

PROCEDURES FOR THE RESOLUTION
OF U.S. INSURANCE AND REINSURANCE
DISPUTES

SEPTEMBER 1999

DISCLAIMER

The Reinsurance Dispute Resolution Task Force recommends that interested parties consult their own legal counsel concerning these Procedures, their use or interpretation.

These Procedures do not necessarily express the views of individual members of the Reinsurance Dispute Resolution Task Force or the firms or entities for which they work or which they represent.

FOREWARD

The insurance and reinsurance industries have long recognized the value of alternative dispute resolution mechanisms, demonstrated by the fact that arbitration clauses can be found in reinsurance contracts dating as far back as the early 1800's.

The purpose of these Procedures is to formalize what has been, until now, an ad hoc, albeit highly developed, process used by the industry for decades. While various alternative dispute resolution service providers have developed generic arbitration procedures, and the members of the Task Force appreciate those efforts, the Task Force believes that specific industry procedures are beneficial, and needed, in order to combine the experience reflected in the generic procedures with the custom and practice developed in the insurance and reinsurance industries.

It is the hope of the Task Force members that the Procedures for the Resolution of U.S. Insurance and Reinsurance Disputes will provide a helpful framework for the conduct of future industry arbitrations and a sense of greater certainty at the time of entering into contracts about how disputes will be handled in the unfortunate event that they arise.

INTRODUCTION

The Reinsurance Dispute Resolution Task Force (Task Force) was established in the fall of 1997. Its mission was to:

Improve the reinsurance dispute resolution process by identifying common problems and recommending industry-wide, flexible, business-like solutions.

The Task Force undertook a variety of tasks, one of which was to draft a set of procedures that could be utilized by the insurance and reinsurance industries for the resolution of their contractual disputes. This set of procedures is referred to as the Procedures for the Resolution of U.S. Insurance and Reinsurance Disputes (Procedures).

In undertaking this effort, the Task Force attempted to balance several goals. One was to set forth, in writing, the actual practice that exists in insurance and reinsurance arbitrations today. The second was to enhance and clarify minor procedural issues that sometimes result in unnecessary skirmishes between Parties. And the third, was to tackle some of the major issues that cause a lack of confidence and inefficiencies in the current system, and recommend alternative procedures that might result in greater fairness and a higher level of certainty to the Parties.

An example of this third goal is the umpire selection process created in article 6 of the Procedures. The often-used process of selecting an umpire by lot (in the absence of agreement) is a random, arbitrary one which is prone to potential manipulation. The umpire selection process reflected in article 6 is intended to encourage parties to reach agreement on an umpire and remove or reduce the potential for manipulation, arbitrariness or chance in the event that agreement cannot be reached. It is intended to motivate the parties to select competent, well-qualified individuals.

In the process of drafting the Procedures, the Task Force considered and, in some cases, debated, at length, many topics. The resolution of some of those issues are reflected in these Procedures. However other issues, though they were fully considered, are ones on which the Task Force took no position and are not addressed in these Procedures. Examples include the precedential or collateral effect of arbitration awards and the designation of a choice of law provision.

Although the Task Force addressed the issue of consolidation involving multiple reinsurers, the same contract and the same loss, the Task Force declined to address other circumstances where consolidation might arise. The decision of the Task Force to limit its consideration of consolidation to the circumstances described in the optional provision in the sample arbitration clause should not be construed as an indication of whether Task Force members believed consolidation was appropriate in other circumstances.

The Task Force, as a whole, believes that the Procedures are an important step forward in preventing unnecessary friction in the arbitration process and providing parties with more certainty regarding what to expect from the process. It is hoped that contracting parties will consider incorporating these Procedures in their future contracts or, through a separate agreement, applying them to their existing relationships. Parties should feel free to incorporate them, as written, or with modifications appropriate to their unique situations.

September 1999

September 1999

**GUIDELINES FOR USE WITH THE
PROCEDURES FOR THE RESOLUTION OF
U.S. INSURANCE AND REINSURANCE DISPUTES**

When incorporating the Procedures for the Resolution of U.S. Insurance and Reinsurance Disputes (Procedures) into a contract, there are three (3) items that should be considered by the contracting parties and a number of optional items that the parties may choose to consider.

