

**RESOLUTION NO. 06-22**

**GARDEN STATE MUNICIPAL JOINT INSURANCE FUND  
(Hereinafter referred to as the "Fund" or the "GSMJIF")**

**ESTABLISHING THE 2023 PLAN OF RISK MANAGEMENT**

**BE IT RESOLVED** by the Fund's Board of Commissioners that the 2023 Plan of Risk Management shall be:

***2023 RISK MANAGEMENT PLAN***

**1) The perils or liability to be insured against.**

The following coverages are provided to the Fund's members.

- Excess Workers' Compensation**
- Excess General Liability**
- Excess Auto Liability**
- Excess Public Officials Liability (including Errors & Omissions, Employment Practices and Sexual Harassment)**
- Excess Law Enforcement Activities Liability**
- Excess Employee Benefits Liability**
- Property (including Auto Physical Damage)**
- Boiler & Machinery**
- Crime (with Statutory Position Bonds)**
- Non-Owned Aircraft Liability**
- Cyber Liability**
- Disaster Management Services**
- Pollution & Tank Liability (on an optional basis)**
- Marina Operators Package (on an optional basis)**
- Unmanned Aircraft Systems (on an optional basis)**

## 2) The limits of coverage.

### a) **Workers' Compensation**

The GSMJIF covers excess claims to the following limits:

- Workers' Compensation - Statutory inclusive of Member deductible/SIR (Per SIR Exhibit on file with the Administrator's office). The minimum Fund retention is \$1,000,000 inclusive of Member deductible/SIR.
- Employer's Liability - \$15,000,000 in excess of Member deductible/SIR (as on file with the Administrator's office). The minimum Fund retention is \$1,000,000 inclusive of Member deductible/SIR.
- USL&H – included in Workers' Compensation (for damages arising out of NJ State Law).
- Maritime Coverage /Jones Act - included in Employer's Liability.

### b) **General Liability**

The GSM JIF covers excess liability claims as follows:

- General Liability - \$15,500,000 per occurrence, or in the aggregate per Member per Fund year, inclusive of Member deductible/SIR (Per SIR Exhibit as on file with the Administrator's office).
  - **Includes Sexual Abuse & Molestation Liability**
- The minimum Fund retention for all General Liability & related coverages is \$500,000 inclusive of Member deductible/SIR (Per SIR Exhibit on file with the Administrator's office).

### c) **Automobile Liability**

The GSMJIF covers Automobile Liability claims as follows:

- Automobile Liability - \$15,500,000 any one occurrence, inclusive of Member deductible/SIR (Per SIR Exhibit on file with the Administrator's office), subject to the following sublimits:
  - Automobile Medical Payments: \$5,000 for each insured.
  - Uninsured Motorists/ Underinsured Motorists: Minimum coverage amounts of \$15,000 for single person injuries. \$30,000 for injuries of all persons involved in an accident. \$5,000 for property damage.

- No Fault Insurance (PIP): NJ minimum statutory limits.
- The minimum Fund retention for all Automobile Liability coverage is \$500,000, inclusive of Member deductible/SIR.

**d) Public Officials Liability (POL)**

- The GSMJIF covers \$15,500,000 per occurrence and in the aggregate on a claims-made basis per Member for each Fund year, inclusive of Member deductible/SIR and coinsurance payments (per SIR Exhibit on file with the Administrator's office).
- Public Officials Liability coverage includes:
  - a. Errors & Omissions**
  - b. Employment Practices Liability**
  - c. Sexual Harassment Liability**
- The minimum Fund retention for POL is \$500,000, inclusive of Member deductible / SIR / coinsurance.

**e) Employee Benefits Liability**

The GSM JIF covers Employee Benefits Liability claims as follows:

- Employee Benefits Liability - \$15,500,000 per claim, or in the aggregate per Member per Fund year, inclusive of Member deductible/SIR
- The minimum Fund retention is \$500,000, inclusive of Member deductible/SIR / coinsurance. Member's deductible/SIR is the same as the General Liability deductible /SIR (Per SIR Exhibit on file with the Administrator's office).

**g) Law Enforcement Activities Liability**

- The GSMJIF covers \$15,500,000 per occurrence, and in the aggregate per Member for each Fund year, inclusive of Member deductible/SIR (per SIR Exhibit on file with the Administrator's office).
- The minimum Fund retention for all Law Enforcement Activities Liability claims is \$500,000, inclusive of Member deductible/SIR.

## **h) Property**

- The GSMJIF has purchased Property insurance with total limits of \$350,000,000
  - A sublimit of \$25,000,000 (annual aggregate) for the peril of Flood, except as follows:
    - \$2,500,000 as respects Zone A and V locations
  - Other sublimits are per the excess policy form.
- The Fund retention is \$100,000, except as follows:
  - Named Windstorm in ‘high hazard’ (Tier 1) counties– 2% of total insurable values per unit affected, subject to a minimum of \$250,000 per location affected. Tier 2 counties: \$250,000 per occurrence.
  - Flood - \$500,000 per location for Zones A and V locations. / \$1,000,000 maximum/ occur. All Other Zones: \$100,000 per location/ \$250,000 maximum/ occur.
  - \$250,000 for ‘Wave Wash’
  - Vehicles with RCV greater than \$750,000- \$250,000 per occurrence.
  - \$500,000 per occurrence for Unscheduled Infrastructure (as defined in policy).
  - Other retentions are as per excess policy form.
- Limits, sublimits and deductibles are inclusive of Member deductible/SIR (per SIR Exhibit on file with the Administrator’s office).
- Automobile Physical Damage: Included in property limit, The Fund retention is the first \$100,000 of any automobile physical damage loss inclusive of Member deductible/SIR (per SIR Exhibit on file with the Administrator’s office).
- Vehicles manufactured 10 or more years prior to current membership year, with an original cost new of less than \$50,000, are not covered for physical damage. This exclusion may be waived on a Member-by-Member basis, subject to Underwriting.

## **i) Boiler & Machinery**

- The GSMJIF has purchased Boiler & Machinery insurance with coverage at limits of \$100,000,000, inclusive of Member deductible/SIR (per SIR Exhibit on file with the Administrator’s office).

