

**New Jersey Cyber Risk Management Fund  
9 Campus Drive, Suite 216  
Parsippany, NJ 07054**

**Original Bylaws**

**Date of Organization: November 1, 2022**

**Initial Members:**

1. Bergen County Municipal Joint Insurance Fund  
9 Campus Drive, Suite 216, Parsippany, NJ 07054
2. Camden County Municipal Joint Insurance Fund  
9 Campus Drive, Suite 216, Parsippany, NJ 07054
3. Central New Jersey Joint Insurance Fund  
9 Campus Drive, Suite 216, Parsippany, NJ 07054
4. Monmouth Municipal Joint Insurance Fund  
9 Campus Drive, Suite 216, Parsippany, NJ 07054
5. Morris County Municipal Joint Insurance Fund  
9 Campus Drive, Suite 216, Parsippany, NJ 07054
6. NJ Public Housing Joint Insurance Fund  
9 Campus Drive, Suite 216, Parsippany, NJ 07054
7. NJ Utility Authorities Joint Insurance Fund  
9 Campus Drive, Suite 216, Parsippany, NJ 07054
8. Ocean County Municipal Joint Insurance Fund  
9 Campus Drive, Suite 216, Parsippany, NJ 07054
9. Professional Municipal Management Joint Insurance Fund  
9 Campus Drive, Suite 216, Parsippany, NJ 07054
10. South Bergen County Joint Insurance Fund  
9 Campus Drive, Suite 216, Parsippany, NJ 07054
11. Suburban Metro Joint Insurance Fund  
9 Campus Drive, Suite 216, Parsippany, NJ 07054
12. Suburban Municipal Joint Insurance Fund  
9 Campus Drive, Suite 216, Parsippany, NJ 07054
13. Burlington County Municipal Joint Insurance Fund – ***Joined 10/18/2022***  
6000 Sagemore Drive Suite 6203, P.O. Box 488 Marlton, New Jersey 08053
14. Gloucester, Salem, Cumberland Counties Municipal Joint Insurance Fund – ***Joined 10/24/2022***  
6000 Sagemore Drive Suite 6203, P.O. Box 488 Marlton, New Jersey 08053
15. Atlantic County Municipal Joint Insurance Fund – ***Joined 11/21/2022***  
6000 Sagemore Drive Suite 6203, P.O. Box 488 Marlton, New Jersey 08053

16. New Jersey Municipal Self Insurers' Joint Insurance Fund – *Joined 11/09/2022*  
51 Everett Drive, Suite B40 - West Windsor, NJ 08550
17. Mid-Jersey Municipal Joint Insurance Fund – *Joined 11/09/2022*  
51 Everett Drive, Suite B40 - West Windsor, NJ 08550
18. First Responder Joint Insurance Fund - *Joined 11/09/2022*  
51 Everett Drive, Suite B40 - West Windsor, NJ 08550
19. Public Alliance Insurance Coverage Fund – *Joined 11/11/2022*  
51 Everett Drive, Suite B40 - West Windsor, NJ 08550

**WHEREAS:** Public Law 1983, c.372 (N.J.S.A. 40A:10-36 et. seq.) permits local units to join together to form a joint insurance fund; and

**WHEREAS:** Cyber-attacks on local governmental entities have substantially increased in recent years and premiums charged by commercial insurers increasing are increasing proportionally; and

**WHEREAS:** Unless governmental entities adopt strong risk management programs, cyber liability insurance may no longer be available; and

**WHEREAS:** The quarter of a century experience of the New Jersey Environmental Liability Risk Management Fund demonstrates that combining insurance with strong mandatory risk controls is the solution to exposures that are otherwise uninsurable; and

**WHEREAS:** It has been concluded that the formation of a joint insurance fund to provide Cyber risk control programs combined with insurance will result in significant savings as well as providing stability in coverage.

**NOW, THEREFORE,** in consideration of the premises and in order to create said fund to be known as the New Jersey Cyber Risk Management Fund, hereinafter called "Fund", it is mutually understood and agreed as follows:

## **Article I DEFINITIONS**

**"ACTUARY"** means a person who is a fellow in good standing of the Casualty Actuarial Society with three years recent experience in loss reserving or an associate in good standing of the Casualty Actuarial Society with five years recent experience in loss reserving.

**"CYBER RISK"** means a peril in the electronic information environment by which injuries, damages and other losses ensue. The exact definition of "cyber risk" or similar terms for any line of insurance coverage shall be the definition in the excess insurance or reinsurance policy purchased by the Fund unless superseded by the policy issued by the Fund.

**"EXCESS INSURANCE"** means insurance or re-insurance purchased from an insurer authorized or admitted in the State of New Jersey or deemed eligible by the

Department Insurance as a surplus lines insurer, covering losses in excess of an amount set forth in insurance contracts on a specific occurrence, or per accident or annual aggregate basis.

**"EXECUTIVE DIRECTOR"** means a person, partnership, corporation or other legal entity engaged by the Fund to carry out the policies established by the Fund Commissioners and to otherwise administer and provide day to day management of the Fund.

**"FUND"** means the New Jersey Cyber Risk Management Fund (hereinafter referred to as the Fund).

**"FUND YEAR"** means the Fund's fiscal year of January 1st through December 31st.

**"INCURRED CLAIMS"** means all claims assumed by the Fund during a fund year including claims reported or paid during a later period. The exact definition of "incurred claims" or any similar term is the definition used in the excess insurance or reinsurance policy purchased by the Fund unless superseded by the policy issued by the Fund.

**"FUND COMMISSIONERS or COMMISSIONERS"** shall mean the Joint Insurance Fund's Board of Fund Commissioners or the Executive Committee thereof depending on the contest.