It is the intent of these Guidelines to assist the contracting parties in the proper incorporation of the Procedures to ensure that inadvertent omissions do not result in unintended consequences in the event of a dispute.

Required Considerations

1. The parties should specifically refer to the Procedures and their intent to utilize them in the event of any dispute. A sample of such a clause is the following:

Unless both parties manually agree to waive arbitration with respect to a particular dispute, the parties to this Contract hereby agree that binding arbitration shall be the sole remedy for any and all disputes arising between them with reference to any transactions, terms or conditions under this Contract, including its formation and validity. Except as provided herein,¹ any arbitration shall be based, insofar as applicable, upon the Procedures for the Resolution of U.S. Insurance and Reinsurance Disputes, dated September 1999 (the "Procedures").²

2. The parties should indicate in the arbitration clause which set of arbitrator and umpire qualifications they intend to incorporate from the Procedures. Paragraph 6.2 of the Procedures requires designation of individuals who are current or former officers, or executives of an insurer or reinsurer, while Alternative ¶6.2 of the Procedures broadens those qualifications to some extent.

Sample language could be used as follows:

Qualifications of the arbitrators and umpires shall be in accordance with [insert ¶6.2 or Alternative ¶6.2].

3. The parties should indicate what list of default umpires will be used in the event that they are unable to agree on an umpire. Paragraph 6.7 of the Procedures contemplates that the parties will designate this list in their contract.

¹ This sentence contemplates that the contracting parties intend to delete, add to or modify the Procedures drafted. If the parties do not intend any modification to the Procedures, the phrase "Except as provided herein" can be deleted.

² The parties may choose not to specify a particular version of the Procedures or may choose to incorporate a subsequently amended version to the extent one then exists.

Sample language that could be used is the following:

The parties hereby designate the umpire list maintained by [insert name of entity maintaining list] as the list to be used in the event that ¶6.7(a) of the Procedures is invoked.³

Optional Considerations

Although not necessary, the parties may consider whether or not to include the following items in their arbitration clause. Please note that this list is suggestive, not exhaustive.

1. Location of arbitration.
2. Consolidation. If the parties choose to include a consolidation provision, it might provide as follows:

If more than one reinsurer is involved in the same dispute arising out of the same contract and relating to the same loss, all such reinsurers shall constitute and act as one Party for the purposes of these Procedures. Communications shall be made by the ceding insurer to each of the reinsurers constituting one Party. Nothing in this paragraph, or any other provision of these Procedures, shall be construed to impair the rights of such reinsurers to assert several, rather than joint, defenses or claims, nor shall any such provision be construed to change the liability of a reinsurer with respect to a reinsurance agreement, from several to joint.

3. Choice of Law.
4. Language addressing the survivability of the arbitration clause. Sample language may be used such as the following:

This article shall survive the termination of this Contract.

³ Selection of a particular entity may result in that entity administering the process provided in ¶6.7.

**PROCEDURES FOR THE RESOLUTION
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September 1999

1. INTRODUCTION

- 1.1 These procedures shall be known as the Procedures for the Resolution of U.S. Insurance and Reinsurance Disputes (“Procedures”). When an agreement, submission or reference provides for or otherwise refers to arbitration under the Procedures for the Resolution of U.S. Insurance and Reinsurance Disputes, the Parties agree that the arbitration shall be conducted in accordance with these Procedures.
- 1.2 The Parties may agree on any procedures not specified herein or may alter these Procedures by written agreement. Any such Party-agreed procedures shall be enforceable as if contained in these Procedures. These Procedures shall control any matters not changed by the Party-agreed procedures.
- 1.3 Certain provisions are accompanied by explanatory notes. If any note conflicts in any way with the Procedures, the Procedures shall prevail.
- 1.4 Any dispute concerning the interpretation of these Procedures shall be determined by the Panel.
- 1.5 The Panel shall have all powers and authority not inconsistent with these Procedures and the Agreement of the Parties.

