

# **STORM PROTECTION FUND**

## **Intergovernmental Cooperative Agreement**

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## **Intergovernmental Cooperative Agreement**

This Agreement, (the “Agreement”), dated and effective as of the [REDACTED] of [REDACTED], by and among the Boards of Education, Governing boards or Controlling Authorities of the school districts listed in the Appendix attached hereto, each of which may be referred to hereinafter as a “District” and which, collectively, may be referred to as the “Districts.”

Witnesseth:

I. Purpose: The purpose of this agreement shall be to provide a means by which Iowa Public School Districts and Area Education Agencies may jointly and cooperatively exercise powers, privileges and authority and proceed to establish the Storm Protection Fund for the purposes of administering an Agreement by and among the Members, pursuant to the joint powers provisions of Iowa Code Chapter 28E, and of providing the services and other items necessary and appropriate for the establishment, operation and maintenance of a self-insurance program for percentage wind and hail damage deductibles.

II. Organization: The parties agree to form and participate in an Iowa Code Chapter 28E entity, to administer a local government risk pool pursuant to Iowa Code sections 296.7 and 670.7. The entity shall be known as the Storm Protection Fund (“SPF”), more particularly described in this document. The Storm Protection Fund shall have the powers, privileges and authority set forth in this document but shall have only such powers, privileges and authority of the school districts and Area Education Agencies who are parties hereto as may from time to time be specifically authorized by the school districts and Area Education Agencies. The Storm Protection Fund corporation shall adopt bylaws for the exercise of authority granted by this Agreement, and such other provisions for the regulation and management of the Storm Protection Fund not inconsistent with law and this Agreement.

## **Article 1. Establishment and Purpose of the Cooperative**

**1.1.** On or about the Effective Date, a group of school districts and Area Education Agencies established the intergovernmental cooperative known as the Storm Protection Fund (hereinafter “Cooperative”), pursuant to Iowa Code Chapter 28E.

**1.2.** The purposes of the Cooperative are:

1.2.1. to effectively manage and contain costs for percentage wind and hail damage deductibles and related administration; and

1.2.2. to establish a program through the Cooperative to assist its Members in equalizing annual fluctuations in deductible expenses.

**1.3.** Nothing herein shall constitute (including without limitation the creation of an Account as defined in Paragraph 2.1 of this Agreement) nor shall participation in the Cooperative constitute the business of insurance within the State of Iowa nor the waiver of any immunities or defenses provided in the Local governmental and Governmental Employees Tort Immunity Act and any other applicable laws to carry out such claim, accident or premium reduction and educational programs as may from time to time be authorized by its Board.

## Article 2. Definitions

In addition to the terms defined elsewhere in this Agreement, each of the following terms shall have the meaning set forth below:

**2.1. ACCOUNT** — The Cooperative’s general monetary fund, funded by Contributions and other payments from each District as described in Article 7 below, and used to pay the Cooperative’s expenses and to maintain a Fund for each Fiscal Year.

**2.2. ADMINISTRATOR** — The individual or organization that the Board identifies to administer the Fund and Cooperative.

**2.3. BOARD** — The Board of Trustees empowered to operate the Cooperative.

**2.4. CHAIRPERSON** — The officer who supervises and controls the day-to-day operations of the Cooperative and carries out such other functions as are listed in this Agreement, or as maybe assigned from time to time by the Board.

**2.5. CLAIM** – A claim is a request by a Member for payment for from the Fund to pay for percentage insurance deductible expenses under the Member’s Mandatory Coverage.

**2.6. CONTRIBUTION** – The amount determined by the Administrator and approved by the Board that each Member must contribute to the Fund.

**2.7. COOPERATIVE** – The risk pool established under this Agreement pursuant to Iowa Code Chapter 670 and Iowa Code Chapter 28E.

**2.8. DISTRICT** — A school district or Area Education Agency.

**2.9. EFFECTIVE DATE** – The date that this 28E Agreement is filed with the Iowa Secretary of State.

**2.10. FISCAL AGENT** – The individual or organization that the Board identifies to administer payments from the Fund and track expenditures on behalf of the Fund.

**2.11. FISCAL YEAR** — The fiscal year for school districts and Area Education Agencies, which begins on July 1 and ends on June 30 the following calendar year.

