this Article 7.03. If, within 30 days, a member fails to make payment in accordance with the Notice, the Chairperson shall advise the Administrator to impose interest on such delinquent amounts in accordance with the following schedule:
- (1) 0% per annum on the first \$1,500 of delinquency;
 - (2) 10% per annum on any amount in excess of \$1,500.
- The Executive Committee annually by resolution may vote to establish a new rate.

The above interest will be calculated from the date the assessment was due until the date of actual payment. Any Fund member against whom such interest has been assessed shall have the right to appear before the Fund executive committee on any regular, monthly meeting date in order to present its case for [partial mitigation or full relief from any delinquent interest payment obligation] non-assessment or a reduced assessment. The executive committee may, with at least a majority of such membership in agreement, vote to remove or reduce such assessment for such time as it so desires.

- C. (The Fund, at its sole discretion, may (I) use some or all of any refund due to a Member pursuant to Section 8 hereof to satisfy that Member's delinquent interest payment obligations, or (ii) employ other remedies available pursuant to these Bylaws, the Indemnity & Trust Agreement, any statute or regulation or at law to satisfy that payment obligation.)

ARTICLE VIII
REFUNDS

8.01 In accordance with applicable State Regulation 11:15-2.21, any monies for a Fund year in excess of the amount necessary to fund all obligations for the fiscal year as certified by the actuary may be declared to be refundable by the Fund no less than twenty-four (24) months after the end of a fiscal year. Such refunds shall be returned to each eligible participant in a manner established and approved by the commissioners or executive committee, if established, and in accordance with applicable State Regulation 11:15-2.21.

8.02 A refund for any Fund Period shall be paid in proportion to the member's participation in the Fund for such year in a manner established and approved by the commissioners or executive committee or any other method as may be allowed by law and approved by the commissioners. Payment of a refund on a previous period is not contingent on the member's continued membership in the Fund after that period.

8.03 At the option of the member, the refund may be retained by the Fund and applied towards the member's next annual assessment.

8.04 The Fund may seek approval to make interyear fund transfers in accordance with N.J.A.C. 11:15-2.21 (h).

8.05 The Fund may hold or disburse individual member refunds approved pursuant to this Section 8 in accordance with the provisions of Section(s) 2.04(G) and (H) (and 7.03) hereof.

ARTICLE IX
EXCESS INSURANCE

9.01 The Fund maintain a contract or contracts of specific and aggregate excess insurance or reinsurance consistent with N.J.A.C. 11:15-2.23.

9.02 No later than forty five (45) days before the beginning of the fiscal year, the Fund shall notify all members of changes in the coming year's excess insurance or reinsurance policies. The Fund shall also notify the members of any changes in the policies which occur during the year.

9.03 Certificates of excess insurance and/or reinsurance showing policy limits and specific and aggregate retentions, if applicable, and other information shall be filed with each member and with the Commissioner.

9.04 The Fund may also participate as a unit in an excess joint insurance fund pursuant to applicable laws and regulations.

Notwithstanding the above:

- A. The Fund is not required to maintain a single accident (single occurrence) excess insurance if the Fund's single accident (single occurrence) limit of liability as set forth in its approved plan of risk management is equal to or less than its single accident (single occurrence) self-insured retention as approved by the Department.
- B. The Fund is not required to maintain aggregate excess insurance if its accumulated budgeted losses defined at N.J.A.C. 11:15-2.23 (g) qualify the Fund for an exemption pursuant to N.J.A.C. 11:15-2.23 (f), or the Fund maintains an excess loss contingency account or Fund in the claims or loss retention account in conformance with N.J.A.C. 11:15-2.23 (f).