**"INDEMNITY AND TRUST AGREEMENT"** means a written contract signed by and duly adopted by the members of the Fund under which each agrees to jointly and severally assume and discharge the liabilities of each and every party to such agreement arising from their participation in the Fund. The agreement shall also create a trust and govern the operation thereof under which monies shall be held by the Commissioners as fiduciaries for the benefit of Fund claimants.

**"OCCURRENCE"** means a single event. The exact definition of "occurrence" or any similar term shall be the definition used in the excess insurance or reinsurance policy purchased by the Fund unless superseded by the policy issued by the Fund.

**"PRIMARY INSURED"** means the entity that is a member of a joint insurance fund that is a member of this Fund.

**SERVICING ORGANIZATION"** means an individual, partnership, association, or corporation, other than the Executive Director, that has contracted with the Fund to provide, on the Fund's behalf, any function as designated by the 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 N.J.A.C. 11:15-2, and such other duties as designated by the Fund.

"SURPLUS" means that amount of monies in a trust account that is in excess of all costs, returned surplus, 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 per occurrence or aggregate excess insurance or reinsurance for a particular year.

## **Article II MEMBERSHIP**

### **A. AGREEMENT TO JOIN THE FUND:**

- 1.) Pursuant to Section I of P.L. 1983, c.372, a qualified joint insurance fund shall by resolution or ordinance, as appropriate, agree to join the Fund.
  - a.) The resolution or ordinance shall provide for execution of a written agreement specifically providing for acceptance of the Fund's Bylaws as approved and adopted pursuant to Section 4 of the Act.
  - b.) The agreement shall specify the extent of the member joint insurance fund'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 Fund membership, which in no event shall exceed three years pursuant to N.J.S.A. 40A:11-15 (6).
- 2.) The agreement shall include an executed Indemnity and Trust Agreement.
- 3.) All applicants to the Fund must also include a written statement certifying that the applicant 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.

**B. INITIAL MEMBERSHIP:** Any joint insurance fund affiliated with the Municipal Excess Liability Joint Insurance Fund which participated in the feasibility study may be a part of the Fund's application subject to approval by the Department of Banking and Insurance and the Department of Community Affairs.

### **C. SUBSEQUENT MEMBERSHIP:**

- 1.) Any joint insurance fund seeking membership after the Fund's initial approval by the Department of Banking and Insurance and Department of Community Affairs shall submit an application for membership to the Fund on a form acceptable by the Commissioner of Banking and Insurance. The application shall include an executed Indemnity and Trust agreement and other documentation required under Section A. above.
- 2.) An application may be approved by a majority vote of the Board of Fund Commissioners or two-thirds vote of the full authorized membership of the Executive Committee thereof based on the following criteria:
  - a.) The applicant's claims history shows performance consistent with the Fund's objectives and the applicant demonstrates a prospective likelihood of satisfactory future claim performance.
  - b.) The Fund has the administrative capability to absorb additional memberships without undue inconvenience or strain.

- 3.) If the application is approved by the Fund, it shall be concurrently filed with the Department of Banking and Insurance and the Department of Community Affairs and shall be accompanied by such amendments to the Fund's Budget and Plan of Risk Management as may be appropriate.

**D. CONDITIONS OF MEMBERSHIP:** As a condition of membership, each member joint insurance fund shall implement the cyber risk management program promulgated by the Commissioners.

**E. MEMBERSHIP RENEWALS:**

- 1.) Members may renew their participation by execution of a new agreement to join the Fund ninety (90) days prior to the expiration of the term.
- 2.) The Commissioners must act upon any renewal application no later than forty-five (45) days prior to the expiration of the term period. Otherwise, the renewal application is deemed approved.
- 3.) In order to deny a renewal application, the Commissioners shall find by majority vote that the applicant has failed to fulfill its responsibilities as a member.
- 4.) If a member's renewal application is rejected, the Fund shall comply with the provisions as outlined in Subsection F2, 3 and 4 below.
- 5.) Non-renewal of a Fund member does not relieve the member of responsibility for claims incurred during its period of membership.

**F. TERMINATION AND/OR WITHDRAWAL OF FUND MEMBERS**

- 1.) A participating joint insurance fund must remain in the Fund for the full term of membership unless earlier terminated by a majority vote of the Fund Commissioners or a two-thirds vote of the Executive Committee thereof for non-payment of assessments or continued non-compliance after receiving written notice to comply with the Fund's Bylaws or other obligations. However, a participating joint insurance fund shall not be deemed terminated until:
  - a.) The Fund gives, by registered mail, to the member a written notice of its intention to terminate the member in thirty (30) days; and
  - b.) Like notice shall be filed with the Department of Banking and Insurance and Department of Community Affairs, together with a certified statement that the notice provided for above has been given; and
  - c.) Thirty (30) days have elapsed after the filing required by "b" above.
- 2.) A member of the Fund that does not desire to continue as a member after the expiration of its membership term shall give written notice to the Fund of its intent ninety (90) days before the expiration of the term period. The Fund shall immediately notify the Department of Banking and Insurance and the Department of Community Affairs that the member has given notice to leave the Fund.

- 3.) 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.
- 4.) The Fund shall immediately notify the Department of Banking and Insurance 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 P.L. 1983, c.372 (NJSA 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 of Banking and Insurance and the Department of Community Affairs of its plan to bring the Fund into compliance.
- 5.) A Fund member is not relieved of the claims incurred during its period of membership except through payment by the Fund or member of those claims.