- Sublimits are per the excess policy form.
  
- The Fund retention is \$25,000 plus tiers for larger power and boiler units, from \$50,000 through \$350,000 inclusive of Member deductible/SIR (per SIR Exhibit on file with the Administrator's office).

**j) Crime (with Statutory Position Bonds)**

- The GSMJIF has purchased Crime insurance with limits of \$1,000,000 for Employee Dishonesty & related perils
- The Fund retention is \$10,000, including the Member deductible of \$1,000.
- The GSMJIF has extended its Crime insurance to include Statutory Position Bonds on file with the Insurer, with limits of \$1,000,000. There is no Fund retention or deductible for this extension. Higher limits are provided where required, subject to underwriting acceptance by the insurer.

**k) Non-Owned Aircraft Liability**

- The GSMJIF has purchased Non-Owned Aircraft Liability insurance with limits of \$5,000,000/ Occurrence & Policy Aggregate. The Fund retention is -0-, and there is no Member deductible.

**l) Cyber Liability**

- The GSMJIF has purchased Cyber Liability insurance with an annual aggregate limit of \$3,000,000 per Member on most coverages and Fund-wide annual aggregate limit of \$45,000,000. However, Breach Response and Security Breach are sub-limited at \$1.5M and \$1.125M, respectively.
- Coverage includes a \$3M - Data Network Liability, Regulatory Defense and Penalties, Website Media Content Liability, PCI Fines. \$1.125M - Cyber Extortion, & Data Recovery Costs, and First Party Coverages – Business Interruption System Failure - \$750K; Dependent Business Security Breach - \$1.125M; Dependent Business System Failure - \$150k. Crime includes Fraudulent Instruction@\$112,500, Funds Transfer Fraud@\$112,500, Telephone Fraud@\$112,500 and Criminal Reward@\$25,000.
- The Fund retention and Member deductible:
- Member deductible is \$25,000 per claim
- \$50K Per claim for each member with total insured property value (TIV) up to \$250M
- \$100K Per claim for each member with total insured property value (TIV) between \$250M and \$750M.

**m) Disaster Management Services Insurance**

- The GSMJIF has purchased Disaster Management Services Insurance with limits of \$10,000,000 per occurrence subject to an annual aggregate limit (Fund-wide) of \$20,000,000.

- The cost of the services is insured; no Fund retention or Member deductible.

**n) Site Pollution Liability**

- The GSMJIF has made available separate optional Pollution Liability insurance outside of the Fund budget for participating Members, with limits of \$1,000,000/ Pollution Incident, \$3,000,000 Per Member Aggregate Limit and \$25,000,000 Policy Aggregate Limit, subject to a Member deductible of \$25,000/Incident. There is no Fund retention.

**o) Underground Storage Tank Liability**

- The GSMJIF has made available separate optional Underground Storage Tank Liability insurance outside of the Fund budget for participating Members, with limits of \$1,000,000/ Incident and an Aggregate Limit that varies by policy, subject to a \$1,000,000 Legal Defenses Aggregate Limit, inclusive of Member deductible/SIR (per SIR Exhibit on file with the Administrator's office). The Fund is not party to this insurance and there is no Fund retention.

**p) Marina Operators Package**

- The GSMJIF has purchased, outside of the Fund budget, Marina Operators Liability Package insurance for participating members, with \$5,000,000 Limits for Liability/ Protection & Indemnity, and Hull limits per a Schedule of Vessels, subject to the Member deductible (per SIR Exhibit on file with the Administrator's office). There is no Fund retention.

**q) Unmanned Aircraft Systems Liability & Hull**

- The GSMJIF has made available separate optional Unmanned Aircraft Systems insurance outside of the Fund budget for participating Members, with limits of \$1,000,000/ Occurrence Aircraft Liability, and Hull limits per a schedule of Aircraft and Equipment, subject to the Member deductible (per SIR Exhibit on file with the Administrator's office). There is no Member deductible for Liability. There is no Fund retention.

**3) The amount of unpaid claims to be established.**

- a) The general reserving philosophy is to set reserves based upon the probable total cost of the claim at the time of conclusion. Historically, on claims aged eighteen (18) months, the Fund expects the claims servicing company to set reserves at 85% accuracy. The 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 adjustment expense liability.

- b) Claims reserves are subject to regular review by the Fund's Executive Director/Administrator, Actuary, Attorney, Executive Committee 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 to the Fund.

**4) The method of assessing contributions to be paid by each member of the Fund.**

- a) By November 15th of each year, the actuary computes the probable net cost for the upcoming Fund year by line of coverage and for each prior Fund year. The actuary includes all budget items in these computations. The annual assessment of each participating municipality is its pro rata share of the probable net cost of the upcoming Fund year for each line of coverage as computed by the actuary.
- b) The calculation of pro rata shares is based on each municipality's experience-modified manual premium for that line of coverage. The total amount of each member's annual assessment is certified by majority vote of the Fund's Executive Committee or Board of Commissioners at least one (1) month prior to the beginning of the next fiscal year (usually at the GSMJIF's budget hearing).
- c) The treasurer deposits each member's assessment into the appropriate accounts, including the administrative account, and the claim or loss retention trust fund account by Fund year for each type of coverage in which the member participates.
- d) If a local unit becomes a member of the Fund or elects to participate in a line of coverage after the start of the Fund year, such participant's assessments and supplement assessments are reduced in proportion to that part of the year which had elapsed.
- e) The Fund's Executive Committee may by majority vote levy upon the participating municipalities additional assessments wherever needed or so ordered by the Commissioner of Insurance to supplement the Fund's claim, loss retention or administrative accounts to assure the payment of the Fund's obligations. All supplemental assessments are charged to the participating municipalities by applicable Fund year and shall be apportioned by the year's assessments for that line of coverage.
- f) 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 chairman or in the event by his or her failure to do so, the custodian of the Fund's assets, shall notify the Commissioner of Insurance and the Director of Community Affairs. Past due assessments shall bear interest at the rate established annually by the Fund's Executive Committee or Board of Commissioners.

