



**JOINT POWERS SUBSCRIBER
AGREEMENT**

APPROVED BY BOARD OF TRUSTEES
FOR USE AFTER OCTOBER 1, 2007

JOINT POWERS SUBSCRIBER AGREEMENT

Idaho Counties Risk Management Program, Underwriters

THIS AGREEMENT is entered into pursuant to the provisions of Idaho Code, Sections 67-2326 through 67-2333, relating to the joint exercise of powers among political subdivisions of the State of Idaho, by political subdivisions of the state of Idaho as defined by the Idaho Tort Claims Act, as subscribers to counterparts of this Agreement, for the purpose of operating a separate legal entity to be known and designated as the Idaho Counties Risk Management Program, Underwriters, hereinafter referred to as "ICRMP". At the time of making of this Agreement, ICRMP is considered by the Idaho Department of Insurance to be a reciprocal insurer organized pursuant to provisions of Idaho Code, Title 41, Chapter 29.

It is AGREED among the Members of ICRMP all of whom are signatory to this Agreement or a prior counterpart that by virtue of expressly accepting the terms of this version of the Joint Powers Subscriber Agreement, or by expressly approving a prior counterpart and subsequently renewing participation after changes to a prior counterpart have been implemented by the Board of Trustees, as follows:

WHEREAS, POLITICAL SUBDIVISIONS of the State of Idaho have the authority to purchase liability insurance for themselves and their employees pursuant to Idaho Code Section 6-923 and to contract for property and other insurance coverage as they deem necessary or proper; and

WHEREAS, it is to the mutual benefit of POLITICAL SUBDIVISIONS to join together to establish the legal entity created by this Joint Powers Agreement to accomplish the purposes hereinafter set forth; and

WHEREAS, the MEMBERS have determined that there is a need for POLITICAL SUBDIVISIONS to jointly create an insurance and risk management program; and

WHEREAS, the laws of the State of Idaho authorize the formation of what has been classified as a reciprocal insurer by POLITICAL SUBDIVISIONS without abrogating any privileges or immunities accorded to them by law;

NOW, THEREFORE, BE IT AGREED, in consideration of the mutual advantages and benefits to each POLITICAL SUBDIVISION and the mutual covenants herein contained, the MEMBERS of ICRMP, with the consent and concurrence of the undersigned subscribing POLITICAL SUBDIVISION, agree as follows:

ARTICLE 1. DEFINITIONS.

As used in this Agreement, the following terms shall have the respective meanings hereinafter set forth:

- (1) **ICRMP (Program).** The Idaho Counties Risk Management Program, Underwriters, a pooled insurance and risk management program established pursuant to the statutes of this state by this joint powers agreement.
- (2) **BOARD.** The Board of Trustees of ICRMP, which shall serve as the Subscribers' Advisory Committee, as such is required by Idaho Code Title 41. Chapter 29.
- (3) **MEMBERS.** The POLITICALSUBDIVISIONS, as defined in Section 6-902(2), Idaho Code, which qualify and agree to the terms of the JOINT POWERS SUBSCRIBER AGREEMENT.
- (4) **JOINT POWERS SUBSCRIBER AGREEMENT.** This Agreement, including prior and subsequent iterations wherein political subdivisions agree to participate in the insurance and risk management offerings of ICRMP as set forth by the BOARD.

ARTICLE II. ESTABLISHMENT, MAINTENANCE AND PARTICIPATION IN ICRMP.

The Idaho Counties Risk Management Program, Underwriters, a separate Joint Powers Entity, was created through a Joint Powers Agreement by numerous counties of the state of Idaho with an initial effective date of November 29, 1985. The Joint Powers Agreement has been subsequently amended on September 21, 1989, October 6, 1993, February 10, 1994 and September 18, 1996. This JOINT POWERS SUBSCRIBERS AGREEMENT is intended to continue the organization and operation of ICRMP into future years upon the foundation laid by prior joint powers and subscribers' agreements. The undersigned public entity, a political subdivision of the State of Idaho, upon execution of an iteration of the JOINT POWERS SUBSCRIBER AGREEMENT will become a MEMBER of the Idaho Counties Risk Management Program, Underwriters (ICRMP) with all rights and duties associated therewith. This Agreement supersedes all prior ICRMP joint powers and subscribers' agreements and will become effective for all MEMBERS on October 1, 2005, upon acceptance of the tender of continued participation offered during the annual renewal process.

ARTICLE III. PURPOSES AND DURATION.