ARTICLE X
TRUST ACCOUNTS, INVESTMENT AND DISBURSEMENTS

10.01 ESTABLISHMENT OF TRUST ACCOUNTS:

- A. A separate Trust Account shall be established in accordance with N.J.A.C. 11:15-2.6 (b) 10 from which monies shall be disbursed solely for the payment of claims, allocated claim expenses and excess or reinsurance premiums for each type of liability or risk retained jointly on a self-insured basis.
- B. By resolution, the Fund shall designate a public depository for its monies pursuant to N.J.S.A. 40A:5-14. The resolution shall also designate a person to be custodian of funds for the Fund and shall authorize the custodian of funds for the Fund and shall authorize the custodian to invest temporarily free balances of any claim or administrative accounts periodically as authorized by law.
- C. Other than for the purposes stated in (A) above, or as otherwise authorized by N.J.A.C. 11:15-2.13, no withdrawals may be effected for a claim or loss retention fund without prior written approval of the Commissioner except for intertrust fund transfers in accordance with N.J.A.C. 11:15-2.21.
 - 1. The Fund shall maintain accounting records allocating all income, disbursements, and assets in the Claims account by line of coverage and by Fund year. Accounting records for closed Fund year(s) shall be allocated by member. Accounting records for loss fund contingency or excess loss contingency shall also be allocated by member.
- D. The Fund shall also establish an administrative account which shall be utilized for payment of the Fund's general operating expenses, loss prevention activities, data processing services, and general legal expenses. This account may include commingled contributions but subject to separate accounting of expenses by each type of coverage offered by the Fund.

10.02 INVESTMENTS: Investments shall be under the direction of the Custodian in accordance with the following;

- A. Account balances shall be invested to obtain the maximum interest return practical. All investments shall be in accordance with the Fund's cash management plan and consistent with the statutes and rules governing the investment of public Funds by local governments in accordance with N.J.S.A. 40A:10-10b.
- B. The investment and interest income earned by the investment of the assets of each claim or loss retention account shall be credited to each such account by Fund year.
- C. The investment and interest income earned by investment of the assets of the administrative account shall be credited to that account.

10.03 DISBURSEMENTS:

- A. Prior to any commitment or agreement requiring the expenditure of monies, the custodian of the Funds' assets shall certify as to the availability of sufficient unencumbered monies to fully pay all charges or commitments to be accepted.

- B. All disbursements, payments of claims or expenditure of monies must be approved by a majority vote of the Fund's commissioners, (or executive committee, if established.)
- C. Notwithstanding A and B above, the Fund may provide for the expeditious resolution of certain claims by designating the Fund's Administrator as a "certifying and approving officer" pursuant to N.J.S.A. 40A:5-17. The Fund may authorize the "certifying and approving officer" to approve for payment any or specified claims in an amount not to exceed an amount approved by the commissioners in the plan of risk management. The Fund shall establish such other procedures and restrictions on the exercise of this authority as the Fund deems appropriate.
- D. Upon approval, the certifying and approving officer shall certify the amount and particulars of such approved claims to the custodian of the Fund's assets, directing that a check for payment be prepared.
- E. Each month, the certifying and approving officer shall prepare a report of all claims approved since the last report, detailing the nature and the amount of the claim, the payee, the reasons supporting payment and any other pertinent information. This report shall be reviewed and approved or rejected by a majority vote of the Fund's commissioners or executive committee at their next regularly scheduled meeting.
- F. All requests for payments must be accompanied by a detailed bill of items or demand, specifying particularly how the bill or demand is made up, with certification of the party claiming payment that it is correct, and must carry the certification of some officer or duty designated agent or employee of the Fund having knowledge of the facts that the goods have been received by, or the services rendered to, the Fund. In the case of claims or losses to be charged against any Trust Account, the Fund's claims administrator shall certify as to the claims correctness and validity.
- G. All claims shall be paid by check. Checks shall be signed by two persons so designated by the joint insurance fund commissioners or executive committee, if one is established.
- H. All claims or other disbursements approved for payment by the Fund shall be recorded in a claims register maintained by the custodian of the Funds' assets.

**ARTICLE XI
CONFLICT OF INTEREST**

11.01 No official or employee of a participating municipality or any members of the family of such officials or employees, or any businesses in which such officials, employees or family members have a beneficial interest, shall seek to obtain or participate in any contract to be entered into by the Fund for administration, loss control, investment or depository services, insurance coverage or any other service, commodity or material without first fully disclosing in writing the nature and extent of such interest, financial or otherwise, to the joint insurance fund commissioners. It shall be the responsibility of the Fund commissioners to determine if the interest so disclosed is such as to constitute an actual or potential conflict of such degree as to impair the ability of the officer, employee, family member or business from fully and impartially performing the duties required by the Fund. If so, the officer, employee, family member or business shall be prohibited from entering into such contract until the cause of such conflict is removed.

11.02 Any contract entered into between the Fund and any individual, firm, corporation or agency which fails to disclose an actual or potential conflict situation shall be void.

