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iv. An order has been entered or any action has been taken by any state or jurisdiction which requires it to cease writing new or renewal business; or

v. Any action, by any state or jurisdiction, requiring that the reinsurer file a plan or any document to increase its capital, for example, a risk based capital plan.

8. An assuming insurer shall report annually to the Commissioner substantially the same information as that required to be reported on the NAIC annual statement form by licensed insurers to be evaluated by the Commissioner, including, but not limited to: a recent actuarial opinion which certifies to the adequacy of the loss and loss adjustment expense reserve liabilities, and, where applicable, life and health reserve liabilities, in order to determine the sufficiency of the trust fund; and any additional information the Commissioner deems necessary to ensure that the assuming insurer's condition and method of operation are not such as would render its operations hazardous to the public or policyholders in this State.

(b) In order to qualify as a reinsurer as provided in (a) above, an assuming insurer shall establish a trust fund. The trust fund established by the assuming insurer shall meet the following standards based upon the following category of assuming insurer into which it falls:

1. The trust fund for a single assuming insurer shall consist of a trusteed account in an amount not less than the assuming insurer's liabilities attributable to business written in the United States, and, in addition, a trusteed surplus of not less than $20,000,000.

2. The trust fund for a group of insurers, which group includes individual unincorporated underwriters, shall consist of a trusteed account in an amount not less than the group's aggregate liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusteed surplus of which not less than $100,000,000 shall be held jointly for the benefit of the United States ceding insurers of any member of the group. The group shall make available to the Commissioner an annual certification of the solvency of each underwriter for the fiscal period immediately preceding, which fiscal period shall not be less than one year, by the group's domiciliary regulator and its certified public accountant.

3. The trust fund for a group of incorporated insurers under common administration which complies with the filing requirements set forth in this section whose members possess aggregate policyholder's surplus of $10,000,000,000, calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the NAIC, and which has continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation, shall consist of funds in trust in an amount not less than the group's several liabilities attributable to business ceded by United States ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group and, in addition, the group shall maintain a joint trusteed surplus of which not less than $100,000,000 shall be held jointly and exclusively for the benefit of the United States ceding insurers of any member of the group. The group shall file a properly executed form AR–1 as evidence of its submission to this State's authority to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination. The group shall make available to the Commissioner annual certifications by the members' domiciliary regulators and their independent certified public accountants of the solvency of each member of the group for the fiscal period immediately preceding which fiscal period shall not be less than one year.

(c) The trust required by (b) above shall be established in a form approved by the Commissioner and in compliance with this section, and the content, location, legal currency and financial institutions shall be acceptable to the Commissioner. The trust instrument shall provide that:

1. Contested claims shall be valid and enforceable out of funds in trust to the extent remaining unsatisfied 30 days after entry of the final order of any court of competent jurisdiction in the United States;

2. Legal title to the assets of the trust shall be vested in the trustees of the trust for the benefit of the grantor's United States policyholders and ceding insurers, their assignees and successors in interest;

3. The trust shall be subject to examination as determined by the Commissioner;

4. The trust shall remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, shall have outstanding obligations due under reinsurance agreements subject to the trust;

5. No later than February 28 of each year the trustees of the trust shall report to the Commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year's end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

i. The trust assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender) investments of stocks and bonds listed by the NAIC's Securities Valuation Office or any obligations issued by the State of New Jersey or any of its political subdivisions, or any combination of the above, provided that

such investments are issued by an institution that is not the grantor, beneficiary, parent, subsidiary or an affiliate of either the grantor or the beneficiary; and

6. No amendment to the trust shall be effective unless filed with and approved in advance by the Commissioner.

Amended by R.1993 d.557, effective November 15, 1993.
See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).
Amended by R.1996 d.3, effective January 2, 1996.
See: 27 N.J.R. 3278(b), 28 N.J.R. 152(b).
Amended by R.2001 d.6, effective January 2, 2001.
See: 32 N.J.R. 3530(a), 33 N.J.R. 85(a).

11:2–28.7 Credit for reinsurance required by law

(a) An insurer may be permitted to take a credit for reinsurance ceded to an assuming insurer which does not meet any of the requirements set forth at section 11:2–28.3, 28.4, 28.5 or 28.6, but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required or provided by the applicable law or regulation of that jurisdiction. As used in this section, "jurisdiction" means any state, district or territory of the United States and any lawful national government.