### **Article III ORGANIZATION**

#### **A. COMMISSIONERS:**

- 1.) Appointment:
  - a.) Commissioners: In the manner generally prescribed by law, each participating joint insurance fund shall appoint one (1) Commissioner to the Fund who shall be a member of its Board of Fund Commissioners.
  - b.) Alternate: Each member shall appoint one (1) alternate to attend either regular or special meetings on behalf of the member in the absence of the Commissioner. The alternate shall be a member of its Board of Fund Commissioners and shall exercise the full power and authority of the Commissioner in his/her absence, including the right to vote.
  - c.) Special Commissioner: In the event that the number of participating joint insurance funds is an even number, one (1) additional Commissioner shall be appointed annually by a participating joint insurance fund on a rotating basis determined alphabetically. 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.

#### **2.) Terms of Office and Vacancy:**

- a.) All terms of office shall expire on January 1st or until a successor is duly appointed and qualified.
- b.) Commissioners shall hold office at the pleasure of the member joint insurance fund and can be removed by the member without cause.
- c.) The Special Commissioner, if any, shall serve until January 1st of the year following appointment.

- d.) The unexpired term of a Commissioner other than the Special Commissioner, shall be filled by the appointing joint insurance fund in the manner generally prescribed by law.
  - e.) 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 shall appoint the replacement for the unexpired term.
  - f.) Any Commissioner can be removed from office for cause by two-thirds vote of the full membership of the Fund Commissioners or Executive Committee thereof. Upon such a vote, it shall be incumbent upon the member joint insurance fund to replace the Commissioner.
  - g.) Commissioners may vote to pay themselves a fee for attending meetings, not to exceed the amount authorized by N.J.S.A. 40A:10-37.
- 3.) Responsibilities:
- a.) The Commissioners are hereby required, authorized and empowered to operate the Fund in accordance with these Bylaws and appropriate state laws and regulations in the interests of the total membership of the Fund.
  - b.) The Commissioners shall determine and establish the Fund's budget, assessments, loss reserves, surplus, limits of coverage, limits of excess insurance or reinsurance, coverage documents, refunds and other financial and operating policies of the Fund.
  - c.) The Commissioners shall invest monies held in trust in any account in accordance with the Fund's cash management plan and consistent with the statutes and rules governing the investment of public funds by joint insurance funds established pursuant to N.J.S.A. 40A:10-36, et. seq.
  - d.) The Commissioners shall collect and disburse all money due to or payable by the Fund or authorize such collection and disbursement.
  - e.) The Commissioners may enter contracts with other persons or with public bodies of this state for any professional, administrative or other services as may be necessary to carry out the purposes of the Fund.
  - f.) The Commissioners may purchase and serve as the master policy holders, if desired, for any insurance including excess insurance and reinsurance.
  - g.) The Commissioners shall prepare, or cause to be prepared, a risk management plan for the Fund.
  - h.) The Commissioners, as the need arises, may amend the bylaws and the risk management plan pursuant to N.J.S.A. 40A:10-36 et seq.

- i.) The Commissioners may authorize the Fund to become a member of other joint insurance funds permitted by law and may authorize the Fund Chairperson to execute such documents as required to secure such membership(s).
- j.) The Commissioners shall do all other things necessary and proper to carry out the purposes for which the Fund is established.
- k.) Each Commissioner shall have one vote provided, however that the Special Commissioner, if any, shall only vote in the event of a tie.

**B. Officers:**

- 1.) As soon as possible after the beginning of each year, the Commissioners shall meet to elect the officers of the Fund from its own membership. Fund officers shall serve until January 1st of the following year, or until a successor is duly elected and qualified.
  - a.) 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.
  - b.) Secretary: The secretary shall preside over the meetings of Commissioners in the absence of the chairperson, maintain written 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 Commissioners, which office the secretary shall have free access to.
- 2.) 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.
- 3.) Any officer can be removed without cause at any time by a two-thirds vote of the full membership of the Commissioners. In this event, the full membership of the Commissioners shall vote to fill the vacancy for the unexpired term.

**C. Executive Committee:**

- 1.) If the total number of Commissioners exceeds seven (7), the Commissioners shall meet as soon as possible after the beginning of the year and elect five (5) Commissioners to serve with the chairperson and the secretary as the Executive Committee of the Fund. During their term of office, members of the Executive Committee shall exercise the full power and authority of the Commissioners except as otherwise provided. Wherever the term "Commissioners" appears in these Bylaws, that term shall also be interpreted to mean "Executive Committee", except in those cases where the express language and content of these Bylaws or applicable statutes dictate otherwise.



- 2.) All meeting of the Fund shall be meetings of the full Board of Commissioners, and the Executive Committee shall only convene if the full Board of Commissioners fails to reach a quorum.
- 3.) The Executive Committee shall serve until January 1st of the following year, or until their successors are duly elected and qualified.
- 4.) In the event the Commissioners shall elect an Executive Committee as provided for above, they shall also elect up to seven (7) Commissioners to serve as alternate members of the Executive Committee to attend either regular or special meetings to serve in the absence of a member or members of the Executive Committee. An alternate or alternates serving in the absence of a member, or members, of the Executive Committee shall exercise the full power and authority of that absent member or members. Alternates are permitted to attend all meetings.
  - a.) The number of alternates to be elected shall be the number of Commissioners minus seven (7).
  - b.) Alternates shall serve in established priority order, designated as alternate #1, alternate #2, etc. Alternate #1 shall serve in the absence of one member of the Executive Committee or in the absence of Alternate #1, Alternate #2 may serve. Alternates #1 and #2 shall serve in the absence of two or more Executive Committee members, etc.
- 5.) Vacancies on the Executive Committee caused by a reason other than the expiration of the term of office shall be filled by a majority vote of the full remaining membership of the Executive Committee.

