CLAIM RESOLUTION PROCEDURE

In accordance with Resolution 13-13 (a “Resolution Adopting Procedures to Resolve Claims relating to Tropical Storm Sandy”), which established a Special Claims Committee comprised of various municipality representatives, and in an effort to expedite the disbursement of insurance funds for Sandy Claims in a fair and equitable manner, the Municipal Excess Liability Joint Insurance Fund (the “MEL” and the “JIF”) and Zurich American Insurance Company (“Zurich”) have established the following claim resolution procedures.

I. REPORTING OF THE CLAIM

As set forth in Dorsey & Semrau’s July 1, 2013 Memorandum to the Member Municipalities (“Members”) and Housing Authorities, the MEL has requested that Members report any Sandy-related insurance claims to the local JIF-assigned third-party administrator (“JIF TPA”) by September 1, 2013. (For a list of JIF TPAs, see X.) If you previously have reported a claim to the JIF TPA and have documentation showing that the claim was reported, you do not need to report the claim again. If you previously have reported a claim to FEMA, you must forward the claim documentation to the JIF TPA by September 1, 2013.

If the claim is under $100,000, the MEL TPA, Qual-Lynx, will adjust the loss.

If the claim exceeds $100,000, Qual-Lynx shall report the claim to Vericlaim, Inc. (“Vericlaim”), the independent claims adjuster for Zurich, and Vericlaim shall adjust the loss.

II. CLAIM PROCEDURES

A. Flood Claims

1. For flood claims, it is expressly understood and agreed that coverage under the Zurich policy is subject to a $50 million aggregate sub-limit for all loss or damage arising from Flood. The entire Sandy loss for all insured Members is collectively subject to this single $50 million flood sub-limit. It is further expressly understood and agreed that the Zurich policy contains various other sublimits, which may be included within the $50 million aggregate Flood sublimit and do not serve to increase that aforementioned $50 million Flood sublimit. Coverage under the Policy is also subject to all of the terms and conditions of the Policy. To date, a portion of the $50 million aggregate flood sub-limit has already been eroded.

1. A Member may resolve its flood claim as follows:

   a. Agreeing to the loss adjustment that has or will be presented by the TPA; or
b. Providing documentation to establish that its loss is greater than the loss adjustment provided by the TPA, in the event the Member disagrees with the loss adjustment presented by the TPA. In such case, the TPA will reconsider the information and revise the adjustment if warranted.

If the Member and the TPA are able to reach an agreement relative to the flood claim through the adjustment process described in Section II.A.2.a. or b., the Member shall sign a full release of the flood claim in favor of MEL, JIF, and Zurich. Payment shall be issued within 15 days after the flood funds are allocated among the various Members in accordance with the procedures set forth in Section V of this agreement.

Inasmuch as flood losses are subject to the aforementioned aggregate flood sub-limit of $50 million, some of which has already been paid, the flood claims will be pro-rated in accordance with the procedures set forth in Section V below. It is understood that a complete adjustment and final payment of a flood claim may not be possible until the flood claims of all Members are resolved. This includes claims subject to the claim resolution process and those that are not. Every effort will be made by MEL, JIF, and Zurich to issue partial payment on the flood claims while continuing to work with all Members to resolve their flood claims either through the adjustment process described in this Section II or the Dispute Resolution Procedure set forth in Section IV.

If the member and the TPA cannot agree to a loss adjustment amount under II.A.2.a or b., then the Member shall have the option to resolve the disputed portion of the claim as set forth below in Section IV by signing an Opt-In Agreement as discussed in Section III below.

B. Wind Claims

2. It is expressly understood and agreed that coverage under the Zurich policy is subject to a $125 million Policy limit of liability, subject to various sub-limits including the $50 million flood sub-limit, all of which may erode and not increase the Policy limit of liability. Coverage under the Policy is also subject to all of the terms and conditions of the Policy.