**2.12. FOUNDING MEMBERS** – The Districts that adopt resolutions to join the Cooperative before July 1, 2025, and are listed in the Appendix.

**2.13. FUND** — The fund established by this Agreement for the purpose of covering percentage deductible expenses incurred by Members for wind and hail claims under their Mandatory Coverage.

**2.14. INSURED VALUE** — The property values subject to a percentage deductible, covered by property insurance policies issued to the district to cover wind and hail claims.

**2.15. LARGER DISTRICT GROUP** – Member Districts with a total insured value of property greater than the Group Membership Threshold. The Board shall have the power to set the threshold for a Member to be part of the Larger District Group or Smaller

District Group.

**2.16. MANDATORY COVERAGE** — Members must have a Property insurance policy issued by EMC Insurance that has a wind/hail deductible under the policy that is established as a percentage of the District's insured property values.

**2.17. MEMBER** – A Member is a school district located in the State of Iowa or an Area Education Agency located in the State of Iowa that has adopted a resolution to participate in this Agreement.

**2.18. GROUP MEMBERSHIP THRESHOLD** — The value determined in the sole discretion by the Board for the purpose of dividing the Districts into the Larger District Group and the Smaller District Group for the purpose of Board representation.

**2.19. RETENTION AMOUNT** – The amount that the Board determines each Year that Members shall have to pay toward any Claim submitted to the Cooperative for payment from the Fund.

**2.20. SMALLER DISTRICT GROUP** — Member districts with a total insured value of property less than or equal to the Group Membership Threshold. The Board shall have the power to set the threshold for a Member to be part of the Larger District Court or Smaller District Group.

**2.21. STORM PROTECTION FUND** — The program of percentage wind and hail damage deductible protection provided by the Cooperative.

**2.22. TARGET AMOUNT** — The amount of funds that the Cooperative will seek to collect from all members for the Fund, as established each year by the Board.

**2.23. TARGET MINIMUM AMOUNT** — The minimum balance established by the Board for the Fund.

**2.24. TRUSTEES** – The individuals elected to represent the Members and serve on the Board.

## **Article 3. Membership**

**3.1. Qualifications.** Members of this Agreement must be a District operating within the State of Iowa. The Member must also have Mandatory Coverage, which is a Property insurance policy issued by EMC Insurance, including wind and hail coverage, that establishes the District's deductible as a percentage of the insured property values. The Member must adopt a resolution in a form substantially similar to the form in the Appendix to this Agreement, and the Member must be accepted by the Board after adoption of said resolution.

**3.2. Membership Class.** There shall be one Fund that pays claims for all Members. Members shall be divided into a Larger District Group or the Smaller District Group solely for purposes of electing Members to the Board. Members of the Larger District Group are Members with an insured value greater than Membership Threshold. Members of the Smaller District Group have an insured value less than or equal to the Membership Threshold. Members will not be divided into separate classes for any other purpose other than the election of the Trustees to the Board.

**3.3. Establishing Large and Small District Groups.** The Board, in its sole discretion, shall annually establish the Group Membership Threshold for the purpose of establishing whether Members are part of the Larger District Group or Smaller District Group. Until June 30, 2026, the Group Membership Threshold shall be \$100 million in total insured property values that are subject to a percentage wind and hail deductible.

**3.4. Mandatory Coverage.** As a condition of becoming a Member, Districts must maintain Mandatory Coverage.

**3.5. Becoming a Member.** Any school district meeting the qualifications to be a Member may join. If a District notifies the Cooperative of its desire to join before June 1, then the District shall become a Member on July 1 of that same calendar year. For purposes of illustration, if a Member provides notice to the Board of its intent to join on March 1, 2026, then the District will become a Member on July 1, 2026. For the first Fiscal Year of the Cooperative, Districts will have until June 27, 2025 to notify the Cooperative of their intent to join.

**3.6. Terminating Membership.** Any Member may provide notice of termination of its membership on or before June 1 of each Fiscal Year for the subsequent Fiscal Year.

**3.7. Founding Members.** The Founding Members are identified in the Appendix to this Agreement. For the first Fiscal Year of the Cooperative, the Founding Members will select Trustees for the Board.