- (1) The purposes of ICRMP are to provide an insurance and risk management program and to assist MEMBERS to prevent and reduce losses and injuries to MEMBERS' property and to persons or property which might result in claims being made against MEMBERS, their employees, officers, or agents, whether appointed, employed, elected or serving as recognized volunteers.
- (2) It is the intent of the MEMBERS of ICRMP to create an entity of unlimited duration which will administer an insurance and risk management program and use funds contributed by the MEMBERS to defend and indemnify, in accordance with this Agreement and the issued policy(ies) of insurance, any ICRMP MEMBER against stated liability or loss, to the limits of the Insurance Policy issued by ICRMP. It is also the intent of the MEMBERS to have ICRMP provide continuing stability and

availability of needed insurance coverage at reasonable costs and to provide education and training to ICRMP MEMBERS in the interest of meeting the challenges of local governance. All income and assets of ICRMP shall be at all times dedicated to the ultimate benefit of its MEMBERS.

- (3) It is the intent of the MEMBERS of ICRMP that the Program serve as a vehicle for cooperative undertakings for all program MEMBERS or selected groups thereof to share the costs of certain required or desired insurance or risk-related obligations which the MEMBERS desire to study or implement. In implementation of any such programs, the participating MEMBERS shall bear the proportionate costs of carrying out the purposes of the programs(s).
- (4) Participation in ICRMP shall be comprised of those POLITICAL SUBDIVISIONS which have entered into this Agreement or one of its prior iterations by and through an individual duly authorized to execute such Agreement, and who have agreed to pay the required MEMBER contributions. MEMBERS agree to the admission of future MEMBERS in accordance with provisions of the JOINT POWERS SUBSCRIBER AGREEMENT and acknowledge that they shall have no right to object to the addition of such MEMBERS provided they are admitted in accordance with the terms hereof. This Agreement shall be automatically renewed, annually or periodically, consistent with BOARD-established policy terms, unless the provisions for withdrawal, expulsion or termination are applied in compliance with the terms of this agreement or adopted BOARD policy.

ARTICLE IV. MANNER OF FINANCING.

Financial operations of ICRMP shall be committed to the sound discretion of the BOARD with the primary intent being the long-term solvency of the Program. Financial contributions from MEMBERS shall be determined by the BOARD of ICRMP, considering, among other factors, risk exposure, loss experience, net operating expenditures, property ownership, costs of administering claims, costs of providing risk management services and other appropriate or necessary costs.

ARTICLE V. NON-WAIVER OF GOVERNMENTAL OR OTHER IMMUNITY.

MEMBERS of ICRMP, by participation in this program, do not waive any immunities or limitations of liability provided to political subdivisions or their employees by any law of this state or nation.

ARTICLE VI. ICRMP POWERS AND DUTIES.

The powers of ICRMP to perform and accomplish the purposes set forth above shall, within the budgetary limits and procedures set forth in this Agreement and as otherwise established by the BOARD, be the following:

- (a) To employ agents, employees and independent contractors.

- (b) To purchase, sell, encumber and lease real property; to incur obligations on behalf of the program to the extent permitted by Idaho statutes and the Idaho Constitution; and to purchase, sell, or lease equipment, machinery, and personal property.
- (c) To invest funds as allowed by Idaho statutes.
- (d) To carry out educational and other programs relating to risk management.
- (e) To create, collect funds for, and administer an insurance and risk management program.
- (f) To purchase excess insurance and/or reinsurance to supplement the self-insured retention.
- (g) To establish reasonable and necessary loss reduction and prevention recommendation procedures to be followed by the MEMBERS.
- (h) To provide risk management, loss control, underwriting and claims adjustment or to contract for such services, including the defense and settlement of claims, subject to specific limitations and/or restrictions, which may be imposed and adopted by the BOARD.
- (i) To carry out such other activities as are necessarily implied or required to carry out the purposes of ICRMP specified in Article III of this Agreement, even though such undertakings might not be known at the time of entering into this agreement, or the specific powers enumerated in this Article.
- (j) To sue and be sued.
- (k) To enter into contracts.
- (l) To reimburse BOARD members for reasonable and approved expenses incurred in attending to BOARD responsibilities.
- (m) To provide security, insurance or bonds regarding the official responsibilities of all officers, BOARD members and employees of ICRMP.

ARTICLE VII. PARTICIPATION.

Any MEMBER of ICRMP shall be permitted to participate in the activities of ICRMP as provided in this Agreement.

ARTICLE VIII. MEMBERS' RIGHTS AND OBLIGATIONS - DISPUTE RESOLUTION PROCEDURES.

- (1) The individual MEMBERS of ICRMP shall have the right to:
 - (a) Petition the Board to be heard regarding any aspect of the program operation in accordance with internal dispute resolution procedures approved by the Board or as otherwise determined in accordance with procedural guidelines authorized by the Board or the Chairman of the Board as circumstances warrant.
 - (b) Withdraw from Program participation at any time authorized by this Agreement, but no less frequently than annually. Members recognize that the Program is managed for long-term participation and that agreements that support Program operation are of one-year or longer duration.

(c) To nominate or vote in selection of a representative to serve on the Board of ICRMP as provided by this JOINT POWERS SUBSCRIBER AGREEMENT.