**5) Procedures governing loss adjustment and legal expenses.**

- a) The Fund engages claims service companies to handle all claims. The performance of the claims adjusters is monitored and periodically audited by the Fund



Administrator/Executive Director's office, the GSMJIF's attorney's office, as well as the claims department of the GSMJIF's major insurers/reinsurers. Every three years, the GSMJIF's internal auditors also conduct an audit.

i) For Workers' Compensation claims, the Fund has engaged Qual-Lynx, Inc. as its approved claims service company.

(1) The following members, with the approval of the Fund, have selected a claims service company other than the Fund's appointed claims service company for Workers' Compensation claims ONLY:

- (a) Township of Bloomfield
- (b) City of Linden
- (c) Town of Morristown
- (d) Township of North Bergen
- (e) Township of Parsippany-Troy Hills
- (f) Township of Roxbury

(2) For any other member(s) not listed in 5) a) i) (1) et seq., in order to be eligible to select a claims service company for Workers' Compensation claims, other than the Fund's appointed claims service company, the member shall assume a self-insured retention of no less than \$25,000 per Occurrence and obtain written approval from the Fund Administrator prior to issuing any Requests for Qualifications or Requests for Proposals for such services.

ii) For all claims other than Workers' Compensation, the Fund has engaged NIP Management Services, Inc. (NIP) as its claims service company. No member selection of claims service company for claims other than Workers' Compensation is permitted.

iii) All claims service companies, including member-selected, are subject to approval by the Fund Administrator and must adhere to all guidelines as promulgated by the Fund Administrator's office and the applicable insurance carrier(s).

b) Each member local unit is provided with a claims reporting procedure and appropriate forms.

c) To provide for quality defense and control costs, the Fund has established an approved defense attorney panel with firms that specialize in Title 59 matters. Any member that carries a self-insured retention may appoint an approved defense attorney of its choice to the panel for purposes of defense of claims within that self-insured retention. The performance of the defense attorneys is overseen by NIP and the Fund Litigation Managers, as well as the various firms that audit the claims adjusters.

**6) Coverage to be purchased from a commercial insurer, if any.**

- a) Excess Workers' Compensation - The GSMJIF has purchased an excess specific Workers' Compensation policy from Safety National Group, Berkley Public Entity and Great American:
- i) Workers' Compensation – Statutory in excess of \$1,000,000 Fund retention.
  - ii) Employer's Liability - \$15,000,000 in excess of \$1,000,000 Fund retention.
  - iii) USL&H - included in Workers' Compensation (for damages arising out of NJ state law).
  - iv) Merchant Marine Act / Jones Act- Included in Employer's Liability.
- b) Excess Liability - The GSMJIF has purchased excess General Liability, Automobile Liability, Law Enforcement Liability, Public Official's Liability and Employee Benefits Liability insurance from Safety National Group, Berkley Public Entity and Great American:
- i) Excess General Liability - \$15,000,000 in excess of \$500,000 retention.
  - ii) Excess Automobile Liability- \$15,000,000 CSL in excess of \$500,000 retention.
  - iii) Excess POL and EPL (Claims-Made) - \$15,000,000 in excess of \$500,000 retention
  - iv) Excess Law Enforcement Activities Liability - \$15,000,000 in excess of \$500,000 retention
  - v) Excess Employee Benefits Liability (Claims Made) - \$15,000,000 in excess of \$500,000 retention
  - vi) Loss corridor – GSMJIF will retain up to \$500,000 per loss subject to a maximum of \$2,000,000 in the aggregate per annum of losses otherwise recoverable under coverages b) i) through v)
  - vii) Limits and retentions for b) i) through v) apply on a per member basis, however GSMJIF has purchased clash coverage so that the largest single retention per occurrence will apply, inclusive of workers compensation
- c) Property - The GSMJIF has purchased Property insurance (including Auto Physical Damage) from APIP at a limit of \$600,000,000, exceeding the probable maximum loss exposure of the Fund members.
- d) Boiler & Machinery - The GSMJIF has purchased Boiler & Machinery insurance from APIP, at a limit of \$100,000,000, exceeding the probable maximum loss exposure of the Fund members.
- e) Crime/ Statutory Position Bond - The GSMJIF has purchased Crime/ Statutory Position Bond insurance from Fidelity & Deposit Insurance Company, at a limit of \$1,000,000.
- f) Non-Owned Aircraft Liability - The GSMJIF has purchased Non-Owned Aircraft Liability insurance from Global Aerospace, Inc. at a limit of \$5,000,000.
- g) Cyber Liability - The GSMJIF has purchased Cyber Liability insurance from APIP (Beazley & XL) at an annual aggregate limit of \$3,000,000.

- h) Disaster Management Services - The GSMJIF has purchased Disaster Management Services Insurance with limits of \$10,000,000 per occurrence subject to an annual aggregate limit (Fund-wide) of \$20,000,000. The insurance is provided by XLC Syndicate 2003 (Lloyd's of London).
- i) Site Pollution Liability - The GSMJIF has made available optional Site Pollution Liability insurance outside the GSMJIF budget for participating Members from the Allied World Assurance Company, at limits of \$1,000,000 per Pollution Incident, \$3,000,000 per Member Aggregate Limit, and a Fund-wide Aggregate Limit of \$25,000,000.
- j) Underground Storage Tank Liability - The GSMJIF has made available optional Underground Storage Tank Liability insurance outside the GSMJIF budget for participating Members from the ACE American Insurance Company, for participating Members, with limits of \$1,000,000/ Incident and an Aggregate Limit that varies by policy, subject to a \$1,000,000 Legal Defenses Aggregate Limit, inclusive of Member deductible/SIR (per SIR Exhibit on file with the Administrator's office).
- k) Marina Operators Package – The GSMJIF has purchased outside the GSMJIF budget, optional Marina Operators Package insurance for participating members from the Atlantic Specialty Insurance Company at limits of \$5,000,000 Limits for Liability/ Protection & Indemnity, and Hull limits per a Schedule of Vessels
- l) Unmanned Aircraft Systems Insurance – The GSMJIF has purchased outside the GSMJIF budget, optional Unmanned Aircraft Systems insurance for participating members from Global Aerospace, Inc. at limits of \$1,000,000 Limit for Aircraft Liability, and Hull limits per a Schedule of Aircraft and Equipment.