(b) A credit may taken for insurance ceded by a ceding insurer to a state owned or controlled insurance or reinsurance company or a ceding company participating in pools, guaranty funds or joint underwriting associations required by statute, regulation or administrative order.

Amended by R.1993 d.557, effective November 15, 1993.
See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

11:2–28.8 Reduction from liability for reinsurance ceded to an unauthorized assuming insurer

(a) An insurer shall be permitted to take a reduction from liability for reinsurance ceded to an assuming insurer not meeting the requirements of N.J.A.C. 11:2–28.3, 28.4, 28.5, 28.6 or 28.7 in an amount which does not exceed the liabilities carried by the ceding insurer. Such reduction shall be in the amount of the funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder. Such security shall be held in the United States subject to withdrawal solely by and under the exclusive control of the ceding insurer, or in the case of a trust held in a qualified United States financial institution, subject to withdrawal solely by and under the exclusive control of the ceding insurer.

(b) The security shall be in the form of:

1. Cash (United States legal tender);

2. Securities listed by the Securities Valuation Office of the NAIC and qualified as admitted assets;

3. Clean, irrevocable, evergreen, unconditional letters of credit issued or confirmed by a qualified United States institution no later than December 31st of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming qualified United States financial institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs, unless the issuer has been declared insolvent under applicable statutory or regulatory provisions; or

4. Any other form of security approved by the Commissioner upon formal request.

11:2–28.9 Trust agreements qualified pursuant to N.J.A.C. 11:2–28.8

(a) An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to N.J.A.C. 11:2–28.8 shall be permitted only when the requirements set forth below and in N.J.A.C. 11:2–28.10 and 28.11 are met.

1. The beneficiary, the grantor and a trustee shall enter into a trust agreement. The trustee shall be a qualified United States financial institution.

2. The trust agreement shall create a trust account into which the trust's assets shall be deposited.

3. All assets in the trust account shall be held by the trustee at the trustee's office in the United States, except that a bank may apply for the Commissioner's permission to use a foreign branch office of such bank as trustee for trust agreements established pursuant to this section. If the Commissioner approves the use of such foreign branch office as trustee, then its use must be approved by the beneficiary in writing and the trust agreement must provide that the written notice described in 4i below must also be presentable, as a matter of legal right, at the trustee's principal office in the United States. The trust assets shall consist of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), investments of stocks and bonds listed by the NAIC's Securities Valuation Office, or any obligations issued by the State of New Jersey or any of its political subdivisions, or any combination of the above, provided that such investments are issued by an institution that is not the parent, subsidiary or an affiliate of either the grantor or the beneficiary.

4. The trust agreement shall provide that:

i. The beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustees;

ii. No other statement or document is required to be presented in order to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;

iii. It is not subject to any conditions or qualifications outside of the trust agreement; and

iv. It shall not contain references to any other agreements or documents except as provided below in (a)11 below.

5. The trust agreement shall be established for the sole benefit of the beneficiary.

6. The trust agreement shall require the trustee to:

i. Receive assets and hold all assets in a safe place;

ii. Determine that all assets are in such form that the beneficiary or the trustee, upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;

iii. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter;

iv. Notify the grantor and the beneficiary within ten days, of any deposits to or withdrawals from the trust account;

v. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and

vi. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of, but with notice to, the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

7. The trust agreement shall provide that at least 30 days, but not more than 45 days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

8. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is established and shall at minimum conform to the standards set forth in these rules.

9. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee.

10. The trust agreement shall provide that the trustee shall be liable for its own negligence, willful misconduct or lack of good faith.

11. Notwithstanding other provisions of this subchapter, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, such a trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer or the inability of the ceding insurer to pay all or any part of a claim, for the following purposes:

i. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid or owed by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

ii. To make payment to the assuming insurer of any amounts held in the trust account that exceed 102 percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

iii. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution apart from its general assets, in trust for such uses and purposes specified in (a)11i and (a)11ii above as may remain executory after such withdrawal and for any period after the termination date.

12. The trust agreement shall provide that the trustee shall resign upon delivery of a written notice of resignation, effective not less than 90 days after receipt by the beneficiary and grantor of the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than 90 days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

(b) The trust agreement may provide for the following conditions:

1. That the grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends may be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name;

2. That the trustee may have the authority to invest and accept substitutions of any funds in the account, provided that no investment or substitution may be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in market value to the assets withdrawn and that are consistent with the restrictions in (c)1ii below;

3. The beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets; and

4. Upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

(c) A reinsurance agreement may provide provisions to be included in a trust agreement and the trust account established thereunder.