2. DEFINITIONS

- 2.1 *Arbitration Agreement* - an agreement to submit present or future disputes to arbitration, whether contained in a reinsurance contract or other written agreement.
- 2.2 *Arbitration Award or Award* - includes the final award described in ¶15.2 and any interim awards.
- 2.3 *Disinterested* - as used in ¶6.1 and ¶16.4 means that no member of the Panel shall be under the control of either Party, nor shall any member of the Panel have a financial interest in the outcome of the arbitration.
- 2.4 *Notice of Arbitration* - the notice sent by the Petitioner in accordance with ¶4.1.
- 2.5 *Panel* - the body charged with determining the dispute as defined by ¶6.1.
- 2.6 *Party or Parties* - the Petitioner and the Respondent and any other individuals or entities voluntarily, by compulsion or contractually joined in the proceedings.

- 2.7 *Petitioner* - the Party who commences arbitration.
- 2.8 *Procedures* - as defined by article 1.
- 2.9 *Respondent* - a Party against whom arbitration is commenced.
- 2.10 *Response* - the Response to the Notice of Arbitration sent by the Respondent in accordance with ¶5.1.

3. NOTICE AND TIME PERIODS

Notices

- 3.1 Notices under these Procedures are deemed to be given if delivered, in accordance with ¶3.2, to a Party's principal place of business or other address designated by the Party or if delivered to another entity designated by the Party in the reinsurance contract or other written agreement.
- 3.2 Notices required to be given under these Procedures are deemed to be given:
 - (a) if sent by fax, on the date transmitted;
 - (b) if sent by mail, upon delivery;
 - (c) if sent by certified, registered mail or another service which produces a receipt, as indicated on the receipt.

Note to 3.2 - Notices of Arbitration, Responses to Notices of Arbitration and Appointment of Arbitrators, should where possible, be given in a manner that produces proof of receipt (registered or certified mail or courier). After the arbitration has been commenced, notices and correspondence should, where possible, be given by instantaneous (fax or e-mail) or other expedited manner of communication.

Time Periods

- 3.3 When calculating any time period under these Procedures, the period shall start to run from the day immediately after that upon which notice is given. Time will then run continuously (including non-business days). If a time period expires at the end of a non-business day in the country of the recipient, the time period will be deemed extended until the end of the first following business day.

4. COMMENCEMENT OF ARBITRATION PROCEEDINGS

- 4.1 An arbitration should be initiated by a demand, in writing, that identifies the (1) Petitioner and the name of the contact person to whom all communications are to be

addressed (including telephone, fax and e-mail information); (2) Respondent, as identified in the reinsurance contract, against whom arbitration is sought; (3) contract at issue; and (4) nature of the claims and/or issues.

- 4.2 The arbitration is commenced under these Procedures on the date the Respondent, or its designated representative, receives the Notice of Arbitration.
- 4.3 The Petitioner shall identify its Party-appointed arbitrator in accordance with ¶6.3.

5. *RESPONSE BY RESPONDENT*

- 5.1 Parties who receive a demand for arbitration shall respond to the demand, in writing, within 30 days, and such Response should contain the (1) identification of the entities on whose behalf the Response is sent and the name of the contact person to whom all communications are to be addressed (including telephone, fax and e-mail information); (2) designation of the Respondent's Party-appointed arbitrator, in accordance with ¶6.3; and (3) identification of any claims of the Respondent.

6. *APPOINTMENT AND COMPOSITION OF THE PANEL*

- 6.1 The Panel shall consist of three Disinterested arbitrators, one to be appointed by the Petitioner, one to be appointed by the Respondent and the third to be appointed by the two Party-appointed arbitrators. The third arbitrator shall serve as the umpire, who shall be neutral.
- 6.2 The arbitrators and umpire shall be persons who are current or former officers or executives of an insurer or reinsurer.

Alternative 6.2: The arbitrators and umpire shall be persons who are current or former officers or executives of an insurer or reinsurer or other professionals with no less than ten years of experience in or serving the insurance or reinsurance industry.⁴

- 6.3 Within thirty (30) days following the commencement of arbitration proceedings, each Party shall provide the other Party with the identification of its Party-appointed arbitrator, his or her address (including telephone, fax and e-mail information), and provide a copy of the arbitrator's curriculum vitae.

⁴ In the event that the Parties fail to designate in the Arbitration Agreement, whether ¶6.2 or Alternative ¶6.2 applies, the Parties shall, in the absence of agreement, default to the use of ¶6.2.