**D. Fund Professionals:**

As soon as possible after the beginning of each year, the Commissioners shall meet and select individuals to serve in the following professional positions. No professional nor any employee, officer or director, or beneficial owner thereof, shall be a Commissioner. All professionals shall be retained pursuant to the "Local Public Contracts Law."

- 1.) **Treasurer:** The treasurer must possess a valid certified municipal finance officer's certificate and shall have the following duties and responsibilities:
  - a.) Custodian of the Fund's assets and shall maintain the various trust funds.
  - b.) Approval of all receipts, payments, and financial records.
  - c.) Draft the Fund's cash management plan and shall invest all balances.
  - d.) Ascertain availability of sufficient unencumbered funds to any account to fully pay all charges or commitments prior to any payment or commitment.
  - e.) The treasurer shall perform such other duties as provided for by the Commissioners, these Bylaws and in the laws and regulations of the State of New Jersey.

- f.) The treasurer shall be covered by a fidelity bond protecting the Fund's assets in a form and amount to be determined annually by the Fund Commissioners. Said bond to be paid for by the Fund.

2.) **Executive Director:**

- a.) The Executive Director shall be experienced in risk management matters.
- b.) The Executive Director shall have the following duties and responsibilities:
  - i.) Carry out the policies established by the Commissioners and to otherwise administer and provide for the day-to-day management of the Fund.
  - ii.) Advise the Commissioners on risk management matters and shall prepare a draft Risk Management Plan.
  - iii.) Prepare the Fund's budget and bill assessments.
  - iv.) Maintain underwriting files and prepare new member submissions for review of the commissioners.
  - vi.) Prepare filings required by state regulations.
  - vii.) Coordinate the Fund's meeting agenda, minutes, elections, contracts and maintain the Fund's official records and office.
  - viii.) Maintain the Fund's general ledger, accounts payable and accounts receivable function.
  - ix.) Perform such other duties as provided for by the Commissioners, these Bylaws, and the laws and regulations of the State of New Jersey.
- c.) The Executive Director shall assume overall executive responsibility for the operations of the Fund except that the Executive Director shall not be responsible for the errors and omissions of other professional or servicing organization except as to generally monitor the compliance of said organization with the directives of the Commissioners, its Service Provider Contract, or the applicable statutes and regulations as to the form and timeliness of said undertaking. For example, the Executive Director shall be responsible to verify the issuance of excess or reinsurance policies, and the timely receipt of said policies by the Fund, however, the Executive Director shall not be responsible for the content of the policies or the adequacy of the coverage.
- d.) The Fund shall also appoint the Executive Director of each member joint insurance fund as a Deputy Executive Director of the Fund to assist the Fund's Executive Director in the coordination of the Cyber Risk Management program by that member joint insurance fund.

- e.) The Executive Director shall be bonded in a form and amount acceptable to the Commissioner of Insurance. The administrator and deputy administrator (s) shall also be covered by Errors and Omissions insurance as provided by NJAC 11:15-2 and/or supplements or amendments thereto. Said coverage to be paid by the Fund.
- 3.) **Cyber Risk Manager:** The Cyber Risk Managers shall be knowledgeable of computer systems utilized by governmental entities and shall advise the Fund on programs and services to reduce and control cyber risk.
- 4.) **Auditor:** The auditor shall be an independent certified public accountant (CPA) or a registered municipal accountant (RMA). The auditor shall conduct the annual audit of Fund and shall perform such other duties as provided for by the Commissioners, these Bylaws and the laws and regulations of the State of New Jersey.
- 5.) **Attorney:**
  - a.) The attorney shall be admitted to the New Jersey Bar and shall provide advice to the Fund on legal matters such as advising the commissioners of their obligations and responsibilities under N.J.S.A. 40A:10-36, et seq., the regulations and other pertinent law such as the Open Meetings Act and the Open Public Records Act.
  - b.) The attorney shall have the following responsibilities:
    - i.) The attorney shall advise the Fund on legal matters and the appropriateness of claim settlements recommended by the claims administrator.
    - ii.) The attorney shall advise the Commissioners on the selection of counsel to represent the Fund in the defense of claims. The Fund Attorney may also provide representation concerning incidental aspects of claim matters such as motions where it is more expeditious, cost effective or otherwise to do so. However, the attorney or any member of the attorney's law firm shall not defend any claim which is the responsibility of the Fund without the authorization of the Commissioners.
    - iii.) The attorney shall perform such other duties as provided for by the Commissioners, these Bylaws and the laws and regulations of the State of New Jersey.
- 6.) **Service Agent:** The Fund shall designate and appoint an agent in New Jersey to receive service and process on behalf of the Fund.
- 7.) All fund professionals shall be retained on a contractual basis which shall be approved by the Commissioners and submitted to the Department of Banking and Insurance and the Department of Community Affairs.
- 8.) Fund professionals shall be compensated for their services pursuant to written fee guidelines submitted annually and approved by a majority of Commissioners. The written fee schedule shall be part of the official contract.

**E. SERVICING ORGANIZATIONS:**

- 1.) The Fund may contract to have the following services performed:
  - a.) actuarial;
  - b.) claims administration;
  - c.) cost containment;
  - d.) loss prevention/safety engineering;
  - e.) legal;
  - f.) auditing;
  - g.) financial;
  - h.) compilation and maintenance of the Fund's underwriting file;
  - i.) coordination and preparation of coverage documents;
  - j.) risk selection and pricing;
  - k.) excess insurance or reinsurance producer;
  - l.) member assessment and fee development;
  - m.) report preparation pursuant to N.J.S.A. 40A:10-36 et seq.; and
  - n.) such other services designated by the Fund.
  