**3.8. Effect of Termination.** When a District decides to terminate membership for the subsequent Fiscal Year, the District shall cease to be a Member on July 1 of the Fiscal Year after notice of termination is provided. When a District voluntarily discontinues Membership, the District will not be entitled to recover any Contributions previously made to the Cooperative and the Fund.

## **Article 4. Governance**

**4.1. Board of Trustees.** The Cooperative shall be operated by the Board. The Board shall be composed of nine (9) individual Trustees. The Trustees will be divided among the following groups:

- (a) Five (5) Trustees will be selected by the Larger District Group (the “Large District Trustees”).
- (b) Four (4) Trustees will be selected by the Smaller District Group (the “Small District Trustees”).

**4.2. Qualification of Trustees.** A Trustee may be either a District School Business Official or Superintendent and must reside within the State of Iowa.

**4.3. Terms of Trustees.** The Trustees will serve staggered terms. During the first year of operation, the Trustees shall all serve a one-year term. For the Fiscal Year that begins on July 1, 2026, Trustee terms will be established so that there will be an election for three Trustees each Fiscal Year. All future terms of office for Trustees shall be three years. There shall be no limit on the number of terms a Trustee may serve.

### **4.4. Election of Trustees and the Initial Board.**

- 4.4.1.** The Administrator shall be responsible for administering the Trustee election. The Administrator shall first identify the Members that belong to the Large District group and the Members that belong to the Small District Group.
- 4.4.2.** The Trustees previously elected as the Small District Trustees and the Large District Trustees shall serve as the nominating committee for their respective groups of Members. The Large District Trustees shall nominate candidates to run as Trustees for Large District Group, and the Small District Trustees shall nominate candidates to run as Trustees for the Small District Group.
- 4.4.3.** In addition to the candidates identified by the nominating committees, the members of the Small District and Large District Groups may nominate any other qualified candidate as long as 10% of the members of the Small District Group or Large District Group support the nomination.
- 4.4.4.** The nominating committees and Member shall propose nominations for Trustees by May 1 of each Fiscal Year before a Trustee vacancy will occur.
- 4.4.5.** After May 1 and before June 30, there will be a special meeting of the Members where the Administrator will conduct an election of the Members to elect the Trustees.
- 4.4.6.** The initial Board shall consist of one Trustee appointed by each of the initial participating school districts at the time the entity is established. As additional school districts join the Cooperative, the Board may hold special meetings to appoint additional Trustees, up to a total of nine (9). Once the



Board reaches nine (9) Trustees, that composition shall remain in place through June 30, 2026. For the Fiscal Year beginning July 1, 2026, the Trustee terms will be staggered as provided in this Agreement.

**4.5. Board Officers.** The Board shall elect one Trustee to serve as a Chairperson and a different Trustee to serve as a Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson shall perform all duties of the Chairperson. The Board may identify other officers as the Board determines are necessary to perform the functions required by this Agreement. The Chairperson will be elected to a one-year term as Chairperson, and the Vice-Chairperson will be elected to a one-year term as Vice-Chairperson.

**4.6. Duties of the Chairperson.** The Chairperson's duties will be:

**4.6.1.** Conduct all meetings of the Board, and perform such other duties as the Board may prescribe.

**4.6.2.** To sign on behalf of the Cooperative any instrument which the Board has authorized to be executed.

**4.6.3.** To direct the Administrator within the constraints of the Board's approved expenditures, to make such expenditures.

**4.6.4.** To perform all other duties incidental to the office of Chairperson as such duties may be prescribed by the Board.

**4.7. Term of Office.** The Trustees' terms shall begin on July 1 of the year in which they are elected. Trustees shall serve as Trustees until June 30 of the year in which their term expires.

**4.8. Trustee Vacancy.** If a Trustee position becomes vacant for any reason, the Board may, by a simple majority vote, elect a Trustee to serve the remainder of the vacated Trustee's term, provided, however, that a Small District Trustee seat will be filled by a representative of a Small District and a Large District Trustee seat will be filled by a representative of a Large District.

**4.9. Removal of Trustees.** The Members may, at any time, vote to remove any Trustee by a vote of a majority of the Members. A Trustee will be deemed automatically removed in the event of (1) the Trustee is convicted of a crime of dishonesty, (2) the Trustee dies, or (3) the Trustee ceases to be a resident of the State of Iowa.