**Please Note: The GSMJIF follows the policy forms of its excess insurers in determining coverage for its retained layers (SIRs) noted in Section 2. In the event that the excess insurer determines that no coverage exists for all or part of a claim made against or by a Member of the GSMJIF, the Member shall be responsible for all or a portion of any uncovered claims expense, indemnity settlement or other costs associated with such claim. Please also note that the coverage descriptions herein, in all particulars, are superseded by the applicable policy wordings including all limits, terms, conditions, exclusions and endorsements. This document is not intended to be all-inclusive, and does not alter, amend or change the Fund's coverage. Please refer to specific policies for limits, terms, conditions and exclusions.**

**7) Procedures for the closure of Fund years, including the maintenance of all relevant accounting records.**

- a) The Fund adopts a resolution closing the year and transfers all remaining assets to the closed Fund year account. This amount is allocated by member local units using the same procedure as is used to calculate a dividend. Each month, interest is credited to the closed Fund year account by member.

- b) Each year, the Fund's Executive Committee will determine if a dividend is appropriate from the closed Fund year account and will make application to the Department of Insurance as appropriate. Further, in the event an open Fund year incurs a deficit, the Fund's Executive Committee will consider an inter-year transfer from the closed Fund year account to offset the deficit. In either case, the dividend or inter-Fund year transfer will be calculated on a member by member basis.
- c) A member may apply to the Fund's Executive Committee for a return of that member's remaining share of the closed Fund year account when five (5) years have passed since the last Fund year in which the member participated has been closed. The Fund's Executive Committee will decide on the former member's request after evaluating the likelihood of any additional assessments.
- d) The Fund will retain all records in accordance with the Fund's record retention program.

**8) Assumptions and Methodology used for the calculation of appropriate reserve requirements to be established and administered in accordance with sound actuarial principles.**

- a) The general approach in estimating the loss reserves of the Fund is to project ultimate losses for each Fund year using paid and incurred loss data. At least two traditional actuarial methodologies are used: the paid loss development method and the incurred loss development method. From the two different indications resulting from these methods the Fund Actuary chooses a "selected" estimate of ultimate losses. Subtraction of the paid losses from the select ultimate losses yields the loss reserve liability or funding requirement.
- b) The following is an overview of the two actuarial methods used to project the ultimate losses.

Paid Loss Development Method - This method uses historical accident year paid loss patterns to project ultimate losses for each accident year. Because this method does not use case reserve data, estimates from it are not affected by changes in case reserving practices. However, the results of this method are sensitive to changes in the rate of which claims are settled and losses are paid and may underestimate ultimate losses if provisions are not included for very large open claims.

Case Incurred Loss Development Method - This method is similar to the paid loss development method except it uses historical case incurred loss patterns (paid plus case outstanding reserves) to estimate ultimate losses. Because the data used includes case reserve estimates, the results from this method may be affected by changes in case reserve adequacy.

9) **The maximum amount a certifying and approving officer may approve pursuant to N.J.A.C. 11:15-2.22.**

- a) \$10,000, but up to \$25,000 with verbal or written approval from the affected municipality commissioner or alternate commissioner.
- b) \$25,000 Emergency Court House Authority upon the joint authorization of the Fund Attorney and Executive Director, but up to \$50,000 with verbal or written approval of a majority of the Executive Committee.
- c) Any and all actions must be ratified by the entire Board of Fund Commissioners at the meeting immediately following the authorization.

10) **Member Deductible Drop Down and Close Out Program**

- a) The GSMJIF offers Members with self-insured retentions the option of eliminating (“Drop Down”) a self-insured retention (“SIR”) in the ensuing policy year with a deferred assessment payment feature and/or transferring future payments on prior accident years outstanding claims liabilities to the Fund (“Close Out”) in exchange for a fixed assessment payable equally over 10 budget years, including 10% adverse claims development coverage.
- b) **Drop Down** – The Fund will calculate the loss fund differential between the Member SIR and the first dollar equivalent and divide that amount into four equal annual installments payable by the Member in the ensuing Fund year in conjunction with the standard assessment. Should the Member leave the Fund or fail to pay any installment during the life of the Drop-Down plan, all remaining future installments become immediately due and payable.
- c) **Close Out** - The Fund’s actuary calculates the Ultimate Claims Liabilities (UCL) within the Member’s SIR plan for each prior year of fund membership at a high confidence level as of 12/31. The total amount of paid losses as of 12/31 is deducted from the total UCL to arrive at the expected outstanding claims result (EOCR). To this result is added a 5% risk charge, a 3% Administration fee and a 2% Risk Manager fee. The result is divided into 10 equal installments, which the Member will pay in each successive year as part of the standard annual assessment (two annual installments).
- d) Should the Member leave the Fund or fail to pay any installment during the 10-year period, any remaining unpaid installments in the subject year become immediately due and payable and all future claim liabilities become the Member’s responsibility. Concurrently, if the claims paid under the Close Out plan exceed the Member paid installments, the member will be obligated to immediately pay a final assessment equal to the difference.