- 2.)
  - a.) No servicing organization or producer appointed pursuant to N.J.A.C. 11:15-2.6(c)10, or their employees, officers or directors shall have either a direct or indirect interest in the Executive Director of the Fund or be an employee, officer or director of the Executive Director unless notice of such interest has been provided to the Commissioners and members.
  
  - b.) No Executive Director, or their employees, officers or directors shall be an employee, officer or director, or have either a direct or indirect financial interest in a servicing organization of the Fund or the insurance producer that may be appointed by the Fund pursuant to N.J.A.C. 11:15-2.6(c) 10-1 unless notice of such interest has been provided to the Commissioners and members.
  
  - c.) Any employee, officer or director of the Executive Director, 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 any direct or indirect financial interest such employee, officer or director has in any other Executive Director, servicing organization or insurance producer.
  
- 3.) Each service contract shall include a clause stating "unless the Commissioners otherwise permit, the servicing organization shall handle to its conclusion all claims and other obligations incurred during the contract period."
  
- 4.) Each claims administer or other servicing Organization deemed necessary by the Department of Banking and Insurance, or other servicing organization deemed necessary by the Commissioners shall provide a surety bond and Errors and Omissions coverage in a form and amount acceptable to the Department of Banking and Insurance, or the Commissioners as the case may be and as provided elsewhere in these Bylaws.
  
- 5.) All officers, employees and agents, including the Executive Director 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 materials relating to their contract or employment, or if no successor has been designated, delivery shall be made to the Executive Director or Fund Chairperson.

**F. Advisory Committees:**

- 1.) From time to time, the Chairperson may establish advisory committees and may appoint any individual to serve on these committees except that only Commissioners may serve on a Nominations Committee, if any, established for the purpose of proposing candidates to stand for election as a Fund officer or member of the Executive Committee.
- 2.) The Chairperson shall appoint a risk control committee consisting the Fund's Cyber Risk Manager, a member representing each member joint insurance fund, and such other members as the Chairperson deems appropriate.

**G. Indemnification of Commissioners, Officers and Employees:**

- 1.) The Executive Director, Claims Service Provider(s), and such others as are required by regulation to do so, shall provide Errors and Omissions coverage in a form satisfactory to the Commissioner of Banking and Insurance.
- 2.) The Commissioners, at their discretion may, but shall not be required to, have any other individual or organization engaged by the Fund produce evidence of Errors and Omissions coverage, and such other coverages as they deem advisable, as a condition of employment.
- 3.) Except to the extent covered by Errors and Omissions insurance as may be required, as set forth above, the Fund shall indemnify any past, present or future Commissioner, and may indemnify such other officials or professionals or service providers as the Commissioners determine, for claims arising from an act or omission of such Commissioner, official or employee within the scope of the performance of such individuals' duties as Commissioner, officials, professional or employee. Such indemnification shall include reasonable cost and expenses incurred in defending such claims. Nothing contained herein shall require the Fund to pay punitive damages or exemplary damages or damages arising from the commission of a crime by such an individual and the Fund shall not be required to provide for the defense or indemnification of such an individual when the act or omission which caused the injury was the result of actual fraud, malice, gross negligence or willful misconduct of such individual or in the event of a claim against such an individual by the State of New Jersey or if such Commissioner, official or employee is either covered, or required to be covered by Errors and Omissions liability insurance. The determination as to whether an individual's conduct falls within any of the above exceptions shall be made by the Commissioners. Nothing herein contained is intended to shield any employee or appointed official from liability for any act, omission or wrongdoing which would not customarily be covered by Errors and Omissions insurance if same had been required of said employee or appointed official.
- 4.) A present, past or future Commissioner, official or employee of the Fund shall not be entitled to a defense or indemnification from the Fund unless:

- a.) Within ten (10) calendar days of the time he or she is served with the summons, complaint, process, notice or pleading, he or she delivers the original or exact copy to the Fund Attorney, together with a request that the Fund provide for his or her defense.
  - b.) He or she cooperates in the preparation and presentation of the defense with the attorney selected to defend the case.
  - c.) Except in those instances where a conflict of interest exists, as determined by an attorney selected by the Fund to handle such matters, the past, present or future Commissioner, official or employee shall agree that the Fund and its counsel shall have exclusive control over the handling of the litigation.
- 5.) The forgoing right of indemnification shall not be exclusive of any other rights to which any Commissioner, official or employee may be entitled as a matter of law or which may be lawfully granted to him or her; and the right to indemnification hereby granted by this Fund shall be in addition to and not in restriction or limitation of any other privilege or power which the Fund may lawfully exercise with respect to the indemnification or reimbursement of a Commissioner, official or employee; except that in no event shall a Commissioner, official or employee receive compensation in excess of the full amount of a claim and reasonable costs and expense incurred in defending such claim.
- 6.) Expenses incurred by any Commissioner, official or employee in defending an action, suit or proceeding may be paid by the Fund in advance of final determination of such action, suit or proceeding as authorized by the Fund in a specific case upon receipt of an undertaking by or on behalf of such member or officer to repay such amount in the event of an ultimate determination that his or her conduct was such as to fall outside the scope of coverage under this indemnification provision.

#### **Article IV OPERATION OF THE FUND**

##### **A. GENERAL OPERATION:**

- 1.) 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.), the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) and the various statutes authorizing the investment of public funds, including but not limited to N.J.S.A. 40A:10-10 (b), 17:12B-241 and 27:9-4.1.
- 2.) The Fund shall be considered a local unit for purposes of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) and shall be governed by the provisions of that law in the purchase of any goods, materials, supplies and services.
- 3.) 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 Insurance showing the financial ability of the Fund to meet its obligations. The members may, upon majority vote, request that the Commissioner of Insurance order an examination of

any Fund member which the Commissioners/Executive Committee in good faith believes may be in a financial condition detrimental to other Fund members or to the public.