**4.10. Meeting Schedule.** The Board shall have two regular meetings each Fiscal Year. The first meeting will occur in September and the second will occur in March of each Fiscal Year. The Board Chairperson will determine the date of the regular meeting, and provide fourteen (14) days' notice to the Board of the meeting date.

**4.11. Special Meetings.**

**4.11.1.** The Board Chairperson may call a special meeting at any time, subject to the requirements of the Iowa Open Meetings Law, Iowa Code Chapter 21. The Chairperson will provide Members with notice fourteen (14) days before any special meeting is scheduled to occur. In the event of an emergency determined by the Chairperson in the Chairperson's sole discretion, the meeting may be held on three (3) days' notice.

**4.11.2.** Members may also call a special meeting by submitting a request signed by at least ten percent (10%) of the current Members. The Administrator will then schedule a special meeting within fourteen (14) days of receiving the signed request for a meeting.

**4.12. Quorum.** A quorum of the Board shall consist of a simple majority of the then-sitting Trustees. If neither the Chairperson nor the Vice-Chairperson are present, then the Board will elect a Trustee to serve as Chairperson for the term of the meeting.

**4.13. Open Records & Meetings.** The Cooperative is subject to Iowa Code Chapter 21 and Iowa Code Chapter 22, as amended, governing open records and open meetings. All meetings of the Board will be conducted in compliance with those statutes, as they may be amended.

**4.14. Minutes of Meetings.** The Board shall cause to be published a summary of the proceedings of each regular, adjourned, or special meeting of the Board, including the schedule of bills allowed, after adjournment of the meeting in one newspaper of general circulation within the geographic area served by the Cooperative. The summary of the proceedings shall include the date, time, and place the meeting was held, the Members present, and the actions taken at the meeting. The Board shall furnish the summary of the proceedings to be submitted for publication to the newspaper within twenty days following adjournment of the meeting. The publication of the schedule of bills allowed shall include a list of all salaries paid for services performed, showing the name of the person or firm performing the service and the amount paid. The publication of the schedule of bills allowed may consolidate amounts paid to the same claimant if the purpose of the individual bills is the same. However, the names and gross salaries of persons regularly employed by the entity created in the agreement shall only be published annually.

**4.15. Professional Advisors.** The Board shall have the power to enter into a contract with an Administrator and Fiscal Agent to perform the duties of an Administrator specified in this Agreement. The Board shall also have the authority to retain such other accounting, legal, and other professional advice as the Board may deem necessary.

**4.16. Duties of the Board.** The Board shall be responsible for administration of the Fund, the Account, and the Cooperative. Unless expressly stated by either this Agreement or a policy adopted by the Board, all actions of the Cooperative require Board approval. The Board may adopt such other policies, bylaws, or procedures as the Board deems appropriate for the exercise of the Board's authority.

**4.17. Annual Budget.** The Board will direct the Administrator to prepare an annual budget for the Cooperative that identifies expenses for the upcoming Fiscal Year. The Administrator will submit the budget to the Board prior to July 1 so that the Board may review and approve the budget.

**4.18. Audit.** The Board will require an annual audit of the fund to be performed by an independent audit firm.

## **Article 5. Professional Staff**

**5.1. Administrator.** The Board shall be responsible for retaining an Administrator and a Fiscal Agent, which may be an individual or an entity, for the purpose of administering the Cooperative and the Fund. The Board shall conduct due diligence to identify a financially responsible Administrator and Fiscal Agent that is capable of performing all duties required of the Fund and Cooperative.

**5.2. Administrator Duties.** The Administrator shall have the following duties:

- 5.2.1** The Administrator shall be the secretary of the Board and maintain all minutes of meetings, and ensure that all notices are posted as required by Iowa Code Chapter 21.
- 5.2.2** The Administrator shall compute the Contribution and Retention Amounts annually, and submit the annual Contribution and Retention computation information to the Board.
- 5.2.3** The Administrator shall organize all meetings of the Board and conduct elections of the Members.
- 5.2.4** The Administrator shall maintain a listing of the Districts that are participating in the Cooperative and shall make the list available to the Board upon request.
- 5.2.5** The Administrator will administer all claims on behalf of the Board.
- 5.2.6** The Administrator shall establish accounts and letters of credit as necessary at approved financial institutions and depositories.
- 5.2.7** To invest and deposit funds according to the Board-approved investment policy, and to maintain all records of all deposits of public funds.
- 5.2.8** The Administrator will perform other duties as prescribed by the Board.