- e) If the claims paid under the Close Out agreement exceed the 10% corridor of protection at any time, future claims payments become the Member's responsibility.
  - f) If the 10-year Treasury bill yield exceeds 6% during the life of the plan, the Fund reserves the right to adjust the amount of future installments to compensate for the cost of the Close-Out program.
- 11) The following Retrospective Rating Endorsement is hereby included in the Plan of Risk Management:

**GARDEN STATE MUNICIPAL JOINT INSURANCE FUND  
900 ROUTE 9 NORTH, SUITE 503  
WOODBIDGE, NJ 07095  
PROPERTY/CASUALTY POLICIES**

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**POLICY ENDORSEMENT - RETROSPECTIVE RATING PLAN**

MEMBER: \_\_\_\_\_

This ENDORSEMENT modifies such insurance as is afforded by the provisions of the Policies for the **2023** fund year relating to the following:

WORKERS' COMPENSATION  
COMPREHENSIVE GENERAL, LAW ENFORCEMENT AND AUTO LIABILITY  
PROPERTY AND BOILER AND MACHINERY  
COMPREHENSIVE CRIME  
PUBLIC OFFICIALS AND EMPLOYMENT PRACTICES LIABILITY

**RETROSPECTIVE RATING PLAN ASSESSMENT STANDARD ELEMENTS**

For the purposes of this ENDORSEMENT, the standard elements are explained here:

- A. STANDARD ASSESSMENT shall be the assessment we would charge during the rating plan period if you had not chosen a retrospective rating plan
- B. BASIC ASSESSMENT shall be less than STANDARD ASSESSMENT. It shall be STANDARD ASSESSMENT multiplied by the BASIC ASSESSMENT FACTOR. The BASIC ASSESSMENT FACTOR shall be the ratio of the following items to the STANDARD ASSESSMENT:
  - 1. Excess Insurance Costs
  - 2. General Expenses
  - 3. Risk Management Expenses
  - 4. Underwriting Expenses
  - 5. Administrative Fees

The actual BASIC ASSESSMENT FACTOR will be determined after the STANDARD ASSESSMENT is determined.

- C. LIMITED PAID LOSSES RETAINED BY THE FUND shall mean the FUND'S financial responsibility for claims paid by the member after due credit for any excess insurance or subrogation receivable. Specifically, it shall include 1) losses paid and reserved, plus 2) allocated loss adjustment expense (ALAE), and 3) this total then limited to the FUND's retention.

## **RETROSPECTIVE RATING PLAN ASSESSMENT FORMULA**

- A. RETROSPECTIVE RATING PLAN ASSESSMENT is the sum of BASIC ASSESSMENT and LIMITED PAID LOSSES RETAINED BY THE FUND.
- B. The retrospective rating plan assessment shall not be more than the MAXIMUM ASSESSMENT. The maximum assessment is determined by applying the maximum retrospective rating plan assessment factor, shown in the Schedule, to the STANDARD ASSESSMENT.

## **PROVISIONS**

The provisions of the coverage form or policy to which this ENDORSEMENT is attached apply, unless modified by this ENDORSEMENT.

- A. In the fashion provided for in the Fund's by-laws, plan of risk management, cash management plan and policies and procedures, the MEMBER shall pay the FUND the STANDARD ASSESSMENT.
- B. As of a valuation date of Eighteen (18) months after the inception of the fund year, and every Twelve (12) months thereafter, the FUND shall compute the RETROSPECTIVE RATING PLAN ASSESSMENT, subject to the MAXIMUM ASSESSMENT.
- C. The final computation of the RETROSPECTIVE RATING PLAN ASSESSMENT shall be as of the valuation date when the FUND closes the fund year to which this ENDORSEMENT applies.
- D. Notwithstanding any subsection above, the MEMBER shall remain subject to FUND-wide dividends and additional assessments in accordance with the FUND's bylaws. These additional assessment or dividends, if any, shall be computed based on the MEMBER'S RETROSPECTIVE RATING PLAN ASSESSMENT, subject to the MAXIMUM ASSESSMENT.
- E. Upon computation of any RETROSPECTIVE RATING PLAN ASSESSMENT, the MEMBER shall owe the FUND or the FUND shall owe the MEMBER as the case may be, the difference between amount paid by the MEMBER to date and the MEMBER'S RETROSPECTIVE RATING PLAN ASSESSMENT, subject to the MAXIMUM ASSESSMENT.
- F. If the MEMBER owes the FUND an additional assessment under this ENDORSEMENT, this amount shall be payable to the FUND within 180 days after the FUND bills the MEMBER, or upon the MEMBER withdrawing from the FUND, whichever is earlier.
- G. If the FUND owes the MEMBER a return assessment under this ENDORSEMENT, this amount shall be payable to the MEMBER 180 days after the next meeting of the FUND's Board of Fund Commissioners, or Executive Committee thereof.



- H. This endorsement shall only be effective if approved by resolution of the MEMBER'S Governing Body.

**SCHEDULE**

- A. Other policies subject to this Retrospective Rating Plan Endorsement

WORKERS' COMPENSATION  
COMPREHENSIVE GENERAL AND AUTO LIABILITY  
EXCESS LIABILITY  
PROPERTY AND BOILER AND MACHINERY  
COMPREHENSIVE CRIME  
PUBLIC OFFICIALS AND EMPLOYMENT PRACTICES

- B. Maximum Retrospective Rating Plan Assessment Factor: \_\_\_\_\_

- C. The standard maximum assessment is based on estimates of standard assessment. The actual maximum assessment will be calculated based on the actual standard assessment and the factor, shown in the Schedule, Item B:

The coverage provided under this ENDORSEMENT is subject to all of the terms and CONDITIONS of this policy. All other terms and CONDITIONS of this Policy remain unchanged.

Effective Date:

- 12) **Special Assessments** - NJSA 11:15-2.16 provides for additional assessments "...to supplement the fund's claim or loss retention or administrative accounts to ensure payment of the fund's obligations..." Should the Fund levy a special assessment in accordance with such provision, each affected member shall have the option to pay the additional amount due in up to ten (10) equal annual installments, subject to adjustment each year based on actual incurred losses for the special assessment years. Should any member subject to such special assessment discontinue its membership in the GSMJIF, the full balance of any remaining unpaid installments shall become immediately due and payable to the GSMJIF.

## 12) Establishing Defense Counsel Guidelines

### I - Selection of Counsel

The Garden State Municipal Joint Insurance Fund (“JIF”) strives to provide the best possible legal defense of all litigated matters, both for the benefit of the member involved, and the membership in general.

Most importantly, the JIF views this as a collaborative process between the JIF, its membership, and the defense firms representing the members. Based on its 20 years of expertise in defending New Jersey Public Entities, the JIF can provide guidance and recommendations to its members as to which firms are suited to defend a particular type of case. Of course, the JIF also supports the members’ selection of firms to handle JIF litigated matters on their behalf.