1. A reinsurance agreement, which is entered into in conjunction with a trust agreement and the establishment of a trust account, may contain provisions that:

i. The assuming insurer may enter into a trust agreement and may establish a trust account for the benefit of the ceding insurer and specify what the agreement is to cover;

ii. Assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash (United States legal tender), certificates of deposit (issued by a United States bank and payable in United States legal tender), and investments of stocks and bonds listed by the NAIC's Securities Valuation Office or any obligations issued by the State of New Jersey or any of its political subdivisions, or any combination of the above, provided that such investments are issued by an institution that is not the grantor, beneficiary, parent, subsidiary or affiliate of either the grantor or the beneficiary. The reinsurance agreement shall specify the types of investments to be deposited. Where a trust agreement is entered into in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, then the trust agreement may contain the provisions required by this paragraph in lieu of including such provisions in the reinsurance agreement;

iii. The reinsurance agreement entered into in conjunction with the trust agreement may, but need not include the provisions required by (c)1ii above, so long as the conditions required in (a) above are included in the trust agreement.

iv. The assuming insurer, prior to depositing assets with the trustee, shall execute assignments or endorsements in blank, or transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may, whenever necessary, negotiate these assets without consent or signature from the assuming insurer or any other entity;

v. All settlements of account between the ceding insurer and the assuming insurer shall be made in cash or its equivalent; and

vi. The assuming insurer and the ceding insurer shall agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer or the inability of the ceding insurer to pay all or any part of a claim, only for the following purposes:

(1) To reimburse the ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

(2) To reimburse the ceding insurer or pay an insolvent ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer or owed by an insolvent ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement;

(3) To fund an account with the ceding insurer in an amount at least equal to the deduction, for reinsurance ceded, from the ceding insurer liabilities for policies ceded under the agreement. The account shall include, but not be limited to, amounts for policy reserves, claims and losses incurred, including losses incurred but not reported, loss adjustment expenses and unearned premium reserves; and

(4) To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

2. The reinsurance agreement may also contain provisions that:

i. The assuming insurer may seek approval from the ceding insurer to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, and the ceding insurer shall not unreasonably or arbitrarily withhold its approval provided:

(1) The assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount; or

(2) After withdrawal and transfer, the market value of the trust account is no less than 102 percent of the required amount;

ii. Any amount withdrawn in excess of the actual amounts required for (c)1vi(1), (2) and (3) or in the case of (c)1vi(4) any amounts that are subsequently determined not to be due shall be returned;

iii. Interest shall be paid at a rate not in excess of the prime rate of interest as reported in the Federal Reserve Bulletin, on the amounts held pursuant to subsection (c)1vi(3); and

iv. An award by any arbitration panel or court of competent jurisdiction shall be permitted for:

(1) Interest at a rate different from that provided in iii above;

(2) Court of arbitration costs;

(3) Attorney's fees; and

(4) Any other reasonable expenses.

3. The reinsurance agreement shall contain a provision, if applicable, which requires that a reinsurance intermediary shall hold any and all funds collected on the reinsurer's behalf, in a fiduciary capacity, in a qualified United States financial institution.

(d) A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer as reflected in financial statements required to be filed with the Department in compliance with the provisions of this subchapter when established on or before the date of filing of the financial statement of the ceding insurer. The reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

(e) Any trust agreement or underlying reinsurance agreement in existence prior to August 16, 1993 shall be acceptable until February 12, 1994, at which time any and all trust agreements shall comply with this subchapter.

(f) The failure of any trust agreement to specifically identify the beneficiary shall not be construed to affect any actions or rights which the Commissioner may take or possess pursuant to the provisions of the laws of this State.

Amended by R.1993 d.557, effective November 15, 1993.
See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

11:2–28.10 Letters of credit qualified pursuant to N.J.A.C. 11:2–28.8

(a) A letter of credit shall be clean, irrevocable, evergreen, and unconditional and issued or confirmed by a qualified United States financial institution. The letter of credit shall contain an issue date and date of expiration and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit shall also indicate that it is not subject to any condition or qualifications outside of the letter of credit. The letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in (i)1 below. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver, conservator, rehabilitator or liquidator.