- 6.4 In the event that either Party fails to appoint an arbitrator within 30 days of commencement of the arbitration, the non-defaulting Party will appoint an arbitrator to act as the Party-appointed arbitrator for the defaulting Party.
- 6.5 The umpire shall be appointed by the two Party-appointed arbitrators as soon as practical (but no later than 30 days) after the appointment of the second arbitrator.
- 6.6 The Party-appointed arbitrators may consult, in confidence, with the Party who appointed them concerning the appointment of the umpire.
- 6.7 (a) Where the two Party-appointed arbitrators have failed to reach agreement on an umpire within the time specified in ¶6.5, each Party shall exchange, within 7 days thereafter, eight names of individuals chosen from the list maintained by _____ for the purpose of umpire selection.⁵
- (b) Within 7 days of the exchange of names as set forth in 6.7(a), the Party arbitrators shall send a joint request to the umpire candidates to complete an umpire questionnaire. Candidates will be requested to return such questionnaire to each Party arbitrator so that it is received within 20 days from the date the questionnaire is sent. If any individual fails to return a questionnaire within the required time period or refuses to serve, the process set forth in this article shall continue with the remaining names. In the event that one Party's candidate pool of 8 individuals is reduced due to the failure to return questionnaires or refusals to serve, the other Party shall, within 7 days, reduce its candidate pool to the same number of individuals. If, however, one Party's candidate pool falls below 3 individuals, that Party shall, within the same 7 days, name additional individuals to replenish its candidate pool to 3 individuals from the list designated in subparagraph (a). Each additional candidate shall be asked by the Parties to complete an umpire questionnaire and return such questionnaire to each Party within 20 days from the date the questionnaire is sent. During the same 7 day period that the candidate pool is being replenished to 3 individuals, the other Party shall reduce its candidate pool to 3 individuals. Both Parties shall proceed in accordance with subparagraph (d) with 3 individuals each.
- Note to 6.7(b)* - After the return of the questionnaires, if there are common individuals on the Parties' lists, the Parties are encouraged to reach agreement among those individuals without having to proceed to the ranking process.
- (c) Within 7 days after the process in subparagraph (b) is completed, each Party shall select three names from the other Party's list and notify the other Party of such selection.

⁵ The Parties should insert an entity that maintains a list of arbitrators and/or umpires such as the American Arbitration Association, ARIAS (U.S.) or other organization maintaining a list acceptable to the Parties.

- (d) Within 7 days after receiving the other Parties' selections as set forth in subparagraph (c), each Party shall rank each of the 6 selected umpire names in order of preference, with the number "1" being the most preferred and notify the other Party of such ranking. The individual with the lowest total numerical ranking shall act as umpire. If the ranking results in a tie, the Parties shall draw lots from among the individuals tied for the lowest total numerical rank. The individual chosen by lot shall act as umpire.
- (e) If either Party fails to meet the time periods required in this ¶6.7, the non-defaulting Party will appoint the umpire from its original candidate pool identified in subparagraph (a).

Note to 6.7 - Unilateral contact between a Party-appointed arbitrator and an individual considered for appointment as a default umpire under this paragraph should not be permitted. It is intended that the individuals named not be advised of which Party initiated their selection.

- 6.8 If after appointment any Party-appointed arbitrator is unable or unwilling to serve, the Party who originally appointed the arbitrator shall appoint a replacement within 14 days of the Party's receipt of notification of the arbitrator's unavailability. If the Party fails to do so, the non-defaulting Party will appoint a replacement within 14 days.
- 6.9 If after appointment an umpire is unable or unwilling to serve, a replacement umpire shall be chosen by the two Party-appointed arbitrators as soon as practical (but no later than 14 days) after notification of the umpire's inability or unwillingness to serve. Where the two Party-appointed arbitrators are unable to reach agreement, the parties shall appoint a replacement umpire in accordance with the procedure set forth in ¶6.7.
- 6.10 Unless otherwise awarded by the Panel pursuant to ¶15.3, each Party shall bear the costs of its Party-appointed arbitrator and shall share equally the cost of the umpire.