- 4.) As required by N.J.A.C. 11:15-2.6(b)3, the claims service provider shall establish a reserve whenever a claim is reported and shall adjust that reserve from time to time as additional information becomes available. The general reserving philosophy is to set reserves based upon the probable total cost of the claim at the time of conclusion. Fund also establishes reserves recommended by the Fund's Actuary for claims that have been incurred but not yet reported so that the Fund has adequate reserves to pay all claims and allocated loss adjusted expense liability. Claims reserves are subject to regular review by the Fund's Executive Director, Fund Attorney, Commissioners, and claims servicing company. Reserves on large or unusual claims are also subject to review by the claims departments of the commercial insurance companies or reinsurance companies providing primary or excess coverages.
- 5.) The Executive Director shall maintain the Fund's general ledger and shall at the end of each quarter update reserves for unearned assessments, loss reserves and loss expense reserves in accordance with sound actuarial principles as required by N.J.A.C. 11:15-2.6(b)11.

**B. RISK MANAGEMENT PLAN:**

- 1.) The 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:
  - a.) The perils or liability to be insured against.
  - b.) Limits of coverage, whether self-insurance, direct insurance purchased from a commercial carrier or reinsurance.
  - c.) The amount of risk to be retained by the Fund.
  - d.) The amount of reserves to be established.
  - e.) The proposed method of assessing contributions to be paid by each member of the Fund.
  - f.) Procedures governing loss adjustment and legal fees.
  - g.) Coverage to be purchased from a commercial insurer, if any.
  - h.) Reinsurance to be purchased, if any, and the amount of premium therefore.
  - i.) Procedures for the closure of Fund years, including the maintenance of all relevant accounting records.
  - j.) The assumptions and methodology used for the calculation of appropriate reserves required to be established, maintained and administered in accordance with sound actuarial principles.

- k.) The maximum amount a certifying and approving officer may approve.
- 2.) The Risk Management Plan and all amendments must be approved by the Department of Banking and Insurance and the Department of Community Affairs before it takes effect.

**C. FINANCIAL STATEMENT AND REPORTS:**

- 1.) 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 Commissioners.
- 2.) A sworn annual report in a form prescribed by the Department of Insurance shall be prepared by the Fund, filed concurrently with the Department of Banking and Insurance and the Department of Community Affairs and made available to each Fund member on or before June 30th of each year.
- 3.) Such other information as may be required by the Department Banking and Insurance pursuant to NJAC 11:15-2.24.

**D. COVERAGES:**

- 1.) The Fund shall provide Cyber Risk insurance to the members along with such other coverages that the Commissioners deem appropriate to effectuate the objective of the Fund
- 2.) The Fund shall also provide its members with cyber risk control programs and related services,
- 3.) The Fund may jointly purchase or lease, on behalf of its membership, other cyber risk control services, training and equipment in connection with the provision of the coverage set forth above.

**Article V  
MEETINGS AND RULES OF ORDER**

**A. MEETINGS:**

- 1.) Annual Organization Meeting - As soon as possible after the beginning of the year, the Commissioners shall meet to elect officers and the Executive Committee, to 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 clerks of participating local units at least two (2) weeks in advance.
- 2.) Business Meetings - The Commissioners shall establish a schedule of meetings to conduct the business of the Fund. The Executive Committee shall only meet when the full board of fund Commissioners lacks a quorum. All Commissioners may attend open or closed sessions of the Executive Committee.



- 3.) Special Meetings - The chairperson or three (3) Commissioners may call a special meeting by notifying the Fund's secretary at least three (3) days in advance. The secretary shall notify the Commissioners by telephone. If the secretary is unable to reach a member as of forty-eight (48) hours before the meeting, the secretary shall telephone another official of the member local unit using the following order: local unit's Executive Director/Administrator, chairperson, secretary. Notice shall state the purpose of the meeting and whether it is called for the Executive Committee only or full membership of Commissioners.
- 4.) Quorum - The quorum for the full Fund Commissioners meeting shall be a majority of the total number of Fund Commissioners.
- 5.) A quorum for Executive Committee meetings shall be a majority of the total Committee not including alternates.

**B. CONDUCT OF MEETINGS:**

- 1.) All meetings of the Fund shall be subject to the rules and regulations of the Open Public Meetings Act.
- 2.) 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. AMENDMENTS TO THE BYLAWS:**

- 1.) Any Commissioner may propose an amendment to the Bylaws by filing the proposed amendment in writing with the secretary.
- 2.) 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 Fund Commissioners of the hearing date and shall send all Fund Commissioners a copy of the proposed amendment.
- 3.) The amendment is adopted by the Fund when three-fourths (3/4) of the member joint insurance funds approve the amendment within six (6) months of the hearing on the amendment. In the event Section 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 three-fourths (3/4) of the member joint insurance funds, the Secretary shall notify the members that time has expired for the adoption of the amendment.
- 4.) If adopted, the amendment shall not take effect until approved by the Department of Banking and Insurance and the Department of Community Affairs.
- 5.) Within ninety (90) days after the effective date of any amendment to the Bylaws, a member which did not approve the amendment may withdraw from the Fund provided that it shall remain liable for its share of any claims or expenses incurred by the Fund during its period of membership.