(b) The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

(c) The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

(d) The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice to the named beneficiary from the issuing financial institution. The "evergreen clause" shall provide for a period of no less than 30 days' notice prior to expiry date or nonrenewal.

(e) The letter of credit shall state whether it is subject to and governed by the laws of this State or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce, Publication 400 or any subsequent revisions, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

1. Publication 400 can be obtained by contacting ICC Publishing, Inc. at (212) 206–1150 or by writing to it at 156 Fifth Avenue, STE 820, New York, New York 10010 and remitting the appropriate fees.

(f) If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce, Publication 400, then the letter of credit shall specifically address and make provision for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 19 of Publication 400 occur.

(g) The letter of credit shall be issued or confirmed by a qualified United States financial institution authorized to issue letters of credit in accordance with these rules.

(h) Where a letter of credit is issued by a United States financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in (g), the following additional requirements shall be met:

1. The issuing United States financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and

2. The "evergreen clause" shall provide for 30 days' notice to the named beneficiary or its successors in interest from the issuing financial institution prior to expiry date for nonrenewal.

(i) A reinsurance agreement, in conjunction with which a letter of credit is obtained, may contain the following provisions:

1. The assuming insurer shall provide letters of credit to the ceding insurer and specify what they are to cover.

2. The assuming insurer and ceding insurer shall agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

i. To reimburse the ceding insurer or to pay an insolvent ceding insurer for the assuming insurer's share of premiums returned to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

ii. To reimburse the ceding insurer for the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer or owed by an insolvent ceding insurer under the terms and provisions of the policies reinsured under the reinsurance agreement;

iii. To fund an account with the ceding insurer in an amount at least equal to the deduction for reinsurance ceded from the ceding insurer's liabilities for policies ceded under the agreement. Such amount shall include, but not be limited to, amounts for policy reserves, claims and losses incurred and unearned premium reserves; or

iv. To pay any other amounts the ceding insurer claims are due under the reinsurance agreement.

3. The provisions of (i)1 and 2 above shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

4. Nothing contained in (i)1 and 2 above shall preclude the ceding insurer and assuming insurer from providing for:

i. An interest payment, at a rate not in excess of the prime rate of interest as reported in the Federal Reserve Bulletin, on the amounts held pursuant to (i)2iii above; or

ii. The return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or, in the case of (i)2iv above, any amounts that are subsequently determined not to be due.

5. When a letter of credit is obtained in conjunction with a reinsurance agreement covering risks other than life, annuities and health, where it is customary practice to provide a letter of credit for a specific purpose, then the reinsurance agreement may, in lieu of (i)2 above, require that the parties enter into a "Trust Agreement" which may be incorporated into the reinsurance agreement or be a separate document.

(j) A letter of credit may not be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer as reflected in financial statements required to be filed with the Department unless an acceptable letter of credit with the filing ceding insurer as beneficiary has been issued on or before the date of filing of the financial statement. The reduction for the letter of credit may be up to the amount available under the letter of credit but no greater than the specific obligation under the reinsurance agreement which the letter of credit was intended to secure.

Amended by R.1993 d.557, effective November 15, 1993.
See: 25 N.J.R. 4289(a), 25 N.J.R. 5184(a).

11:2–28.11 Other security

A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States in connection with the reinsurance contract under which those funds are withheld, subject to withdrawal solely by the ceding insurer and under its exclusive control.

11:2–28.12 Reinsurance contract

(a) Credit will not be granted to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of N.J.A.C. 11:2–28.3, 28.4, 28.5, 28.6, or 28.8 of this subchapter unless the reinsurance agreement meets the following standards:

1. Includes a provision that if the assuming insurer is an unauthorized assuming insurer;

i. It has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States;

ii. It has agreed to comply with all requirements necessary to give such court or panel jurisdiction;

iii. It has designated an agent upon whom service of process may be effected; and

iv. It has agreed to abide by the final decision of such court or panel; and

2. Includes an insolvency clause which shall provide the following:

i. In the event of a receivership, the reinsurance recoverables due under any reinsurance contract shall be payable by the reinsurer directly to the receiver, after reasonable provision for verification, on the basis of claims allowed against the insolvent company by any court of competent jurisdiction having authority to allow such claims or allowed by the receiver as a result of the conclusion of the claim filing, approval and appeal process before the receiver. Regardless of any provision in the reinsurance contract or other agreement to the contrary, payment shall be made without diminution because of such insolvency or because the receiver has failed to pay all or a portion of any claims;