(2) The obligations of MEMBERS of ICRMP shall be as follows:

- (a) To pay promptly all member contributions to ICRMP at such times and in such amounts as shall be established by the BOARD pursuant to this agreement. Any delinquent payments may incur interest, which shall be equivalent to the prime interest rate, from the date of delinquency, of the commercial bank where ICRMP's primary accounts are maintained. Payments will be considered delinquent fifteen (15) days following the due date. Interest would be calculated from the due date. Insurance coverage and other services will not continue for MEMBERS that are delinquent (more than fifteen (15) days past due) in payment of contribution amounts according to the terms of this Agreement.
- (b) To allow the Program and its agents, officers and employees reasonable access to all premises of the MEMBER and all records, including but not limited to financial records, as reasonably required for the administration of ICRMP and the effective handling of claims threatened or brought against MEMBERS.
- (c) To cooperate fully with the PROGRAM'S attorneys, claims adjusters and any other agent, employee, or officer of ICRMP in activities relating to the purposes and powers of ICRMP.
- (d) To make good faith efforts to follow the safety, loss reduction and prevention recommendations established by the Program and to cooperate in risk reduction strategies proposed or required by the Program.
- (e) To report to ICRMP immediately all incidents or occurrences which could reasonably be expected to result in ICRMP being required to consider a claim against the MEMBER, its agents, officers, or employees, or for losses to MEMBER'S property within the scope of coverages undertaken by ICRMP.
- (f) To report to ICRMP as soon as reasonably possible, by way of the public entity's insurance agent, in accordance with the issued Policy of Insurance and related guidelines, the addition of new programs, facilities and equipment or the significant reduction or expansion of existing programs, facilities and equipment or other acts that could cause material changes in the MEMBER'S risk of property or liability-related loss exposure.
- (g) To provide ICRMP periodically and consistent with Policy terms, but in no instance less frequently than annually, in accordance with the issued Policy of Insurance, with information on the value of buildings and contents and other

real and personal properties. Each MEMBER is obliged to cooperate with the Program *via* its independent insurance agent.

(h) To utilize Board-approved dispute resolution procedures regarding any contest or disagreement regarding a provision or scope of coverage pursuant to the insurance program/policy, prior to initiating legal action against ICRMP. MEMBERS expressly agree to follow the internal dispute resolution procedures adopted by the BOARD before contesting coverage or claims non-payment issues in a court of law. Such procedures require MEMBERS to thoroughly disclose any bases for such disagreement in writing to the BOARD prior to being heard in the process of resolving any such dispute. MEMBER expressly agrees that failure to exhaust the internal dispute resolution procedures established by the BOARD constitutes a material breach of this Joint Powers Subscriber Agreement. MEMBER further agrees not to initiate legal action against the PROGRAM regarding any dispute with the PROGRAM until said dispute resolution procedure has reached its conclusion within a reasonable timeframe. MEMBER agrees that ICRMP may enforce this provision by seeking the remedy of specific performance in a court of competent jurisdiction. The restrictions contained in this subsection may be waived by mutual agreement of the Program and the MEMBER.

(3) The basic elements of the dispute resolution procedure within ICRMP shall include the following:

(a) Filing a written statement by the MEMBER stating the specific basis for disagreement with a decision by the Executive Director regarding provision of coverage or non-payment of a claim for money damages. Such filing shall be followed promptly by a conference with the Executive Director, in person or by telephone, to attempt to resolve the stated differences. The Executive Director shall thereafter respond to the MEMBER in writing not more than ten (10) business days after the conference. Such written response shall set forth the basis of the Executive Director's decision.

(b) Following receipt of the Executive Director's written response, MEMBER may appeal the determination of the Executive Director to the BOARD. Any such appeal shall be made in writing setting forth the specific basis for the appeal and the particular reasons for the disagreement with the determination of the Executive Director. When an appeal is received at least fourteen (14) days prior to a BOARD meeting, it will be included on the next BOARD agenda. If an appeal is not received at a time that allows it to be timely placed upon the agenda of the next BOARD meeting, the MEMBER and Executive Director, working in consultation with the Chairman of the BOARD, shall determine whether the matter is of such importance and urgency that it requires the call of a special BOARD meeting or whether it can be addressed at the next regularly scheduled BOARD meeting, no later than sixty (60) days after the appeal is received, without irreparably harming the MEMBER. If a

MEMBER insists upon the call of a special meeting by formal action of its governing board, , or if the next regular meeting of the BOARD is more than sixty (60) days after the date the MEMBER's written appeal is initially filed with the Executive Director, a special meeting of the BOARD shall be called to hear the appeal.