## **Article VI BUDGETS**

### **A. Budgets:**

- 1.) No later than October 1<sup>st</sup> 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, 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. The budget shall be prepared on the basis that it does not recognize investment income or discounting of claim reserves and administrative expenses associated with that fiscal year. The budget shall be reviewed by an actuary who shall comment on its adequacy and shall recommend changes.
- 2.) A copy of the Fund's proposed budget shall be made available to each member at least two (2) weeks prior to the time of scheduled for its adoption. No budget 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.
- 3.) No later than December 31<sup>st</sup> of each year the Commissioners shall adopt by majority vote the budget for the Fund's adoption for the upcoming fiscal year.
- 4.) A copy of the adopted budget and actuarial certification shall be filed with the Department of Banking and Insurance and the Department of Community Affairs within 30 days of its adoption.
- 5.) An adopted budget may be amended by majority voter of the Commissioners.
- 6.) A copy of any amendment to the budget shall be filed with the Department of Banking and Insurance and the Department of Community Affairs and the each member within 30 days of adoption which either individually or cumulatively with other adopted budget amendments changes the total budget five (5) percent from the original budget of the latest filed amended budget.

## **Article VII ASSESSMENTS**

### **A. Annual Assessment:**

- 1.) The total amount of each member's annual assessment shall be certified by majority vote of the Commissioners to each member prior to the beginning of the next fiscal year.
- 2.) The annual assessment shall be paid to the Fund in installments, to be determined by the Commissioners which shall conform with N.J.A.C. 11:15-2.15 (a).
- 3.) In the event the final budget passed in December necessitates changes in the annual assessment, the second installment shall be adjusted to reflect this difference.

- 4.) The Treasurer shall deposit each member's assessment into the appropriate accounts, including the administrative account and the claim or loss retention trust fund account by fund year in which the member participates.

**B. Supplemental Assessments:**

- 1.) The Commissioners shall by majority vote levy upon the member joint insurance funds additional assessments wherever needed or so ordered by the Department of Banking and Insurance to supplement the Fund's claim, loss retention or administrative accounts to assure the payment of the Fund's obligations.
- 2.) In the event that the Fund has an overall net loss on a statutory basis at the end of any year, the Commissioner shall adopt a supplemental assessment no later than April 1<sup>st</sup>. The assessment shall be sufficient to offset that loss.
  - a.) All supplemental assessments shall be charged by applicable fund year, and shall be apportioned by that year's premium.
  - b.) All joint insurance funds 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.
- 2.) The Fund shall submit to the Department of Insurance and 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. FAILURE OR REFUSAL TO PROVIDE REQUIRED ASSESSMENTS:** Should any member fail or refuse to pay its assessments or supplemental assessments, or should the Fund fail to assess funds required to meet its obligations, the Chairperson or in the event by his or her failure to do so, the custodian of the Fund's assets, shall notify the Department of Insurance and the Department of Community Affairs in writing. Past due assessments shall bear interest at the rate of interest to be established annually by the Fund Commissioners.

**D. 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.

**Article VIII  
REFUNDS**

- A.** Any monies for a fund year in excess of the amount necessary to fund all obligations for that fiscal year as certified by an actuary may be declared to be refundable by the Fund in accordance to the regulations promulgated by the Department of Banking and Insurance.
- B.** A refund for any fiscal year shall be paid only in proportion to the member's participation in the Fund for such year. Payment of a refund on a previous year is not contingent on the member's continued membership in the Fund after that year.

**Article IX**  
**EXCESS INSURANCE**

- A. Consistent with N.J.A.C. 11:15-2.6(a) 6 and N.J.A.C. 11:15-2.23, the Fund shall secure excess insurance and/or reinsurance in a form and amount from an insurer or other entity authorized to provide such coverage in New Jersey pursuant to law, acceptable to the Department of Banking and Insurance, if commercially available and not unreasonably priced, as determined by the Commissioners and as approved by Department of Banking and Insurance and the Department of Community Affairs.
- B. 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. The Fund shall also notify the Department of Banking and Insurance of any changes in the policies which occur during the year or of changes in the coming year's excess insurance or reinsurance policies.
- C. Certificates of excess insurance showing policy limits and other information shall be filed with each member and the Department of Banking and Insurance. Copies of all policies shall be provided to the members.

**Article X**  
**TRUST FUND ACCOUNTS, INVESTMENTS AND DISBURSEMENTS**

- A. **Establishment of Trust Fund Accounts.**
  - 1.) By resolution, the Fund shall designate a public depository or depositories for its monies pursuant to N.J.S.A. 40A:5-14.
  - 2.) The Fund shall establish a separate Trust Fund Account from which monies shall be disbursed solely for the payment of claims, allocated claim expenses and excess insurance or reinsurance premiums by fund year. Such accounts shall be designated as Claims or Loss Retention Fund Accounts.
    - a.) Other than for claims, allocated claims expense, or excess insurance premiums, no transfers or withdrawals may be made from a claim or loss retention account except approved or deemed approved by the Department of Banking and Insurance.
  - 3.) 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.
- B. **Investments**
  - 1.) The balance of any account 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 and pursuant to N.J.S.A. 40A:10-10b.

- 2.) The investment and interest income earned by the investment of the assets of each claim or loss retention account shall be credited to each account.
- 3.) The investment and interest income earned by investment of the assets of the administrative account shall be credited to that account.

### **C. Disbursements**

- 1.) Prior to any commitment or agreement requiring the expenditure of funds, the custodian of the Fund's assets shall certify as to the availability of sufficient unencumbered funds to fully pay all charges or commitments to be accepted.
- 2.) All disbursements, payments of claims or expenditure of funds must be approved by a majority vote of the Commissioners.
- 3.) Notwithstanding numbers 1 and 2 above, the Fund may provide for the expedient resolution of certain claims by designating the Executive Director or service organization 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 specified claims in an amount not to exceed an amount established in the Fund's Plan of Risk Management. The Fund shall establish such other procedures and restrictions on the exercise of this authority as the Fund deems appropriate.
- 4.) 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.
- 5.) 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 vote of the Fund Commissioners at their next regularly scheduled meeting. If any payment is not approved, appropriate action shall be taken.
- 6.) 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 the certification of the party claiming payment that it is correct, and must carry the certification of some officer or duly 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 loss fund, the Fund's claims administrator shall certify as to the claims correctness and validity.
- 7.) All claims shall be paid by check. The checks shall be signed by two persons so designated by the Fund Commissioners.