3. A Member may resolve its wind claim by:

a. Agreeing to the loss adjustment that has or will be presented by the TPA; or,

b. Providing documentation to establish that its loss is greater than the loss adjustment provided by the TPA, in the event the Member disagrees with the loss adjustment presented by the TPA. In such case, the TPA will reconsider the information and revise the adjustment if warranted.
If the Member and the TPA are able to reach an agreement relative to the wind claim through the adjustment process described in Section II.B.2.a or b., the Member shall sign a full release of the wind claim in favor of MEL, JIF, and Zurich. Payment shall be issued by Zurich for the wind claim within 15 days of execution of the release agreement.

If the Member and TPA cannot agree to a loss adjustment amount under II.B.2.a or b., then the Member shall have the option to resolve the disputed portion of the claim as set forth below in Section IV by signing an Opt-In Agreement as discussed in Section III below.

III. DISPUTE RESOLUTION OPT-IN DATE

If a Member has timely reported its Sandy insurance claim by September 1, 2013 and the Member cannot reach a resolution of the claim with the TPA, Zurich or the TPA will provide an Opt-In Agreement whereby the Member can participate in the dispute resolution process outlined in Section IV below. The Member will have fourteen (14) days from the date of receipt of the Opt-In Agreement to execute and return it to Zurich or the TPA.

If a Member chooses not to opt in to the claim resolution procedure set forth in Section IV below, the amount of the claim as determined by the TPA will be used to determine the pro-rata flood allocation as outlined in Section V below.

**By opting in to the Claim Resolution Process, the Member agrees to abide by the claim procedures set forth in Sections IV and V below and to accept the award made by either the mediator or, if the claim cannot be resolved during mediation, by the Level I or Level II Special Hearing Master. The Member expressly agrees to forego any and all rights to bring an action against the MEL, the JIF, and/or Zurich relating in any way to the Member’s Sandy claim or the manner in which the Sandy claim has been handled.**

IV. DISPUTE RESOLUTION PROCEDURE

If the Member and the TPA cannot resolve the claim by the methods set forth in Section II, a Member who has executed an Opt-In Agreement will participate in the following dispute resolution process:

A. Mediation

1. Once an Opt-In Agreement is signed, a mediation date will be scheduled wherein a Special Mediation Master shall preside. The Special Mediation Master shall be Alexander H. Carver, III, or someone else who may be assigned by the Special Subcommittee of the MEL.
2. If a wind claim is resolved during the mediation, the Member shall sign a full release of that claim in favor of MEL, JIF, and Zurich. Payment shall be issued by Zurich for the wind claim within 15 days of execution of the release agreement.

3. If a flood claim is resolved during the mediation, the Member shall sign a full release of that claim in favor of MEL, JIF, and Zurich. As noted, inasmuch as flood losses are subject to the aggregate flood sub-limit of $50 million, some of which has already been eroded, the flood claims will be prorated in accordance with the procedures set forth in Section V. The Special Mediation Master selected by the Special Subcommittee of the MEL, shall have discretion to award an appropriate partial payment considering the available flood limits, until such time that the final flood payment can be made after the proration of the remaining flood limits.

4. If the claim does not resolve through the mediation process, the claim will proceed to a hearing as set forth below in Section IV.B.

5. Discussions at the mediation shall remain privileged and confidential and may not be used for any purpose against any party to this Agreement in any forum, legal or otherwise.

B. Hearing

If the claim cannot be resolved during the Mediation as described above in Section IV.A, the claim will be scheduled for a hearing before a Level I or Level II Special Hearing Master, depending on the amount of the insurance claim.

1. Level I Hearing

Claims to be Resolved by a Level I Hearing

Any claim involving only flood damage or which includes wind damage of less than $50,000, shall proceed to a Level I Hearing if not resolved through the procedures set forth in section II or IV.A above.

Level I Special Hearing Master Authority

The Level I Special Hearing Master selected by the MEL Special Claim Subcommittee, Theodore Bozonelis, or someone else assigned by the Special Claim Subcommittee, shall preside over the Level I hearing and shall have the authority to resolve the following disputes:
1. Whether the claimed loss is covered under the Zurich policy, subject to the limits set forth in the Zurich policy and as described, in part, in Sections II.A.1 and II.B.1 of this agreement; and

2. A determination of the amount of loss.

The Level I Hearing Master does not have the authority to award more than $50,000 for wind damage.