- (c) The BOARD shall hear oral presentations, not in excess of one hour each, by the MEMBER and the Executive Director, should either or both desire. After hearing from both parties, the BOARD shall decide the controversy and shall tender its decision in writing within thirty (30) days. In doing so the BOARD may consult independently, or through the Executive Director, with legal advisers and/or consultants. The decision of the BOARD shall be final, unless reconsideration is requested by the MEMBER and approved for reconsideration by the BOARD. Until a final decision is made pursuant to the procedures set forth in this Article, no Member may initiate or institute legal action against ICRMP or its officers, employees or agents arising out of the performance of this Agreement or the contract of insurance issued pursuant to this Agreement.
- (d) The BOARD reserves the right to vary the foregoing procedures as necessary to accommodate the interests of ICRMP, its MEMBERS, or others with an interest in the just resolution of differences regarding program operation.

ARTICLE IX. MEMBER CONTRIBUTIONS.

The Board of ICRMP shall establish annual or periodic contribution amounts for MEMBERS. The PROGRAM may change contribution amounts charged to any MEMBER from year to year to reflect changes in Program operating costs, changes in risk resulting from operational changes, changes in property values or ownership, reevaluation of operating risks, or refusal to participate in or willful violation of safety or loss prevention programs or for other reasons established by the BOARD. Conversely, the PROGRAM may offer contribution amount incentives for any MEMBER that faithfully participates in loss prevention and safety programs or for other reasons established by the BOARD. Each MEMBER'S contribution amount shall be limited to the rate model set for the Policy Year, unless additional coverage is requested by the MEMBER. No MEMBER may be further assessed during a Policy Year unless in response to a material change in property or activities not disclosed or addressed at the time of annual renewal. Additional contribution amount may be charged when changes are made to covered property or activities during the course of a year. The PROGRAM reserves the right to condition continued participation by any MEMBER upon compliance with specific performance requirements, payment of modified deductible amounts and such other measures as the PROGRAM deems necessary or appropriate. The PROGRAM reserves the right to discontinue membership or diminish coverage or increase self-insured responsibility of any MEMBER which does not cooperate with Program goals, objectives, or requirements or which acts without regard to consequences concerning matters which affect ICRMP and its MEMBERS.

ARTICLE X. BOARD OF TRUSTEES – ELECTION AND REMOVAL.

The BOARD of Trustees shall be comprised of nine elected public officials, six (6) of whom shall be county commissioners and three (3) who shall hold elective office in other POLITICAL SUBDIVISIONS. The electoral boundaries shall be organized as follows:

County District I: Counties of Boundary, Bonner, Kootenai, Benewah and Shoshone.

County District II: Counties of Latah, Clearwater, Nez Perce, Lewis and Idaho.

County District III: Counties of Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore and Owyhee.

County District IV: Counties of Camas, Blaine, Gooding, Lincoln, Jerome, Minidoka, Twin Falls and Cassia.

County District V: Counties of Bingham, Power, Bannock, Caribou, Oneida, Franklin and Bear Lake.

County District VI: Counties of Lemhi, Custer, Clark, Fremont, Butte, Jefferson, Madison, Teton and Bonneville

Region I: Elected official of a political subdivision other than a county from within Districts I, II, and III elected by all political subdivisions in the Region except counties.

Region II: Elected official of a political subdivision other than a county from within Districts IV, V and VI elected by subdivisions in the Region, except counties.

County Member at Large: Elected commissioner of any MEMBER County elected by county Members. The Member at Large position will no longer be limited only to county commissioners when the term of service of the current County Member at Large or his competitively-elected successor concludes by resignation, retirement or removal during the course of a term or upon such Board member's decision not to run for re-election. Upon the happening of such resignation or retirement, the Member at Large position will become open to elected officials from POLITICAL SUBDIVISIONS other than counties to be elected by the vote of non-county and non-city MEMBERS. Simultaneously, the Regional positions shall be subsequently limited going forward to service by elected city officials from the respective Regions outlined above.

Each member of the BOARD shall be either a commissioner elected from a MEMBER County or an elected official of a MEMBER representing other POLITICAL SUBDIVISIONS, and shall serve for a period of two (2) years, or until a successor is elected or appointed. Four (4) members of the BOARD (even-numbered Districts and the Region II seat) shall be elected for two (2) year terms in November/December of odd-numbered years, while another five (5) members of the BOARD (odd-numbered Districts and the Region I seat plus the County Member at Large, such seat to become an Open Member at Large when the circumstances described in the preceding paragraph occur) shall be elected for two (2) year terms in even-numbered years. For purposes of this Agreement, a "Board Seat" shall be defined as the position on the ICRMP Board of Trustees designated for and occupied by the representative duly elected from a District, Region or At Large as outlined in this Section. The Executive Director shall administer the election process in order to allow election results to be canvassed by the BOARD during its December meeting. The respective boards of county commissioners of each MEMBER county may cast a ballot for their District member of the BOARD, governing boards of POLITICAL SUBDIVISIONS other than counties may vote for regional representatives and all MEMBER boards of county commissioners may cast a ballot for the county representative at large so long as that position remains a county position, to be received by ICRMP at a time and place specified by the Executive Director prior to the Board's final meeting each calendar year. Each member

of the BOARD shall serve from the date of the first BOARD meeting in the succeeding year through the conclusion of his/her term when a succeeding BOARD member is seated or for another term if the BOARD member is re-elected.