- 7.) All claims or other disbursements approved for payment by the Fund shall be recorded in a claims register maintained by the custodian of the Fund's assets.

**Article XI  
CONFLICT OF INTEREST**

- A. All officials and employees of a member joint insurance fund and its member local units or any members of the family of such officials or employees shall comply with N.J.S.A. 40A:22.1 et seq. (the "Local Government Ethics Laws").

**Article XII  
VOLUNTARY DISSOLUTION OF THE FUND**

- A. 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.
- B. 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.
- C. Upon completion of the plan, the Chairperson shall call a general meeting of Commissioners who shall review the plan and make any appropriate amendments. By majority vote, the Commissioners may recommend to the members that the Fund be dissolved in accordance with the Plan of Dissolution.
- D. A majority of the governing bodies of the participating joint insurance fund must by resolution vote to accept the Plan of Dissolution in order to dissolve the Fund.
- E. Such Plan of Dissolution shall contain a statement of the funds current financial condition computed according to generally accepted accounting principles as attested to by an independent certified accountant.
- F. The Plan of Dissolution and other such information as may be required, must be filed with and approved in writing by the Department of Banking and Insurance and the Department of Community Affairs before the dissolution of the Fund is effective.

**Article XIII  
CLAIMS HANDLING PROCEDURE**

- A. **Claims Committee:** The Commissioners may delegate claims settlement authority to a committee of Commissioners appointed by the Chairperson.
- B. **Claims Response:** Upon receipt of the initial notice of claim described, the primary insured shall immediately forward the notice of claim and any other information available to the claims service provider and, where appropriate, to the Funds Attorney for initial contact, investigation, court actions or other appropriate response.

- C. **Notice of Intended Settlement:** Whenever an investigation discloses that the prompt fair and equitable settlement of a claim is appropriate and possible, the claims service provider shall submit to the Executive Director for review by the Commissioners, a notice of recommended settlement. This notice shall be on forms approved by the Commissioners and shall set forth identifying information concerning the claim, recommendations where appropriate concerning the legal liability of the Fund, a summary of investigative work concerning the merits of the claim and the reasons underlying the recommended settlement.
- D. **Approval of Payments and Settlements:** Whenever the Fund shall make any payment or settlement of any claim, a notation thereof identifying the claim and the amount paid shall be entered upon a ledger of claims paid.

#### **Article XIV COMPLAINT HANDLING PROCEDURE**

- A. Whenever any interested party shall submit a complaint in writing to the Fund, the executive director, or any member of the Fund, a copy thereof shall be forthwith communicated to the Fund Commissioners for consideration at its next regularly scheduled meeting.
- B. At said meeting the Fund Commissioners shall consider the complaint, and by recorded vote take such action as might be appropriate.
- C. The complaining party, and the Fund Commissioner from the member joint insurance fund shall receive written notice of the Fund Commissioners findings. The written notice to the complaining party, may where appropriate, include an opportunity for the complaining party to have a hearing concerning his/her complaint before the Fund Commissioners.
- D. The Fund shall keep a separate record of all complaints received and the disposition of same.

#### **Article XV OTHER CONDITIONS**

- A. **Inspection and Audit:** The Fund shall be permitted but not obligated to inspect, at any reasonable time, the work places and operations of each primary insured 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 primary insured or others, to determine or warrant that such work places, 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 primary insured'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, or relate to the subject matter of this agreement.
- B. **Notice of Injury:** When an injury occurs, written notice shall be given by or on behalf of the member or primary insured to the Fund or any of its authorized agents as soon as practical. Such notice shall contain particulars sufficient to identify the primary insured 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.

- C. Notice of Claim or Audit:** If claim is made or formal petition or a suit or other proceedings are brought against the member or primary insured, every such demand, notice, summons or other process received shall be immediately forwarded to the Fund.
- D. Assistance and Cooperation:** The member and the primary insured 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. The member and the primary insured shall not, except at its own cost, voluntarily make any payment, assume any obligation or incur any expense.
- E. Action against the Fund:** No action shall lie against the Fund unless, as a condition precedent thereto, the member and the primary insured shall have fully complied with all the terms of this agreement, not until the amount of the member and primary insured'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 afforded by this agreement. Nothing contained in this agreement shall give any person or organization any right to join the Fund as a co-defendant in any action against the participant to determine the participant's liability. Bankruptcy or insolvency of the participant shall not relieve the Fund of any of its obligations.
- F. Subrogation:** In the event of any payment under the agreement, the Fund shall be subrogated to all rights of recovery therefore of the member and primary insured and any person entitled to the benefits of this agreement against any person or organization and the member and primary insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The member and primary insured shall do nothing after loss to prejudice such rights.
- G. Conformance with Statute:** In the event any portion of these Bylaws conflict with any statute or administrative regulation covering joint insurance funds, the provision of any such regulation shall control to the extent it conflicts.

**THUS DONE, READ, AND PASSED in my office in the Township of Parsippany, State of New Jersey on November 1, 2022.**

**NEW JERSEY CYBER LIABILITY RISK MANAGEMENT FUND**

**By: David N. Grubb**

**Executive Director**