The JIF may disallow a member’s selection of counsel in those matters that present the potential for a significant impact to the general membership, in terms of costs of litigation or indemnity, areas of particular expertise, or in matters in which more than one member is implicated. **Of particular note**, counsel who has participated, directed, or otherwise offered advice and counsel in any capacity during the course of an investigation of an employee’s complaint *may **not** serve as defense counsel in an employment practices liability matter that involves the same employee.*

Additionally, firms assigned to defend a JIF member may not prosecute a case against the JIF or another JIF member without the written consent of the Executive Director of the JIF.

### II – Reporting Requirements

#### Conflicts Check

Within 5 days of receipt of a case, a conflict check will be performed by Counsel with written notice of such findings to the assigned Claims Professional.

#### Case Analysis and Litigation Plan

Within 60 days of receipt of any JIF litigated matter or pre-suit investigation, and every 90 days thereafter, counsel will provide a Case Analysis and Litigation Plan (see template in Exhibit A) to the assigned Claims Professional.

The expectation for your initial report is that you will provide an analysis of the claims being asserted, including the relevant legal standard the plaintiff will need to satisfy in order to succeed. Your initial report should also identify any potential legal/factual defenses to the claims asserted. Additionally, the JIF requires that you meet with relevant member employees within the first 45 days to investigate and gather background information. Meeting with the member early in the case is critical to understanding the exposure and building the defense of the case. Your report should summarize, in detail, the substance of the information gleaned from the member employees.

Each subsequent 90-day report should be a stand-alone summary of the file, without the need to reference other documents. Further, *new information in 90-day reports should be denoted in some fashion*, e.g., bold face type, for ease of identifying developments or changes since the last reporting interval.

Importantly, the *90-day reports must not simply become an increasingly longer and longer document as the case progresses*. The attorney must review and revise as appropriate given the circumstances. For example, if a motion to dismiss has been filed and decided, the 90-day reports should not still include *prospective* discussions about filing a motion to dismiss. The updates should reference that the motion was filed and the outcome. The 90-day reports should capture the status of the case *at present*, not 90 days ago or at the outset of the case.

Additionally, important or time-sensitive information, should be communicated on an as needed basis with the Claim Professional, rather than waiting for the next 90-day reporting interval.

Counsel must also provide a **Trial Report 60 days in advance of any scheduled trial date** (see Exhibit B template).

For “inactive” matters, a short report or email in lieu of a formal Case Analysis and Litigation Plan is acceptable with the assent of the Claim Professional.

- **Workers’ Compensation Hearing Summary**

In lieu of providing 90-day reports, counsel for workers’ compensation matters shall prepare a Workers’ Compensation Initial Analysis (Exhibit C) and then prepare Workers’ Compensation Hearing Analysis (Exhibit D) forms within 10 days of every hearing appearance thereafter. Counsel will also be required to prepare a pre-trial report (Exhibit F) at least 15 days before trial (as well as to report on any other significant developments in the life of the file). All such forms and correspondence shall be forwarded to the assigned Claims Professional.

It is expected that counsel will avoid unnecessary hearing appearances whenever possible by adjourning same with the court upon the consent of their adversary. A Hearing Summary is expected for every appearance made, and if nothing of substance takes place at a hearing, an explanation of why the appearance was made is expected.

### **OTHER REPORTING REQUIREMENTS**

- **Notice of Key Calendar Events**

Counsel will notify the Claims Professional upon receipt of any key calendar dates including but not limited to dates for trial, motions, workers’ compensation hearings, court-ordered arbitrations, court-ordered mediations, voluntary mediation, party, fact and expert depositions and submission of expert reports. Notification by email is sufficient.

**It is critically important that we be notified *immediately* of any trial date.**

### **III. Other Provisions**

- **Lead Counsel**

In cases in which more than one attorney is assigned due to a conflict of interest, the JIF will designate one attorney to serve as “lead counsel.” Typically, the firm representing the entity, itself, fills this role. It is the expectation that all defense counsel retained by the JIF will cooperate, to the extent practically and ethically possible, with each other. If an overlap of effort and/or appearances is required, same will be discussed and approved in advance by the JIF. It is expected that the billing of attorneys not serving as lead counsel will be commensurately less than that of lead counsel. However, non-lead counsel must still provide reports to the Claim Professional relative to their specific client, unless other directed. Joint defense agreements should be utilized as early in multi-counsel litigation as practicable, and same shall be approved prior to execution by the JIF.

- **Alternative Dispute Resolution (ADR)**

The JIF is in favor of early dispute resolution whenever practicable. However, the JIF requires the following from counsel relative to either court-ordered or voluntary mediation:

- Notification to the appropriate JIF Claims Professional seeking approval of the proposed mediation; and
- Written consent from the JIF Claims Professional on the choice of the mediator and the fees.

The JIF strongly encourages the use of its selected mediators in place of the mediators assigned by the courts in those venues that have mandatory mediation programs.

The JIF requires that counsel submit for review and approval the arbitration or mediation statement prior to service.

### **IV. Discovery and Settlements**

- **Motion Practice**

All motion practice must be pre-approved, in writing, by the JIF.

- **Insurance Production Requests**

Because the JIF has various insurance coverages, retentions, deductibles and attachment points, the preferred response to discovery requests for insurance information is to indicate “self-insured” and to provide the applicable limits of the relevant excess policy. A request should then be made to the JIF for a copy of the relevant excess policy which may be produced with all premium, classification and risk information redacted.

- **Experts**

Experts may be retained by counsel only after securing the written approval of the Claim Professional. Counsel must submit the expert’s CV, the proposed rate, and a proposed budget to the JIF. Counsel and the Claim Professional must agree on a fee “cap” that cannot be exceeded without further discussion and written approval by the Claim Professional. If an expert exceeds that cap without additional authority provided by the JIF, responsibility for the excess fees rests with the law firm, not the JIF.

