

salaries of insurance agents, brokers, or other entities producing qualified flood insurance applications and other related expenses.

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D. Loss Payments.

1. Loss payments under policies of flood insurance shall be made by the Company from Federal funds retained in the bank account(s) established under Article II, section E and, if such funds are depleted, from Federal funds derived by drawing against the Letter of Credit established pursuant to Article IV.

2. Loss payments include payments as a result of litigation that arises under the scope of this Arrangement, and the Authorities set forth herein. All such loss payments and related expenses must meet the documentation requirements of the Financial Control Plan and of this Arrangement, and the Company must comply with the litigation documentation and notification requirements established by FEMA. Failure to meet these requirements may result in the Administrator's decision not to provide reimbursement.

3. Limitation on Litigation Costs.

a. Following receipt of notice of such litigation, the FEMA Office of the General Counsel ("OGC") shall review the information submitted. If the FEMA OGC finds that the litigation is grounded in actions by the Company that are significantly outside the scope of this Arrangement, and/or involves issues of agent negligence, then the FEMA OGC shall make a recommendation to the Administrator regarding whether all or part of the litigation is significantly outside the scope of the Arrangement.

b. If the Administrator makes a determination that an Operation Review or audit conducted pursuant to the WYO Financial Control Plan, 44 CFR part 62, appendix B, or an audit conducted by the Department of Homeland Security Office of Inspector General, or a review of the Company's business after a lawsuit has been filed against the Company reveals that the Company has a pattern of errors, and an error of that type has resulted in litigation, that litigation will be considered significantly outside the scope of the Arrangement.

c. In the event the Administrator agrees with the determination of the FEMA OGC under Article III, section D.3.a, or makes the determination regarding a pattern of errors under Article III, section D.3.b, the Company will be notified in writing within thirty (30) days of the Administrator's

decision that any award or judgment for damages and any costs to defend such litigation will not be recognized under Article III as a reimbursable loss cost, expense or expense reimbursement.

d. In the event a question arises whether only part of a litigation is reimbursable, the FEMA OGC shall make a recommendation to the Administrator about the appropriate division of responsibility, if possible.

e. In the event that the Company wishes to petition for reconsideration of the determination that it will not be reimbursed for any part of the award or judgment or any part of the costs expended to defend such litigation made under Article III, section D.3.a–d, it may do so by mailing, within thirty (30) days of the notice that reimbursement will not be made, a written petition to the Administrator, who may request the advice of the WYO Standards Committee established under the WYO Financial Control Plan. The WYO Standards Committee will consider the request at its next regularly scheduled meeting or at a special meeting called for that purpose by the Chairman and issue a written recommendation to the Administrator. The Administrator's final determination, after advisement from the Standards Committee (if sought), will be made in writing to the Company.

E. * * * As fiscal agent, the Company shall not refund any premium to applicants or policyholders in any manner other than as specified in the NFIP's "Flood Insurance Manual" since flood insurance premiums are funds of the Federal Government.

10. In Appendix A to part 62, revise Article V to read as follows:

Article V—Commencement and Termination

A. The initial period of this Arrangement is from January 1, 2004 through September 30, 2004. Thereafter the Arrangement will be effective on an annual basis for the period October 1 through September 30. The FIA shall provide financial assistance only for policy applications and endorsements accepted by the Company during this period pursuant to the Program's effective date, underwriting and eligibility rules.

B. Each year, the FIA shall publish in the **Federal Register** and make available to the Company the terms for subscription or re-subscription to this Financial Assistance/Subsidy Arrangement. The Company shall notify the FIA of its intent to re-subscribe or not re-subscribe within thirty days of publication.

C. In order to assure uninterrupted service to policyholders, the Company shall promptly notify the FIA in the event the Company elects not to participate in the Program during the Arrangement year. If so notified, or if the FIA chooses not to renew the Company's participation, the FIA, at its option, may require the continued performance of all or selected elements of this Arrangement for the period required for orderly transfer or cessation of business and settlement of accounts, not to exceed 18 months, and may either require Article V.C.1 or allow Article V.C.2:

1. The delivery to the FIA of:

a. A plan for the orderly transfer to the FIA of any continuing responsibilities in administering the policies issued by the Company under the Program including provisions for coordination assistance; and

b. All data received, produced, and maintained through the life of the Company's participation in the Program, including certain data, as determined by FIA, in a standard format and medium; and

c. All claims and policy files, including those pertaining to receipts and disbursements that have occurred during the life of each policy. In the event of a transfer of the services provided, the Company shall provide the FIA with a report showing, on a policy basis, any amounts due from or payable to insureds, agents, brokers, and others as of the transition date; and

d. All funds in its possession with respect to any policies transferred to FIA for administration and the unearned expenses retained by the Company.

2. Submission of plans for the renewal of the business by another WYO Company or Companies or the submission of detailed plans for another WYO Company to assume responsibility for the Company's NFIP policies. Such plans shall assure uninterrupted service to policyholders and shall be accompanied by a formal request for FIA approval of such transfers.

D. Financial assistance under this Arrangement may be canceled by the FIA in its entirety upon thirty (30) days written notice to the Company by certified mail stating one of the following reasons for such cancellation: (i) Fraud or misrepresentation by the Company subsequent to the inception of the Arrangement; or (ii) Nonpayment to the FIA of any amount due the FIA; or (iii) Material failure to comply with the requirements of this Arrangement or with the written standards, procedures, or guidance issued by FEMA or FIA relating to the NFIP and applicable to the Company. Under these specific