**5.3. Fiscal Agent Duties.** The Fiscal Agent shall have the following duties:

- 5.3.1.** Maintaining all accounting records of the Cooperative and provide regular reports to the Board regarding the accounts of the Cooperative.
- 5.3.2.** Issue payments from the Account for expenditures previously authorized by the Board in the annual budget, policy, resolution, or motion, including Claim payments. The Fiscal Agent may sign checks on behalf of the Cooperative provided that the Board has previously approved issuance of the payment.
- 5.3.3.** Working with the Board-approved audit firm to conduct the annual audit of the Cooperative and the Fund.

**5.4. Bond Required.** The Administrator and Fiscal Agent shall post a bond with approved surety authorized to do business in the State of Iowa, payable to the Cooperative and

conditional upon the faithful discharge of his/her duties. The penalty amount of the bond shall be established by the Board, in the Board's discretion. The penalty of the bond shall not be less than twenty-five percent (25%) of the cumulative balance of the Fund on August 1 of the immediately prior Fiscal Year. As an alternative to a surety bond, the Administrator and Fiscal Agent may secure insurance coverage providing substantially the same coverage and limit. The form of these bonds and/or insurance coverage shall be that commonly used for school treasurers under Iowa law and shall be paid for as an administrative expense of the Cooperative and as determined and approved by the Board.

## **Article 6. Compensation and Liability of the Board**

**6.1. Compensation.** No one serving on the Board shall receive any salary or other compensation from the Cooperative.

**6.2. Expenses.** Subject to review by the Chairperson and Vice-Chairperson, Trustees may be reimbursed for reasonable expenses incurred on behalf of the Cooperative. Reimbursement for such expenses may include amounts advanced on behalf of the Cooperative either by the Trustee himself/herself or by his/her District, and shall be carried out in accordance with procedures and policies established by the Board and consistent with the terms of this Agreement.

**6.3. Liability.** The Board shall use ordinary care and reasonable diligence in the exercise of their authority and in the performance of their duties. No director, officer, employee, or Member of the Cooperative shall be liable for the Cooperative's debts or obligations and no director, officer, Member, or other volunteer is personally liable in that capacity to any person for any action taken or failure to take any action in the discharge of the person's duties except liability for any of the following:

**6.3.1** The amount of any financial benefit to which the person is not entitled.

**6.3.2** An intentional infliction of harm on the corporation or the Members.

**6.3.3** An intentional violation of criminal law.

**6.4 Hold Harmless.** No Representative on the Board shall be required to give a bond or other security to guarantee the faithful performance of his/her duties hereunder except as required by this Agreement or by law. The Account shall be used to defend and hold harmless any Representative on the Board where the Representative was acting within the scope of his/her authority when the claim against the Representative arose. In lieu of the obligations set forth in this Paragraph, the Cooperative may purchase insurance providing similar coverage for any such claims.

## **Article 7. Fund and Contributions**

**7.1. Target Amount.** In March of each Fiscal Year, the Board shall establish the Target Amount for the Fund for the upcoming Fiscal Year.

**7.2. Minimum Fund Balance.** The Board shall have the power to establish a Target Minimum Amount for the Fund.

**7.3. Initial Target Amount.** During the first year of operation of the Cooperative, the Target Amount shall be determined by the Board after the Founding Members have adopted resolutions to join the Cooperative.

**7.4. Member Annual Contribution.** To achieve the Target Amount, Members agree to pay a Contribution amount. The Contribution amount will be approved by the Board on or before April 1 of each Fiscal Year for the subsequent Fiscal Year. For illustrative purposes, the Board will approve the Member Contributions by April 1, 2025, that will be paid by Members no later than July 10, 2025.

**7.5. Retention Amount.** When the Board approves the annual Contribution amounts, the Board will also approve the Retention Amounts for Members for the upcoming Fiscal Year.

**7.6. Authorization to Borrow.** The Board may borrow funds to reach the Target Minimum Amount. The Board may pledge future Contributions as collateral for any borrowing.