At any time during the course of service of a BOARD member such member may be removed by the Program MEMBERS that elected such BOARD member by either of two (2) means. The first method by which an elected BOARD member's continued service may be submitted to his constituent electors is by receipt of a petition of no confidence approved by the respective governing boards of MEMBER entities equal to at least one-half (1/2) of the number of votes received by the BOARD member when the BOARD member was most recently elected to the BOARD. Any such petition shall succinctly set forth the reasons of misconduct, wrongdoing or failed representation that justify a no-confidence election.

The second alternative to refer a BOARD member's continued service to his constituent electors would be a no-confidence declaration by members of the ICRMP BOARD. By majority vote of no confidence the BOARD may choose to submit the question of continued service by an elected or appointed BOARD member to the BOARD member's constituent electors, stating in any motion to proceed with such election the express reasons therefore.

In the event of receipt of a qualifying no-confidence petition, or following a no-confidence vote by the ICRMP BOARD, the question to be presented to a BOARD member's constituent electors would be whether the identified BOARD member should continue to serve on the BOARD. The reasons for no-confidence stated in the petition from dissatisfied MEMBERS or expressed in the motion by BOARD shall be included in election materials sent to constituent electors along with a statement prepared by the BOARD member in response. Neither message shall exceed three hundred (300) words. Voting on any such election shall be open for at least twenty-one (21) days from the date ballots are first mailed. The Executive Director shall establish a time and date certain by which all ballots must be received. Votes shall be tallied by the Executive Director or his designee(s). A majority of lawful votes cast shall determine the outcome. If a no-confidence vote results in removal of BOARD member, the seat may be refilled by BOARD appointment until the next election wherein a replacement can be elected to fill a new term or the remainder of the prior term, whichever is applicable.

ARTICLE XI. POWERS AND DUTIES OF THE BOARD OF TRUSTEES.

The BOARD shall have the following powers and duties:

- (1) To annually elect a chairman and vice-chairman. Each officer shall serve until his or her successor is elected.
- (2) To admit or expel MEMBERS, or to condition continued participation in the Program, in accordance with this Agreement.
- (3) To establish contribution amounts and payment procedures for MEMBERS.
- (4) To establish the insurance and risk management program design.
- (5) To provide for selection of all personnel and contractors necessary for the administration of ICRMP, including the appointment of a primary administrator to supervise the business of the PROGRAM and carry out functions delegated by the BOARD.
- (6) To establish a schedule for BOARD meetings.
- (7) To exercise all powers of ICRMP, except powers reserved to the MEMBERS.

- (8) To prepare, adopt and oversee ICRMP's budget.
- (9) To make reports to the MEMBERS.
- (10) To provide for underwriting, claims and loss control procedures.
- (11) To provide for the investment and disbursement of funds.
- (12) To establish by-laws, rules and regulations governing its own conduct and procedures and the powers and duties of its officers, not inconsistent with this Agreement.
- (13) To provide to MEMBERS an annual report of operations and financial affairs.
- (14) To form committees and advisory panels; and to provide other services as needed by ICRMP. The BOARD shall determine the method of appointment and terms of members of committees and advisory panels.
- (15) To submit to MEMBERS a subsequent, substitute, or replacement Joint Powers Subscriber Agreement at the date of periodic renewal, or otherwise, for re-adoption or express acceptance by MEMBERS.
- (16) Dissolve ICRMP and disburse its remaining assets when BOARD action is accompanied by a two-thirds (2/3) vote of the entire MEMBERSHIP, provided that a notice of intent to dissolve ICRMP shall be given to the Director of the Department of Insurance of the State of Idaho at least ninety (90) days prior to the proposed effective date. Like notice of such intent shall be provided to all MEMBERS at least thirty (30) days before any such vote regarding dissolution.
- (17) To do or delegate all acts necessary and proper for the implementation of this Agreement.

ARTICLE XII. ESTABLISHMENT OF LOSS PAYING FUND.

The PROGRAM shall establish a Loss Paying Fund which shall consist of amounts the BOARD deems reasonably sufficient to annually produce the sum of money necessary to fund ICRMP's general and administrative expenses, any reinsurance requirements, to pay the current year's claims and claims expenses and to sustain the financial stability of the Program plus funds necessary to meet ICRMP's obligation to satisfy the requirements of any regulatory authority.