7. CONFIDENTIALITY

- 7.1 All meetings and hearings of the Panel are private and confidential to the Parties. Only the Panel, the Parties, the duly authorized representatives of the Parties and others participating in the proceedings may be admitted to meetings and hearings.
- 7.2 The Panel and the Parties shall use their best efforts to maintain the confidential nature of the arbitration proceedings and the Award, including the hearing and any written explanation of the Award, except (a) as necessary in connection with a judicial proceeding relating to the arbitration or the Award; (b) as otherwise required by law, regulation, independent accounting audit or judicial decision; (c) to support reinsurance or retrocessional recoveries; or (d) as otherwise agreed by the Parties. The Parties shall use their best efforts to maintain this confidentiality when pursuing any of the exceptions

set forth in this paragraph, including the filing of pleadings under seal when permitted.

8. INTERIM RELIEF

8.1 A Panel may issue orders for interim relief, including pre-award security.

9. LOCATION OF PROCEEDINGS

9.1 The location of all proceedings shall be at a place specified in the Arbitration Agreement or as otherwise agreed to by the Parties. In the absence of agreement, the location shall be in a convenient location as determined by the Panel.

10. PRE-HEARING PROCEDURE

Organizational Meeting

- 10.1 The Panel shall conduct an organizational meeting with the Parties and any authorized representatives for the purposes of clarifying the focus of the arbitration hearing, resolving any outstanding issues relating to the conduct of the hearing and establishing a schedule for the conduct of the proceedings in general. The organizational meeting may be conducted by telephone if agreed to by the Parties or, in the absence of agreement, if determined appropriate by the Panel.
- 10.2 At the organizational meeting, all members of the Panel shall reveal on the record their past, present and any known future business and personal relationships with the Parties, the Parties' counsel, with other Panel members, and with potential witnesses if identified in documents provided the Panel members. Once disclosures have been made by all Panel members, Parties may be asked by the Panel to accept the Panel as duly constituted.
- 10.3 At the organizational meeting, each Party-appointed arbitrator shall disclose whether communications with the appointing Party or its counsel have taken place. In complying with this disclosure requirement, it is sufficient that the Party-appointed arbitrator disclose the fact that such communication has occurred without disclosing the content of the communication except that Party-appointed arbitrators shall identify any documents that they have examined relating to the proceeding. Such documents shall be furnished to the remainder of the Panel and the other Party.
- 10.4 The Panel may require that each Party submit concise written statements of position, including summaries of the facts and evidence a Party intends to present, discussion of the applicable law and the basis for the requested Award or denial of relief sought. The statements, which may be in letter form, shall be provided to the other Party and the Panel at least 7 days prior to the organizational meeting.

- 10.5 A formal record or transcript of the organizational meeting shall be kept, unless waived by the Parties. The cost of the record or transcript shall be shared equally by the Parties. The Panel shall place on the record the disclosures required by ¶10.2.
- 10.6 The Panel may allow the parties to present a brief overview of the matters set forth in ¶10.4, whether or not written submissions were requested or received by the Panel.
- 10.7 The Panel shall address the following:
- (a) Establish a date for the cut-off of all ex-parte communications between the Parties and their Party-appointed arbitrators;
 - (b) Outstanding issues, if any, concerning fees or payment schedules of the arbitrators and/or the umpire;
 - (c) “Hold Harmless” or indemnification agreement from the Parties flowing to the Panel;
 - (d) Confidentiality agreements to ensure the confidentiality provided in article 7;
 - (e) The extent to which depositions and other discovery will be allowed and the date by which they must be completed;
 - (f) The briefing schedule, including the dates briefs are due, whether briefs are to be sequential or simultaneous and whether the briefs have a specified page limit;
 - (g) The date by which fact and expert witnesses must be disclosed, documents exchanged and briefs submitted;
 - (h) Whether the Parties prefer a written rationale for the Panel’s decision; and
 - (i) Requests, if any, for interim relief as set forth in ¶8.1

11. DISCOVERY

- 11.1 The Parties shall cooperate in good faith in the voluntary, prompt and informal exchange of all non-privileged documents and other information relevant to the dispute.
- 11.2 In addition to the voluntary exchange contemplated by ¶11.1, the Panel shall have the power to order, subject to applicable privileges, the disclosure of such documents or class of documents relevant to the dispute as it considers necessary for the proper resolution of

the dispute and to determine the date by which the documents must be disclosed.