With respect to any flood claim, the limits under the Zurich policy are set forth in the Declarations of the Zurich policy and in section II.A.1. of this agreement. The Level I Special Hearing Master is bound by these limits and has no authority to increase the $50 million flood aggregate limit or the various other limits and sublimits as set forth in the Zurich Policy. The limits and sublimits of the Zurich Policy remain in effect, are not altered or modified by this Claim Resolution Procedure, and Zurich’s agreement to pay any award is limited to the extent any of the limits or sublimits of the Policy have been eroded or exhausted.

Level I Hearing Procedures

Prior to the hearing, each party may prepare a pre-hearing memorandum that shall set forth the party’s position and any legal authority in support of that position. Any such memorandum shall be submitted to the Level I Special Hearing Master and the other party five days before the hearing. The submission of the pre-hearing memorandum is in the sole discretion of each party and is not required.

At the hearing, the parties are bound by the following rules:

1. Although not required to do so, either party may have counsel present.

2. The Member, as the claimant, shall present its case first. The Member shall have the right to present its case by witnesses and/or documentation.

3. Zurich shall then present its case. Zurich shall have the ability to present its case by witnesses and/or documentation.

4. Each party may cross-examine the other party’s witnesses.

5. The Level I Special Hearing Master shall have the authority to determine the relevance, credibility and admissibility of evidence. The Special Hearing Master shall have the right to enforce or relax the Rules of Evidence and Rules of Procedure as he sees fit.
6. After both sides present their case, the Member shall present its position in the form of a closing argument and then Zurich shall present its position in the form of a closing argument.

**Level I Hearing – Ruling, Post-Hearing Procedures, Release and Payment**

The Level I Special Hearing Master may, in his sole discretion, issue a ruling at the close of the hearing. Although a ruling at the hearing may be oral, the Level I Special Hearing Master will provide the parties with a written decision within a week of the oral decision.

If the Level I Special Hearing Master is not prepared to issue a ruling at the hearing, he may request that the parties submit post-hearing letter briefs. Such letter briefs shall be submitted within 15 calendar days of the hearing. The Special Hearing Master shall issue his written decision within 30 days of receipt of the post-hearing submissions.

The decision rendered by the Level I Special Hearing Master is final and binding on the Member.

If a decision is rendered on a wind claim, the Member shall sign a full release of the wind claim in favor of MEL, JIF, and Zurich. Payment shall be issued by Zurich for the wind claim within 15 days of execution of the release agreement.

If a decision is rendered on a flood claim, the Member shall sign a full release of the flood claim in favor of MEL, JIF, and Zurich. Inasmuch as flood losses are subject to the aggregate flood sub-limit of $50 million, some of which has already been eroded, the flood claims will be prorated in accordance with the procedures set forth in Section V. The Special Mediation Master selected by the Special Subcommittee of the MEL, shall have discretion to award an appropriate partial payment considering the available flood limits, until such time that the final flood payment can be made after the proration of the remaining flood limits.

2. **Level II Hearing**

**Claims to be Resolved by a Level II Hearing**

Any claim including wind damage of greater than $50,000, shall proceed to a Level II Hearing if not resolved through the procedures set forth in section II or IV.A above.

**Level II Special Hearing Master Authority**
The Level II Special Hearing Master selected jointly by Zurich and MEL, shall preside over the Level II hearing and shall have the authority to resolve the following disputes:

1. Whether the claimed loss is covered under the Zurich policy subject to the limits set forth in the Zurich policy and as described, in part, in Sections II.A.1 and II.B.1 of this agreement; and

2. A determination of the amount of loss.

The Level II Hearing Master does not have the authority to award more than the policy limit of $125 million for all claims (both wind and flood) combined.

With respect to any flood claim, the limits under the Zurich policy are set forth in the Declarations of the Zurich policy and in section II.A.1. of this agreement. The Level II Special Hearing Master is bound by these limits and has no authority to increase the $50 million flood aggregate limit or the various other limits and sublimits as set forth in the Zurich Policy. The limits and sublimits of the Zurich Policy remain in effect, are not altered or modified by this Claim Resolution Procedure, and Zurich’s agreement to pay any award is further limited to the extent any of the limits or sublimits of the Policy have been eroded or exhausted.