**7.7. Aggregate Loss Fund Protection Insurance.** The Board may approve the purchase of aggregate loss fund protection insurance. The cost of the supplemental insurance will be included as an expense in the Member Contribution.

**7.8. No Debt Issuance.** The Board and the Cooperative shall not have the authority to issue bonds or other forms of indebtedness.

**7.9. Computation of Contribution.** The Members will contribute a sufficient amount to achieve the Target Amount of the Fund. In addition to the Contribution for the Fund, the Board may also include in the Contribution:

**7.10.1.** The cost of any loss fund protection insurance coverage;

**7.10.2.** Expenses of the Administrator;

**7.10.3.** Extraordinary expenses incurred due to unanticipated claims volume;

**7.10.4.** Cost of any financing obtained for the fund;

**7.10.5.** Such other expenses, including legal, accounting, and other professional advisors as the Board deems necessary.

All Contributions will be placed in the Account of the Cooperative for use as the Fund or for the payment of expenses of the Cooperative.

### **7.10. Contribution Adjustments After the Addition or Removal of Property.**

**7.10.1.** If new property is added to a Member's Mandatory Coverage, the Board shall approve a supplemental Contribution for that Member, which will be

calculated based on the additional Insured Values and pro-rated using the effective date on which the new property is added.

**7.10.2.** If property is removed from a Member's Mandatory Coverage, the Board shall approve the return of a portion of the Contribution based on the Insured Values removed. The calculation of the amount returned will be pro-rated using either the effective date of the removal or the date the Administrator was notified pursuant to Paragraph 9.1.6, at the Board's discretion.

**7.11. Member Supplemental Contributions.** If the Fund falls below the Target Minimum Amount established by the Board, and the Board is unable to borrow additional funds or lacks additional insurance, the Board may approve a supplemental Contribution for all Members. Supplemental Contributions will be limited to an amount sufficient to bring the Fund balance back to the Target Minimum Amount established by the Board.

**7.12. Payment Due Date.** Members will pay all Contributions due on or before July 10 of each Fiscal Year.

**7.13. Penalty for Failure to Pay.** Members that fail to pay will not be eligible to receive payment of any claims as provided in this Agreement.

**7.14. Deposit and Investment of Funds.**

**7.14.1.** The Board will administer the Fund in accordance with Iowa Code Chapter 12B and 12C governing investment and deposit of public funds.

**7.14.2.** The Board will adopt a written investment policy that provides for the safeguarding of all deposits into the Fund.

**7.14.3.** The Board will, annually, identify a list of approved depository institutions to receive deposits of the Fund.

## **Article 8. Paying Claims**

**8.1. Notice of Claim.** Members shall notify the Administrator promptly of any occurrence that may result in a claim under the Member's property insurance policy related to wind or hail damage and subject to a percentage deductible.

**8.2. Insurance Claim.** As a condition of receiving any payments from the Cooperative, Members must first submit a wind or hail claim to the Members' carrier for the Mandatory Coverage. The Member must cooperate with the Cooperative to provide all information related to the status of the Member's claims. The carrier for the Mandatory Coverage will adjust the Members' claim, and the Member will cooperate with the Administrator to confirm the amount of the percentage deductible the Member owes as determined under the Mandatory Coverage.

**8.3. Amount of Covered Claim.** The Cooperative will pay on behalf of the Member that Member's percentage deductible less their Retention Amount. Only properties subject to EMC's percentage wind and hail deductible will be covered by the Storm Protection Fund. Properties subject to an EMC flat dollar deductible are not eligible for payment by the Cooperative.

**8.4. Meeting to Approve Claims.** Before the Administrator will direct the Fiscal Agent to pay any claims to the Member, the Board shall review the Member's claim. The Board must vote to approve payment of any claims in excess of \$100,000 prior to payment of the claim. The Administrator is authorized to direct payment of any claims that are less than \$100,000, and then report such payment to the Board at the next meeting of the Board.