- 11.3 The Panel shall have the power to authorize the Parties to conduct such depositions as are reasonably necessary.
- 11.4 The Panel may require each Party to provide a list of witnesses whom they intend to call at the hearing.
- 11.5 The Panel may limit document production, expert testimony and witnesses of fact on grounds of number, duplication or relevance.

12. MEDIATION OR SETTLEMENT

- 12.1 The Parties may agree, at any stage of the arbitration proceedings, to submit to mediation.
- 12.2 If the Panel determines that settlement may be appropriate under the circumstances, the Panel may request that the Parties consider settlement, through mediation or otherwise, provided such efforts do not delay the arbitration proceedings.

13. SUMMARY DISPOSITION AND EX PARTE HEARING

- 13.1 The Panel may hear and determine a motion for summary disposition of a particular claim or issue, either by agreement of all Parties or at the request of one Party, provided the other interested Party has reasonable notice and opportunity to respond to such request.

Note to 13.1: By authorizing the Panel to grant summary disposition, the Parties using these Procedures do not intend to waive their rights under the Federal Arbitration Act to contest the appropriateness of such an action, where such rights have been reserved.

- 13.2 If a Party has failed to participate in the pre-hearing proceedings and the Panel reasonably believes that the Party will not participate in the hearing, the Panel may proceed with the hearing on an *ex parte* basis or may dispose of some or all issues pursuant to ¶13.1. The non-participating Party shall be provided with notice thirty (30) days prior to the hearing or disposition pursuant to ¶13.1.

14. ARBITRATION HEARING

- 14.1 Unless the Parties otherwise agree, there should be a stenographic record kept of the proceedings.
- 14.2 The Panel may decide whether and to what extent there should be oral or written evidence

or submissions.

- 14.3 The Panel shall interpret the underlying agreement, which is the subject of the arbitration, as an honorable engagement, and shall not be obligated to follow the strict rules of law or evidence. In making their Award, the Panel shall apply the custom and practice of the insurance and reinsurance industry, with a view to effecting the general purpose of the underlying agreement which is the subject of the arbitration.
- 14.4 Subject to the control of the Panel, the Parties may question any witnesses who appear at the hearing. Panel members may also question such witnesses.
- 14.5 A Party may request that the other Party produce at the hearing all witnesses in their employ or under their control without need of a subpoena. The Panel may issue subpoenas for the attendance of witnesses or the production of documents. A Party or subpoenaed person may file an objection with the Panel who shall promptly rule on the objection, weighing both the burden on the producing Party and the need of the proponent for the witness or other evidence.
- 14.6 The Panel shall require that witnesses testify under oath, unless waived by all Parties. The Panel shall have the discretion to permit testimony by telephone, affidavit, or recorded by transcript, video tape, or other means, and may rely upon such evidence as it deems appropriate. Where there has been no opportunity for cross examination by the other Party, such evidence may be permitted by the Panel only for good cause shown. The Panel may limit testimony to exclude evidence that would be immaterial or unduly repetitive, provided that all Parties are afforded the opportunity to present material and relevant evidence.
- 14.7 When the Panel determines that all relevant and material evidence and arguments have been presented, the Panel shall declare the evidentiary portion of the hearing closed.
- 14.8 At the conclusion of the evidentiary portion of the hearing, the Parties shall submit a proposed form of order to the Panel and to the other Party that precisely identifies the nature of the relief that the Parties seek from the Panel.
- 14.9 The Panel shall close the hearing following closing arguments and/or post hearing briefs, if any.

15. AWARD

- 15.1 Absent good cause for an extension as determined by the Panel, the Panel shall render the Award within thirty (30) days after the date of the closing of the hearing or, if an arbitration hearing has been waived or otherwise dispensed with, within thirty (30) days after the date that the Panel received all materials submitted by the Parties for disposition.