Additional Documentation and Inspections

Once the parties are notified of the Member’s decision to proceed to a Level II Hearing, each party is entitled to request from the other party documents and/or additional inspections of property in the opposing party’s possession that may be relevant to the Member’s claim or Zurich’s defense thereof. The party receiving said request shall produce said documents or make property available for inspection within 30 days of the request. Any objections to such a request may be presented to the Level II Special Hearing Master for a binding resolution. The documents requested shall be produced (subject to any resolution by the Level II Special Hearing Master) at least one week prior to the Level II hearing date.

Level II Hearing Procedures

Prior to the hearing, each party shall prepare a pre-hearing memorandum that shall set forth the party’s position, any legal authority in support of that position, and an identification of all documents and witness testimony that will be presented by the party at the hearing. The memorandum shall be submitted to the Level II Special Hearing Master and the other party 15 days before the hearing.
At the hearing, the parties are bound by the following rules:

1. Although not required to do so, either party may have counsel present.

2. The Member, as the claimant, shall present its case first. The Member shall have the right to present its case by witnesses and/or documentation.

3. Zurich shall then present its case. Zurich shall have the ability to present its case by witnesses and/or documentation.

4. Each party may cross-examine the other party’s witnesses.

5. The Level II Special Hearing Master shall have the authority to determine the relevance, credibility and admissibility of evidence. The Special Hearing Master shall have the right to enforce or relax the Rules of Evidence and Rules of Procedure as he sees fit.

6. After both sides present their case, the Member shall present its position in the form of a closing argument and then Zurich shall present its position in the form of a closing argument.

Level II Hearing – Ruling, Post-Hearing Procedures, Release and Payment

The Level II Special Hearing Master may, in his sole discretion, issue a ruling at the close of the hearing. Although a ruling at the hearing may be oral, the Level II Special Hearing Master will provide the parties with a written decision within a week of the oral decision.

If the Level II Special Hearing Master is not prepared to issue a ruling at the hearing, he may request that the parties submit post-hearing letter briefs. Such letter briefs shall be submitted within 21 calendar days of the hearing. The Special Hearing Master shall issue his written decision within 30 days of receipt of the post-hearing submissions.

The decision rendered by the Level II Special Hearing Master is final and binding on the Member.

If a decision is rendered on a wind claim, the Member shall sign a full release of the wind claim in favor of MEL, JIF, and Zurich. Payment shall be issued by Zurich for the wind claim within 15 days of execution of the release agreement.

If a decision is rendered on a flood claim, the Member shall sign a full release of the flood claim in favor of MEL, JIF, and Zurich. Inasmuch as
flood losses are subject to the aggregate flood sub-limit of $50 million, some of which has already been eroded, the flood claims will be prorated in accordance with the procedures set forth in Section V. The Special Mediation Master selected by the Special Subcommittee of the MEL, shall have discretion to award an appropriate partial payment considering the available flood limits, until such time that the final flood payment can be made after the proration of the remaining flood limits.

V. DETERMINATION OF PRO RATA DISTRIBUTION OF FLOOD PROCEEDS

As set forth above, it is possible that the $50 million aggregate flood sublimit will be exhausted. It also is possible that various other sublimits may be exhausted. For this reason, the Special Mediation Master selected by the Special Subcommittee of the MEL will make a fair and equitable determination of pro rata distributions, taking into account the following factors:

1. The amounts agreed to by the TPA and Members for flood claims resolved during the adjustment process described in Section II above;

2. The amounts awarded for flood claims during mediation as described in Section IV.A. above;

3. The amounts awarded for flood claims during Level I and II hearings as described in Section IV.B. above;

4. The TPA’s estimates for flood claims that did not resolve during the adjustment process and for which the Member elected not to opt in to the Dispute Resolution Procedure outlined in Section IV of this agreement; and

5. The flood payments already made during the adjustment process and the partial flood payments made as outlined in Sections II and IV of this agreement.

Under no circumstances will Zurich be required to pay more than $50 million for all flood claims combined.

In the event it appears that any other of the sub-limits of the Zurich Policy may potentially become exhausted, the Special Mediation Master may also determine a fair and reasonable pro-rata of distribution of such sub-limits.