ARTICLE XIII. SCOPE OF COVERAGE.

- (1) ICRMP shall provide policy protection to each MEMBER as provided in the MEMBER'S policy of insurance. MEMBER acknowledges that the policy of insurance transfers risk of loss from the MEMBER to ICRMP subject to the terms, conditions and exclusions addressed by the policy.
- (2) In the event that a claim or a series of claims exceed the amount of coverage provided by the MEMBER's Policy, payment of valid claims shall become the sole and separate obligation of the individual MEMBER or MEMBERS against whom the claim was made and perfected by litigation or settlement. No Subscriber shall be entitled to a contribution from other MEMBERS beyond the amount obligated by this Joint Power Subscribers Agreement and the policy of insurance which complements it.

ARTICLE XIV. MEETINGS OF THE BOARD OF TRUSTEES.

- (1) The BOARD may set a time and place for meetings in accordance with applicable law. All provisions of law applicable to public meetings shall be observed.
- (2) A majority of seated trustees shall constitute a quorum to do business. All formal acts of the BOARD shall require a majority vote of the trustees present and voting.
- (3) Because of the distance that separates the Trustees, the Board may conduct official business by telephone conference call. When a conference call meeting is convened the base of such meeting will normally be the ICRMP Building in Boise, Idaho. An alternative base meeting location may be designated by the Executive Director when necessary to effectively conduct BOARD business. At the base location a speaker phone shall be provided in order to allow the public to hear the discussion carried on by the Board. Executive session and notice provisions of the Open Meeting Law shall apply when appropriate or required.

ARTICLE XV. LIABILITY OF BOARD OF TRUSTEES OR OFFICERS.

The trustees or officers of ICRMP should use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties hereunder. They shall not be personally liable for any mistake of judgment or other action made, taken or omitted by them in good faith; nor for any action taken or omitted by any agent, employee or independent contractor selected with reasonable care so long as the actions or omissions complained of shall have taken place within the course and scope of their official duties. No trustee shall be personally liable for any action taken or omitted by any other trustee. The assets of ICRMP shall be used to defend and indemnify any trustee, officer, agent or employee for actions taken by each such person in good faith within the scope of his or her authority for ICRMP as public officials in the state of Idaho. ICRMP may purchase insurance providing coverage for trustees, officers and employees.

ARTICLE XVI. WITHDRAWAL FROM MEMBERSHIP.

Any MEMBER may withdraw from ICRMP after the MEMBER'S initial one (1) year term by giving notice to the Executive Director, in writing, of its desire to withdraw. Any MEMBER may withdraw from ICRMP within thirty (30) days after the date that the Program gives notice in writing of an amendment to this Agreement or its accompanying policy of insurance by tendering to the Executive Director written notice of its intent to withdraw. The continuing rights of any withdrawing MEMBER shall be as set forth in the most recent Joint Powers Subscriber Agreement to which the Member has agreed in accordance with the terms of this Agreement.

ARTICLE XVII. EXPULSION OF MEMBERS - CONDITIONS OF CONTINUED PARTICIPATION.

- (1) Any MEMBER may be expelled at the initiation of the Executive Director or the Board at any time during a policy year for one or more of the following reasons:
 - (a) Failure to make any payments due to ICRMP.
 - (b) Willful failure to undertake or continue loss reduction or loss prevention recommendations by ICRMP.
 - (c) Failure to allow ICRMP reasonable access to all facilities and records of the MEMBER necessary for proper administration of ICRMP.
 - (d) Failure to fully cooperate with ICRMP's attorneys, claim adjusters or other agents, employees, or officers of ICRMP.
 - (e) Failure to carry out any obligation of a MEMBER which impairs the ability of ICRMP to carry out its purpose or powers.
 - (f) Exhibiting reckless behavior which causes claims which could have been avoided by prudent or responsible action.

- (2) No MEMBER expulsion shall be effective until at least thirty (30) days after notice from the Executive Director of the alleged failure of performance, however the notice from the Executive Director may include exclusions from, or limitations on, coverage related to foreseeable actions addressing conduct of the MEMBER. Any such exclusions or limitations shall be effective immediately unless subsequently rescinded by Board action or modified by mutual agreement. Notice to a MEMBER shall state whether a cure is believed to be possible. The MEMBER may request, in writing, a hearing before the Board, either by telephone or in person, within fourteen (14) days of the notice provided by the Executive Director. Notices of expulsion are subject to the Dispute Resolution Procedure set forth in Article VIII. If a decision to expel is affirmed after hearing, such date of expulsion shall relate back to the date of initial decision to expel by the Executive Director or the Board from which the notice of intent to expel derives. The rights of any expelled MEMBER shall be as set forth in this Agreement or upon such other terms and conditions as the BOARD may negotiate with the expelled MEMBER. Nothing in any policy of Insurance shall contravene provisions of this Joint Powers Agreement respecting separation from the Program.