11.03 There shall be no collusion or evidence or appearance of collusion, between any official or employee of the participating municipality, members or employees of the Fund and any official or employee of any contractor, vendor, insurance company, bank, consultant, brokerage firm or any other profit making or non-profit firm attempting to solicit a contract with the Fund or awarded a contract by the Fund.

ARTICLE XII
VOLUNTARY DISSOLUTION OF THE FUND

12.01 If the Fund commissioners deem it in the best interest of the members to dissolve the Fund they shall by majority vote direct that a written plan of dissolution be prepared.

12.02 The plan of dissolution must provide for the payment of all incurred losses of the Fund and its members, including all incurred but not reported losses, as certified by an actuary, before any assets of the Fund or the Trust Fund accounts may be used for any other purpose.

12.03 Upon completion of the plan, the Chairperson shall call a general meeting of all Fund commissioners who shall review the plan and make any appropriate amendments. By majority vote, the Fund commissioners may recommend to the members that the Fund be dissolved in accordance with the plan of dissolution.

12.04 A majority of the governing bodies of the participating municipalities must, by resolution, vote to accept the plan of dissolution in order to dissolve the Fund.

12.05 The plan of dissolution shall contain a statement of the Fund's current financial condition computed both on a statutory basis and according to generally accepted accounting principles as attested to by an independent certified public accountant.

12.06 The plan of dissolution and other such information as may be required, must be filed with, and approved by, the Commissioner of the Department and the Commissioner of the Department of Community Affairs before the dissolution of the Fund is effective. The plan shall be filed with the Commissioner of the Department and the Commissioner of the Department of Community Affairs not later than ninety (90) days prior to the proposed effective date of dissolution.

ARTICLE XIII
CLAIMS PROCEDURE

13.01 REGISTRATION: The administrator shall, upon receipt of notice of claim, service of process, petition or otherwise, cause said claim to be recorded and numbered, and be included on a monthly report to the Fund commissioners or executive committee if one is established. The report shall include the date of the claim, name of the claimant, nature of the claim and an approximate estimate of the potential loss if such can be estimated.

13.02 COORDINATION: The administrator shall immediately forward copies of the notices of claim, as well as any other pertinent information, to the claim service agency, and where appropriate, to the defense attorney for investigation, legal proceedings or other appropriate response.

13.03 CLAIMS STATUS REVIEW: As soon as practicable, the claims administrator or General Counsel, with input from defense counsel, (as needed,) shall assess the value of the claim and advise the Administrator as to the merits of said claim and establish a reserve which is to be reviewed and updated on no less than a quarterly basis.

13.04 SETTLED CLAIMS: As settlements have been concluded in accordance with the Bylaws, the claims administrator and or the attorney shall report the disposition to the Administrator, who shall include same in the monthly report to the commissioners or executive committee if one is established.

**ARTICLE XIV
PROCEDURE FOR HANDLING COMPLAINTS
AND MEMBER CLAIMS AGAINST THE FUND**

14.01 The Fund will acknowledge complaints submitted in writing to the Administrator, who shall then communicate same to the commissioners or executive committee, if established, at the next regularly scheduled meeting.

14.02 The commissioners or executive committee, if one is established, in considering a complaint shall, by recorded vote, take the action as deemed appropriate by the commissioners or executive committee, as the case may be, and direct the Administrator to so notify complainant and commissioners from complainant's municipality if the municipality is a member of the Fund. Any complainant not satisfied with the decision of the commissioners or executive committee will have the opportunity to have a hearing before said commissioners or executive committee at the next regularly scheduled meeting.

14.03 The Administrator shall record all complaints as well as disposition of same.

14.04 The sole form of redress for any member or its officials, if unsatisfied with the complaint review process set forth in Sections 14.01 through 14.03 hereof or otherwise, shall be through binding arbitration, to be served in Passaic County and to be conducted pursuant to the then applicable rules of the American Arbitration Association. Any member who brings an action against the Fund or its members in any form other than arbitration, including but not limited to seeking declaratory, monetary or other relief through State or Federal courts, shall reimburse the Fund for all court costs and attorney fees incurred by the Fund in its defense of such matters.

**ARTICLE XV
OTHER CONDITIONS**

15.01 INSPECTION AND AUDIT: The Fund shall be permitted, but not obligated, to inspect, at any reasonable time, the workplaces and operations of each Participant covered by this agreement. Neither the 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 Participant or others, to determine or warrant that such workplaces or operations are safe or healthful, or are in compliance with any law, rule or regulation.