- **Settlement Offers**

Counsel is prohibited from extending any offer of settlement in any matter without the prior written consent of the JIF. Counsel, the Claim Professional and the member must have a call to discuss any potential settlement offer or resolution strategy. This is a collaborative effort in which all three parties need to be involved. Counsel handling workers’ compensation matters shall complete the JIF Workers’ Compensation Settlement Authorization Request Form (Exhibit E) and submit same both to the assigned Claims Professional before seeking approval of a proposed settlement from a member. Likewise, counsel handling all other litigated matters must first seek settlement authority from the JIF. If the amount of the settlement is wholly within the member’s SIR or deductible, the JIF must be notified of the settlement.

- **Settlements**

- ***In cases settling for \$25,000 or more of JIF funds the settlement must be approved by the JIF Commissioners. Accordingly, all settlement documents must contain a provision allowing for the payment of the settlement no sooner than 60 days following the settlement;***
- All cases in which Medicare or Medicaid payments have been made or in which a formal lien has been asserted for recovery of such payments shall be brought to the attention of the assigned Claims Professional and will require specific release language;

- **Email Only Communication**

Counsel is required to submit any and all communications to the JIF via email as the exclusive means of communication absent specific direction to the contrary. Emails should identify the file name by plaintiff/petitioner, member, JIF file number, and have a brief description of its substance.

Email attachments should be labeled in such a way that the content of the attachments is clear from the name of the document.

## **V. Rates and Billing Procedures**

- **Rate Schedule**

All JIF cases are subject to the standard prevailing rate structure for the life of the file.

- **Billing Procedures**

Counsel shall submit invoices for assigned matters to Bottomline Technologies (“Bottomline”), the approved billing payment vendor for the JIF. All billing submissions must be presented in a form acceptable by Bottomline for processing and are subject to compliance with the JIF guidelines. These detailed guidelines are available on the Bottomline website once a firm is registered.

*All work you perform for the Garden State Municipal JIF must be billed through Bottomline regardless of the TPA handling the case, e.g., NIP, Qual-Lynx, CRC, D & H, Inservco, and PMA. Additionally, you must receive direction from the TPA to handle a case before setting up and attempting to bill the file through Bottomline. Do not set up and attempt to bill the file simply because a JIF member has sent the firm a claim or suit.*

Firms are required to submit invoices on a rolling quarterly basis. In other words, a case must first be billed 90 days after it is assigned, and then every 90 days thereafter.

**All fees must be submitted within 6 months of being incurred; otherwise, the JIF reserves the right to deny payment.**

For matters that are ready to be closed, a final bill shall be presented as soon as applicable, with “**FINAL INVOICE**” clearly identified across the top of the bill, so that Bottomline knows to close the file.

- **Defense Counsel Budget Proposal**

Counsel shall include with every Case Analysis and Litigation Plan and Workers’ Compensation Hearing Summary, a proposed budget for the remaining life of the file. The budget should provide a reasonable range of estimated fees and costs based on the particular needs of the case and should become more focused as the case progresses.

- **Bottomline Technologies Protocols**

New firms are directed to [addfirms@bottomline.com](mailto:addfirms@bottomline.com)

Thereafter, the vendor implementation team will contact counsel to arrange training.

General questions should be directed to [legalxsupport@bottomline.com](mailto:legalxsupport@bottomline.com)

The relevant contact person for Bottomline is:

Brittany McKenna – Client Advisor: [Brittany.McKenna@bottomline.com](mailto:Brittany.McKenna@bottomline.com)

## Exhibit A

# Case Analysis and Litigation Plan

(submitted 60 days after assignment and every 90 days thereafter)

Date:

Case Name:

JIF Claim No.:

Defense Attorney:

Plaintiff counsel:

Venue:

### **I. Parties Involved**

Identify all the parties and provide a brief description of their involvement. If one of the parties is a member employee, please describe her/his role.

For the plaintiff, provide the following information:

- Date of birth
- Marital status and dependents
- Employment status and wages

### **II. Summary of the Complaint**

Provide a summary of the causes of action set forth in the complaint. You do not need to provide a factual summary as that will be provided in the next section. Provide only the claims set forth, e.g., Count I – Negligence, Count I – Respondeat Superior, etc.

### **III. Factual Overview**

Detailed outline of the claims tied to the causes of action and what is alleged in the complaint. This should include information developed through your meeting(s) with the member and documentation you have reviewed. Please highlight any divergence in the “story” that member employees tell.

### **IV. Liability Evaluation**

This is perhaps the most critical section of your report. You must provide a detailed liability *analysis* of plaintiff’s claims, setting forth the law applicable to each claim, as well as the standard of proof required. Additionally, please discuss any potential defenses. In

this section, you must explain how the facts of the case intersect with the relevant law and provide your opinion as to the member's potential exposure.

Issues that should be addressed in this section include the following. Not all need to be discussed, but any that are relevant to the particular case must be included:

- Frivolous litigation analysis
- Early dismissal analysis
- Notice of claim analysis (timely or not)
- Immunities (Title 59 defenses, Qualified Immunity, etc.)
- Identification of other potentially relevant/responsible parties
- Comparative negligence, contributory negligence, joint and several liability

## **V. Damage Evaluation**

Provide an overview of plaintiff's damages, both those currently claimed and those that potentially could be asserted. Economic and non-economic. If there are any damage caps, please outline them. Please also discuss whether any of the claims include a fee-shifting provision providing for an award of plaintiff's legal fees.

## **VI. Evaluation of Venue and Judge**

Please comment on the venue, and the judge (if known)

## **VII. Relevant Dates**

- Discovery End Date
- Mediation/Arbitration Date
- Settlement Conference Date
- Trial date

## **VIII. Evaluation of Settlement Potential**

Although it is difficult to comment on settlement potential early in a case, it is critical from the very initial stages of litigation to consider whether a case is one where settlement should be considered.