- 15.2 The decision and Award of a majority of the Panel shall be final and binding on the Parties.
- 15.3 The Panel is authorized to award any remedy permitted by the Arbitration Agreement or subsequent written agreement of the Parties. In the absence of explicit written agreement to the contrary, the Panel is also authorized to award any remedy or sanctions allowed by applicable law, including, but not limited to: monetary damages; equitable relief; pre- or post- award interest; costs of arbitration; attorney fees; and other final or interim relief.
- 15.4 The Award shall consist of a written statement signed by a majority of the Panel setting forth the disposition of the claims and the relief, if any, awarded. If both Parties request a written rationale for the Panel's Award, the Panel shall provide one. If either Party objects to a written rationale, the Panel shall not issue one.
- 15.5 The prohibition on *ex parte* communications shall remain in effect until the earlier of the Parties waiving their right to challenge the Award, the expiration of the time period during which a challenge could be filed without any such challenge being filed, or the conclusion of any challenge to the Award.

16. ALTERNATIVE STREAMLINED PROCEDURES

- 16.1 The purpose of the streamlined Procedures in this article is to provide a fair, fast and efficient alternative process for resolving disputes in which the Parties agree that streamlined Procedures are appropriate. Parties are encouraged to discuss the use of these Procedures prior to communicating a demand for arbitration. By agreement, the Parties may want to expand these Procedures to accommodate the unique needs of their particular dispute.

Note to 16.1 - It is contemplated that the needs of a particular arbitration may require a one day hearing, the voluntary exchange of documents agreed to by the Parties, or the testimony of witnesses. This article is designed to be the basic streamlined process which can form the structure for Parties to add to as they deem appropriate to the particular dispute. The Parties are encouraged to discuss these added features and reach agreement prior to invoking the use of this article.

- 16.2 A request for arbitration utilizing these streamlined Procedures may be made by the Petitioner in its written demand for arbitration pursuant to ¶4.1. When a request for streamlined arbitration is made by the Petitioner, the Respondent must agree, in writing, no later than 7 days from the date of receiving such request. Failure of the Respondent to reply within 7 days shall be deemed to be a rejection of the request, and the arbitration will proceed in accordance with the provisions of articles 1 through 15 of these Procedures.
- 16.3 Upon receipt of a demand for arbitration, the Respondent may request the use of

streamlined Procedures, in writing, no later than 7 days after receipt of the arbitration demand from the Petitioner. The Petitioner must agree, in writing, no later than 7 days from the date that the Petitioner receives such request.

Failure of the Petitioner to respond within 7 days shall be deemed a rejection of the request, and the arbitration will proceed in accordance with the provisions of articles 1 through 15 of these Procedures.

- 16.4 The Panel shall consist of one Disinterested, neutral arbitrator, selected by agreement of the Parties. If the Parties cannot agree on an appointment within 30 days of the agreement to proceed by these streamlined Procedures, the Parties shall default to the use of articles 1 through 15 of these Procedures in lieu of proceeding pursuant to this article.
- 16.5 Ex parte communication with the neutral arbitrator is prohibited.
- 16.6 Within 21 days from the date the neutral arbitrator is agreed upon, the Parties and the neutral arbitrator will conduct an organizational meeting by telephone conference call to familiarize the neutral arbitrator with the issues in dispute and to agree on a schedule for submission of briefs.
- 16.7 There shall be no discovery, unless the Parties agree otherwise.
- 16.8 The dispute shall be submitted to the neutral arbitrator on briefs and documentary evidence only, unless the Parties agree otherwise.
- 16.9 The neutral arbitrator shall render its decision in accordance with the provisions of article 15 of these Procedures.

17. SEVERABILITY

- 17.1 If any provision of these Procedures, or amendments thereto, is held invalid, such invalidity shall not affect other provisions or applications of these Procedures which can be given effect without the invalid application or provision, and to this end each provision of these Procedures, and any amendments thereto, is severable.

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Statement of Insurance and Reinsurance Trade Associations

The undersigned trade associations have reviewed the suggested Procedures for the Resolution of U.S. Insurance and Reinsurance Disputes, dated September 1999, and believe that the Procedures are an important step forward in preventing unnecessary friction, addressing areas of uncertainty and providing parties with greater clarification of what to expect from the arbitration process. Insurers and reinsurers may consider the use of the suggested Procedures as a resource when developing reinsurance contract language or modifying arbitration procedures under existing reinsurance contracts.

Reinsurance Association of America

Brokers and Reinsurance Markets Association

Association of British Insurers

American Insurance Association

National Association of Independent Insurers (now Property Casualty Insurers Association of America)