The Fund shall be permitted to examine and audit the Participant's payroll records, general ledger, disbursements, vouchers, contracts, tax reports and all other books, documents and records at any reasonable time, as far as they show or tend to show or verify the amount of remuneration or other premium basis, that relate to the subject matter of this agreement.

15.02 NOTICE OF INJURY: When an injury occurs, written notice shall be given by or on behalf of the Participant to the Fund or any of its authorized agents as soon as practicable. Such notice shall contain particulars sufficient to identify the Participant and also reasonably obtainable information .respecting the time, place and circumstances of the injury, the names and addresses of the injured and of available witnesses. Such notice shall be consistent with the requirements imposed by law.

15.03 NOTICE OF CLAIM OR SUIT: If claim is made or formal petition or a suit or other proceeding is brought against the Participant, the Participant shall immediately forward to the Fund every demand, notice, summons or other process received by him or his representative.

15.04 ASSISTANCE AND COOPERATION OF THE PARTICIPANT: The Participant shall cooperate with the Fund and, upon the Fund's request, shall attend hearings and trials and shall assist in effecting settlements, securing and giving evidence, obtaining the attendance of witnesses and in the conduct of suits or proceedings.

15.05 ACTION AGAINST FUND: No action shall lie against the Fund, or Trust Account thereto, unless, as a condition precedent thereto, the Participant shall have fully complied with all the terms of this Agreement, and not until the amount of the Participant's obligation to pay shall have been finally determined either by judgment against the Participant after actual trial or by written agreement of the Participant, the claimant and the Fund. Any person or organization or the legal representative thereof who has secured such judgment or written agreement shall thereafter be entitled to recover under this Agreement to the extent of the protection provided by this agreement. Nothing contained in this Agreement shall give any person or organization or their legal representative any right to join the Fund as a co-defendant in any action against the Participant to determine the Participants liability.

15.06 SUBROGATION: In the event of any payment under the agreement, the Fund shall be subrogated to all rights of recovery therefore of the Participant and any person entitled to the benefits of this agreement against any person or organization, and the Participant and other beneficiary shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Participant shall do nothing after loss to prejudice such rights.

15.07 NOTICE AND HEARINGS/ORDERS: In the event the Commissioner shall give written notice of any proposed suspension or revocation of authority, cease and desist order, or other enforcement action to the Fund commissioners, executive committee, or member local unit as the case may be or to any person to whom the proposed action applies specifically, the interested party involved shall have twenty (20) days from the mailing of the notice to request a hearing on the proposed enforcement action. Failure to mail a request for hearing within the time prescribed shall result in the suspension, revocation, monetary penalty or cease and desist order becoming effective thirty (30) days from the issuance of the original notice.

After notice and opportunity for a hearing, the Commissioner may:

1. Issue an order revoking or suspending the Fund's authority.
2. Require the person or Fund to cease and desist from any act or practice to be in violation of any provision of N.J.S.A. 40A:10-36 et seq.
3. To dismiss or terminate the contract or servicing organization because of any fraud, material misrepresentation, incompetence, untrustworthiness, misappropriations or conversion of monies or violation of any fiduciary responsibility by such administrator or servicing organization, or any of its officers, directors or employees.

15.08 CONFORMANCE WITH STATUTE: In the event any portion of these Bylaws conflicts with any appropriate statute or administrative regulation covering joint insurance funds, the provision of any such statute or regulation shall control to the extent it conflicts.

ARTICLE XVI
ADDRESS OF MEMBERSHIP

16.01 ADDRESS OF FUND:

The address of the Fund is:

New Jersey Intergovernmental
Insurance Fund
777 Terrace Avenue
Suite 309
Hasbrouck Heights, NJ 08604

16.02 The name and address of each member of the fund is set forth in Attachment A.

Attachment A

City of Asbury Park
City of Bayonne
Township of Cedar Grove
Borough of Hasbrouck Heights
Borough of Mantoloking
Township of Maplewood
Township of Mine Hill
The Morristown Parking Authority
Borough of North Haledon
Borough of Riverdale
Borough of Roseland
Borough of Roselle Park
Borough of Teterboro
City of Union City
Union City Parking Authority
Township of Verona
Borough of Wanaque
County of Warren
Township of Wayne
Borough of Woodland Park