## **Article 9. Obligations of Districts**

**9.1. Obligations.** In addition to the other responsibilities of a District as set forth in this Agreement, each District shall have the obligation:

- 9.1.1.** To pay promptly all Contributions to the Cooperative for the Account at such times and in such amounts as are established within the scope of this Agreement;
- 9.1.2.** To submit promptly to the Cooperative all claims by or against the District in such manner as may be prescribed from time to time by the Board;
- 9.1.3.** To cooperate fully with the Administrator, any insurance consultant-claims administrator, the attorneys selected by or engaged by the Board, auditors and any agent, employee, Officer or independent contractor of the Cooperative in any matter relating to the purpose and powers of the Cooperative;
- 9.1.4.** To act promptly on all matters requiring approval by the Board and not to withhold such approval unreasonably or arbitrarily;
- 9.1.5.** To assure that its Representative reviews and oversees the District's compliance with the Cooperative Risk Management Protocols as may be adopted from time to time and with all obligations of a District as set forth in this Agreement;
- 9.1.6.** To notify the Administrator within two (2) business days of any new property added to the Mandatory Coverage maintained by the District and any properties removed from the Mandatory Coverage.

**9.2. Providing Information.** Members will authorize the Cooperative to obtain information regarding the Mandatory Coverage each District maintains. This includes, without limitation, the valuation of insured buildings and contents.

**9.3. Continuation of and Consideration for Obligations.** The obligations and responsibilities of the Member Districts as set forth in this Agreement, including the obligation to take no action inconsistent with this Agreement as originally written or validly amended, shall remain a continuing obligation and responsibility of each District.

The consideration for the duties imposed upon the Districts by this Agreement is based upon the mutual promises and agreements of the Districts set forth herein and the advantages gained by the Districts through reduced administrative costs for the procurement of wind and hail damage deductible protection the Cooperative may choose to adopt from time to time.

**9.4. No responsibility for the Obligations of Other Districts.** Except to the extent of the financial contributions to the Cooperative which each District has agreed to make, no District agrees by this Agreement to be responsible for any claims of any kind against any other District. The Districts intend by the creation of the Cooperative to establish an organization for joint administration of wind and hail damage deductible protection within the scope set forth in this Agreement only and do not intend to create between the Districts any relationship of partnership, surety, indemnification or liability for the debts of or claims against another District.

## **Article 10. Expulsion of a District**

**10.1. Grounds for Expulsion.** A Member District may be expelled from the Cooperative whenever the District:

- (a) Fails or refuses to perform any obligation under this Agreement;
- (b) Fails or refuses to make payments and supplemental payments when due to the Cooperative; or,
- (c) Carries on activities found by the Board to be detrimental to the purpose or operations of the Cooperative.

**10.2. Right to Notice, Opportunity to Cure and Hearing.** No District may be expelled from the Cooperative until the District has received each of the following:

- (a) Written notice from the Cooperative identifying the alleged basis for expulsion;
- (b) An opportunity to cure that basis for expulsion within fifteen (15) days from delivery of the notice; and,
- (c) In the event of a failure to cure, the opportunity to be heard before the Board or its appointee under Paragraph 10.3 below.

If the conduct of a District is found by the Board to be a continuing threat or detrimental to the continued operation of the Cooperative, the Board may suspend the District from all rights and privileges under this Agreement except for the limited right to continue its then current insurance coverages for which it has timely paid all premiums due.

**10.3. Hearing.** If a District fails to cure the alleged basis for expulsion within the fifteen (15) day notice period, the Board shall set a date for an expulsion hearing, which shall occur not less than ten (10) days after expiration of the time to cure and not less than five (5) days before the expulsion becomes effective. The Board may conduct the hearing or appoint an individual to conduct the hearing who shall make a recommendation to Board based upon his/her findings of fact.

**10.4. Vote to Expel.** Following the expulsion hearing, the Board shall vote whether to expel the District. A District may be expelled from the Cooperative by a two-thirds (2/3) vote of the Board.

**10.5. Continuing Obligations of Cooperative and Expelled District.** If a District is expelled in accordance with this Article 10, it will no longer have any rights or privileges under this Agreement.

An expelled District shall continue to be fully liable for any payment due to the Account and for any other unfulfilled obligation as if it were still participating in the Cooperative.