- (3) Any MEMBER separating from ICRMP (withdrawing or expelled) shall not be entitled to any reimbursement of contribution amounts that have been paid unless otherwise required by provisions of applicable law. All claims relating to events occurring after the date of separation from ICRMP shall become the sole responsibility of the separated Subscriber. With respect to Public Officials' Errors and Omissions (Claims Made Form), any claims occurring or reported after the date of separation from ICRMP shall become the sole responsibility of the separated MEMBER.

- (4) As an alternative to expulsion the Board may, at any time, condition continued participation in the program upon compliance with specific terms and conditions established by agreement between the MEMBER and ICRMP. Conditions may

include consultation requirements, increased deductible amounts, increased MEMBER contributions, restriction of coverage and such other limitations as the Board may deem reasonable to protect the resources of ICRMP.

ARTICLE XVIII. BINDING CONTRACTUAL OBLIGATION.

This document shall constitute a Joint Powers Agreement, a binding contract, among those POLITICAL SUBDIVISIONS that are MEMBERS of ICRMP. The terms of this Agreement may be enforced in court by ICRMP itself or by any of its MEMBERS, subject to the terms and conditions of applicable laws and this Agreement. The consideration for the duties herewith imposed upon the MEMBERS to take certain actions and to refrain from certain other actions is based upon the mutual promises and agreements of the MEMBERS set forth herein. This Agreement shall be approved according to law by each MEMBER or by subsequent renewal pursuant to procedures specified by the Executive Director or the Board. MEMBER asserts that it has complied with relevant laws and that it waives its ability to object to the binding nature of this Agreement by virtue of informalities in its approval. Except to the extent of the financial contributions to ICRMP agreed to herein, or such additional obligations as may come about through amendments to this Agreement, no MEMBER agrees or contracts herein to be held responsible for any claims in tort or contract made against any other MEMBER. The contracting parties intend in the creation of ICRMP to establish an organization for joint risk management only within the scope therein set out, and have not herein created as between MEMBER and MEMBER any relationship of surety or indemnitor, nor by participating herein does any MEMBER assume responsibility for the debts of or claims against any other MEMBER.

ARTICLE XIX. DISTRIBUTION OF PROPERTY, FUNDS AND SUPPLIES UPON DISSOLUTION OF ICRMP.

In the event of termination of this Joint Powers Subscriber Agreement such that ICRMP is dissolved, all unused consumable supplies, non-consumable supplies or other property or assets acquired by ICRMP shall be disposed of in a manner permissible by law, and the proceeds of such liquidation shall be disbursed to the MEMBERS at a rate proportionate to each MEMBER'S *pro rata* share of the cumulative member contributions paid to ICRMP for the most recent five (5) fiscal years. Said determination of asset distribution shall be made in good faith by the BOARD.

ARTICLE XX. SEVERABILITY.

In the event that any Article, provision, clause or other part of this Agreement should be held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability with respect to other Articles, provisions, clauses, applications or occurrences, and this Agreement is expressly declared to be severable.

ARTICLE XXI. POWER OF ATTORNEY - EXPENSES AND DUTIES.

- (1) To the extent required by Idaho Code Title 41, Chapter 29, and not inconsistent with applicable constitutional and statutory obligations and prerogatives, MEMBER hereby appoints Idaho Counties Risk Management Program, Underwriters (ICRMP), as its Attorney-in-Fact empowered to take all actions and execute all documents which are necessary or appropriate in carrying on the business of insurance through ICRMP on behalf of MEMBER. MEMBER agrees that the Board of ICRMP may delegate powers to an Executive Director in accordance with this Joint Powers Subscriber Agreement.
- (2) The Executive Director appointed by the Board is hereby empowered by the undersigned to accept service of process on behalf of ICRMP. The Director of the Department of Insurance of the State of Idaho is also authorized to receive service of process in actions against ICRMP upon contracts of insurance provided to Subscribers of ICRMP. Such authorization does not supersede the procedural requirements of this Agreement. The general services to be performed by the Executive Director shall include: (a) issuing, underwriting and servicing policies of insurance; (b) contracting with agents for sale and servicing of policies of insurance; (c) executing treaties of reinsurance; and (d) supervising the investment policy of ICRMP. The Executive Director's obligations and liability shall be limited by the terms and conditions of ICRMP's Joint Powers Subscriber Agreement and by the Idaho Tort Claims Act.
- (3) The general items of expense to be paid by ICRMP shall include, but not limited to: (a) losses and claims payments; (b) allocable claims expense; (c) governmental charges, license fees, and lawful taxes; (d) expenses incurred in auditing ICRMP's books and records; (e) contribution amount collection costs; (f) Board expenses; (g) premiums on reinsurance; (h) fees of investment counsel and direct investment expense; (i) salaries and expenses of officers and employees of ICRMP; (j) disbursement of dividends; (k) special expenses authorized by the Board of Trustees of ICRMP; (l) broker and agent commissions; (m) indemnity insurance premiums; (n) home and branch office expense; and (o) actuarial, auditing, legal, risk management and loss prevention expenses.
- (4) The Power of Attorney conveyed herein shall expire upon termination of ICRMP. The policies of insurance issued by ICRMP are subject to payment of member contributions to ICRMP. The liability of each MEMBER for the obligations of ICRMP shall be an individual, several and proportionate liability and not a joint liability. The liability of each MEMBER shall be limited as stated in this Joint Powers Subscriber Agreement provided, however, that in no event shall any MEMBER be required to contribute more than the amount authorized by applicable state statutes and constitutional provisions pursuant to which ICRMP is established.