## **IX. Case Management/Litigation Plan**

List, with specificity, all proposed litigation tasks or activities to be completed in the next 90 Days and the rationale for same:

## **X. Budget**

Initial proposed budget:

Last quarter's updated budget:

Current proposed budget (life of file):



**Exhibit B**  
**Liability Case Trial Report**

(Trial report is due 60 days prior to any scheduled trial date)

**I. Case caption**

- a. Venue
- b. Evaluation of the venue and potential jury pool

**II. Plaintiff Counsel**

- a. Name of plaintiff counsel
- b. Description of her/his expertise and litigation history/outcomes

**III. Court**

- a. Name of Judge
- b. Evaluation of Judge – experience, reputation, history

**IV. Facts**

- a. Triable issues of fact and law
- b. Standards of proof

**V. Liability Evaluation**

This section should mirror in substance the liability section of the 90-day reports.

**VI. Witnesses**

Identify all witnesses expected to testify, expected testimony of each, and your impression of how each witness will present to the jury/judge

**VII. Motions**

- a. Identify all motions in limine filed, or to be filed, by both sides
- b. Discuss potential impact of these motions

**VIII. Proposed Jury Charge/Verdict Form**

**IX. Anticipated Result**

- a. Estimate chance of defense verdict
- b. Like verdict range in the event of an adverse verdict

**X. Settlement**

- a. Jury/Settlement Verdict Summary
- b. History and current status of negotiations
- c. Provide your recommended settlement range

## Exhibit C

# Workers' Compensation Initial Analysis

(within 30 days of assignment)

Date:

Case Name:

Claim No.:

Your File No.:

Name and address of opposing counsel:

1. Fact Summary with Compensability Review:
2. District, Judge and Adversary:
3. Investigation Review:
4. Defense/Settlement Strategy:
5. Permanency Evaluation: (including review of findings from all permanency expert reports)
6. Time Lost From Work:
7. Credits/Offset Analysis: (Abdullah credit, accidental/ordinary disability pension, SSD)
8. Prior/Subsequent Accidents/Injuries:
9. Section 20 Dismissal Prospects:
10. Section 40 lien: (identify and preserve interest in 3<sup>rd</sup> party recovery)
11. Return to Work Issues: (FCE, FFD, light duty)
12. Defense/Settlement Strategy:
13. Proposed Budget for Life of File:
14. Authorized Lead Attorney: no substitution of the Authorized Lead Attorney is permitted without the prior consent of the Claims Director or Litigation Manager)

**Exhibit D**  
**Workers' Compensation Hearing Analysis**  
**(within 10 days of hearing)**

Date:

Case Name:

Claim No.:

Date of Hearing:

Place of Hearing:

Hearing Official:

Name and Address of Opposing Counsel:

1. Allegations of Each Claim Petition:
2. Permanency evaluation: (including review of findings from all permanency expert reports)
3. Time Lost From Work:
4. Credits/Offset Analysis: (Abdullah credit, accidental/ordinary disability pension, SSD)
5. Prior/Subsequent Accidents/Injuries:
6. Section 20 Dismissal Prospects:
7. Section 40 lien: (identify and preserve interest in 3<sup>rd</sup> party recovery)
8. Return to work issues: (FCE, FFD, light duty)
9. Hearing Result:
10. Litigation Status:
11. Defense/Settlement Strategy:
12. Initial Proposed Budget:
13. Updated Proposed Budget (life of file):

14. Authorized Lead Attorney: no substitution of the Authorized Lead Attorney is permitted without the prior consent of the Claims Director or Litigation Manager)

**Exhibit E**

**Workers' Compensation Settlement Request Form**

Date:

Case Name:

Claim No.:

Your File No.:

Name and address of opposing counsel:

1. Fact Summary with Compensability Review:
2. District, Judge and Adversary:
3. Investigation Review:
4. Permanency Evaluation (including review of findings from all permanency expert reports):
5. Time Lost From Work:
6. Credits/Offset Analysis: (Abdullah credit, accidental/ordinary disability pension, SSD):
7. Prior/Subsequent Accidents/Injuries:
8. Section 40 lien: (identify and preserve interest in 3<sup>rd</sup> party recovery):
9. Return to Work Issues: (FCE, FFD, light duty):
10. Settlement Recommendation:
11. Petitioner's Demand:
12. Hearing Officer and Settlement Recommendation:
13. Authorized Lead Attorney:

**EXHIBIT F****Workers' Compensation Trial Report****(due 15 days before trial date)**

Date:

Case Name:

Claim No.:

Your File No.:

Trial Date:

Past Trial Dates, if Applicable:

Name and address of opposing counsel:

Name of Attorney Who Will Be Trying This Case:  
(cannot be changed after pre-trial report without the express written consent of the  
Litigation Manager)

Hearing Official:

Name and Address of Opposing Counsel:

Recommendation of Hearing Official for Resolution:

Name of Attorney Who Will Be Trying This Case:  
(cannot be changed after pre-trial report without the express written consent of the  
Litigation Manager)

**PART I. CASE SUMMARY**

- Brief Summary of Case:
  - a. Allegations of Each Claim Petition
  - b. Permanency evaluation
  - c. Time Lost From Work
  - d. Credits/Offset Analysis (Abdullah credit, pension, SSD)
  - e. Prior/Subsequent Accidents/Injuries
  - f. Section 20 Dismissal Prospects
  - g. Section 40 lien (identify and preserve interest in 3<sup>rd</sup> party recovery)
  - h. Return to work issues (FCE, FFD, light duty)

**PART II. RESOLUTION EFFORTS**

- Present Demand:

- Present Authority:
- Last Offer Date and Amount:
- Present Settlement Value, If Any, and Basis for Same:
- Present Likely “Bottom line” of Plaintiff:
- Present Resolution Recommendation and Strategy:

**PART III. TRIAL**

- Identify all experts and summarize their findings; identify all expected fact witnesses and summarize their anticipated testimony):
- Other Insurance or Applicable Credits:
- Evaluation of Case:
  - a. Venue and Trial Judge
  - b. Strengths & Weaknesses of Each Party’s Case
  - c. Verdict Range of Case

**PART IV. BUDGET**

- Initial File Analysis Budget
- Amount Billed to Date
- Predicted Billing to Try Case to Verdict
- Additional Costs and Expenses to Try Case (and itemize, such as expert testimony)

**Adopted: *this day by the Board of Fund Commissioners***

\_\_\_\_\_  
Chairman -

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary –

\_\_\_\_\_  
Date