Within sixty (60) days after the vote to expel pursuant to Paragraph 10.4 above, the Cooperative shall take an accounting of the fixed funds and expenses owed by or owing to said District as of the date of the expulsion. The expelled District shall immediately pay into the Account any amount found to be owed by it. Any amount found to be owed to the District by the Cooperative, and all funds upon which a claim could be made against the expelled District, shall

be held by the Cooperative until all such claims or potential claims are terminated. The Board shall provide a written statement to the expelled District through the Administrator, outlining any potential liability for possible future deficits that may occur for the years in which the District participated in the Cooperative prior to expulsion.

## **Article 11. Termination of the Cooperative**

**11.1. Termination Events.** The Cooperative shall terminate upon the occurrence of any of the following events:

- (a) A final determination by a Court of competent jurisdiction, after all appeals have been exhausted or time for appeal has expired, that the Cooperative is invalid or contrary to law; or
- (b) The Board approves, by a two-thirds (2/3) majority vote, a motion to dissolve and terminate the Cooperative.

**11.2. Rights and Duties Upon Termination.** Upon termination of the Cooperative, the rights and duties of the Cooperative to each District and the rights and duties of each District to the Cooperative and to each other shall be the same as those with respect to an expelled District.

**11.3. Distribution of Assets.** Upon termination of this Agreement and dissolution of the Cooperative, any remaining assets or balances, including the remaining balance of the Fund, after payment of all outstanding obligations and liabilities, shall be distributed among the Districts on a pro rata basis. The pro rata shares shall be determined based on each District's most recent property valuations for the Mandatory Coverage for the current Fiscal Year. Such distribution shall occur within a reasonable time following the completion of all financial settlements and shall be documented in a final accounting report approved by the Board.

## **Article 12. Effect of the Agreement**

**12.1. Adoption of this Agreement.** This Agreement shall be presented to the founding Districts for approval. The Agreement shall become effective and binding after approval by the Found Members and after this Agreement is filed with the Iowa Secretary of State. The duration of this Agreement is perpetual, unless otherwise terminated in accordance with the provisions contained herein.

**12.2. Continuation of Cooperative.** Neither discussion, approval, nor rejection of this Agreement shall dissolve or terminate the Cooperative. If the Agreement is approved, the Cooperative shall operate in accordance with this Agreement. If this Agreement is not approved, the Cooperative shall operate in accordance with the prior agreement.

**12.3. Enforcement of Agreement and Applicable Law.** This Agreement may be enforced in law or equity either by the Cooperative itself or by any District. This Agreement shall be enforceable by or against a District or the Cooperative solely in the courts in Iowa having proper jurisdiction and venue of the parties. This Agreement shall be construed solely under the applicable law of the State of Iowa.

**12.4. Severability.** If any provision of this Agreement is declared by a final judgment of a court of competent jurisdiction to be unlawful or unconstitutional or invalid as applied to any District, the lawfulness, constitutionality or validity of the remainder of this Agreement shall not be deemed affected thereby.

**12.5. Counterparts.** This Agreement, and any amendments hereto, may be executed in any number of separate counterparts, which taken together shall constitute a single instrument.

**12.6. Applicability of Agreement.** This Agreement shall be binding on each District and any successor District thereof.

**12.7. Amendment.** This Agreement may be amended at any time by an affirmative vote of the majority of the Trustees of the Board. Any such amendment shall be in writing and shall become effective upon approval by the Board unless otherwise specified.

## **Article 13. Miscellaneous**

**13.1. Notice and Delivery.** Any notice required by this Agreement shall be in writing and shall be deemed to have been delivered when: 1) it is sent to the intended recipient by fax, email, or any other form of electronic communication; 2) it is delivered personally to the intended recipient or its agent designated for receipt of such notice; 3) any other delivery method has been used that is approved by the Board; or, 4) it is deposited in a United States Post Office and sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

- (a) If to the Cooperative, addressed to the Chairperson at the address of the District where Chairperson is employed.
- (b) If to a District, addressed to the Representative for that District at the address provided to the Cooperative; or to the principal office of the District's administration/superintendent.

**13.2. Paragraph Headings.** The paragraph headings inserted in this Agreement are for convenience only and are not intended to, and shall not be construed to limit, enlarge or affect the scope or intent of this Agreement or the meaning of any provision hereof.

## **APPENDIX A**

### **Founding Member School Districts**

West Des Moines Community School District

Boone Community School District

Waverly Shell Rock Community School District

Fort Dodge Community School District