ARTICLE XXII. MISCELLANEOUS PROVISIONS - NOTICE.

- (1) The provisions of this Agreement shall be interpreted pursuant to the laws of the State of Idaho.
- (2) The parties hereto consent that courts in the State of Idaho shall have jurisdiction over any dispute arising under this Agreement after exhaustion of the dispute resolution procedures provided for herein. If reasonable attorney fees are incurred in enforcing provisions of this Agreement in a court of law, the prevailing party to such an action shall be entitled to reimbursement of its reasonable attorney fees.
- (3) No waiver of any breach of this Agreement or any provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any of the other provisions herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligations or acts.
- (4) In the event that any provision of this Agreement is in conflict with or is incompatible with the MEMBER'S Policy issued hereunder, the terms and conditions of the MEMBER'S Policy shall prevail and take precedence.
- (5) This Agreement may be modified or amended by a written agreement entered into by the BOARD. Provided, however, no such modification shall be effective retroactively, nor as to any insurance contract or coverage issued prior thereto. Said modifications may be made effective during a Policy Year only to comply with applicable laws respecting operation of ICRMP or with express consent of the MEMBER. Changes may be made to the policy of insurance issued by ICRMP at any time during the policy year in accordance with rules or statutes governing the business of insurance within the State of Idaho. If a MEMBER does not accept changes made during a policy year, its sole remedy shall be to cancel future coverage, subject to a proportionate refund of any *pro rata* member contributions already paid, less equitable commission and administrative charges.
- (6) MEMBER agrees to hold ICRMP, its employees, contractors, and/or legal counsel, harmless and without liability to MEMBER from any claims arising out of loss control or related administrative activities undertaken for Subscriber's benefit. ICRMP assumes no responsibility for the lawful operation of MEMBER'S POLITICAL SUBDIVISION. MEMBER further agrees that communications with attorneys on the ICRMP staff or retained by the Program to assist a MEMBER to resolve or avoid claims will remain confidential pursuant to the Attorney-Client privilege and that written materials generated as a consequence of such effort to assist MEMBER shall constitute attorney work product. MEMBER further agrees that the employees, contractors and/or legal counsel of ICRMP when acting in a loss control capacity are representing ICRMP, not MEMBERS, and that information obtained in such loss control capacity may be provided to ICRMP in order to carry out the purposes of this Joint Powers Subscriber Agreement.

- (7) All notices required to be given under this Agreement shall be delivered in writing. Notices by a MEMBER to ICRMP shall be sent to ICRMP'S principal place of business. Notices to any Subscriber shall be sent to the Subscriber's last known address. In the event that any party to this Agreement desires to change its address, notice of change of address shall be sent to the other party by United States Mail in accordance with the terms and provision of this Article.

ARTICLE XXIII. EXECUTION AND ATTEST.

In Witness hereof, this Agreement is executed on the ____ day of _____ 20____, by the undersigned who are duly authorized officer(s) of the Political Subdivision indicated below and by the Idaho Counties Risk Management Program, Underwriters (ICRMP), pursuant to action taken by the Governing Board of the MEMBER on the ____ day of _____ 20____. Such execution upon this Agreement or upon execution of a prior counterpart accompanied by continuing renewal shall constitute agreement by the POLITICAL SUBDIVISION to the terms and conditions of member ship in ICRMP until proper written notice of withdrawal is provided or until a MEMBER is cancelled or expelled as provided herein. Signature required for new membership. Renewal occurs by approval of binder and payment of MEMBER CONTRIBUTION.

POLITICAL SUBDIVISION: _____

By: _____
CHAIRMAN OF THE BOARD, MAYOR, OR OTHER
EXPRESSLY AUTHORIZED OFFICER

Title: _____

Attest/Witness: _____
CLERK OR OTHER AUTHORIZED OFFICER

ACCEPTED FOR THE IDAHO COUNTIES RISK MANAGEMENT
PROGRAM, UNDERWRITERS (ICRMP)

By: _____
EXECUTIVE DIRECTOR