

ADJUDICATION OF DISPUTES

1. Claims Disputes.

1.1 Initial Determination by Executive Director. Coverage and claim issues are initially determined by the Executive Director. While the Board of Directors and the Claims/Loss Management Committee are generally apprised of the status of all pending claims, they may not be advised of a particular coverage or claim issue if it is not considered significant in relation to HARRP's overall operations. The Board of Directors will be advised of all claim denials and reservations of rights by HARRP.

1.2 Settlement Authority. The HARRP staff has authority to settle property claims up to \$50,000 and liability claims up to \$20,000 without prior approval by the Claims/Loss Management Committee or the Board of Directors. Any claims settlement in excess of these limits, must be authorized by the Claims/Loss Management Committee of the Board of Directors. The Committee's settlement authority is up to \$100,000 for property claims and \$50,000 for general liability claims. If the Committee has given its settlement authority to staff, staff will have an additional authority not to exceed 10% above the approved amount. With regard to errors and omissions claims, or employment claims, the full Board will be informed of proposed settlements regardless of amounts. Any claims settlement in excess of these amounts must be authorized by the Board of Directors. Prior to submission to the Board of Directors, the Claims/Loss Management Committee must meet, discuss and approve the submission for settlement. In those cases in which a proposed liability claim settlement is in excess of \$50,000, or a property claim settlement is in excess of \$100,000, it must be authorized by the Board of Directors, the settlement authority may be given by the Executive Committee.

1.3 Board of Directors. Any Member may request that a coverage or claim issue be brought before the Board of Directors. The Board of Directors, in its discretion, may make a decision on any coverage or claim issue; however, the Board of Directors is not obligated to review or decide any coverage or claim issue.

1.4 Legal Proceedings. Under Section 4.2(d) of the Amended and Restated Intergovernmental Cooperation Agreement, each Member has waived the right to make, directly or indirectly, any claim or demand against any other Member, any officer, director, employee or agent of HARRP or any other person acting on behalf of HARRP. Section 4.2(d) of the Amended and Restated Intergovernmental Cooperation Agreement requires that any legal proceedings only be brought against HARRP.

Section 4.2(c) of the Amended and Restated Intergovernmental Cooperation Agreement precludes a member from knowingly making, or assisting in making, any claim or demand against HARRP for indemnification, defense or other coverage with respect to any loss to the extent that the loss is not covered under the Coverage Terms applicable to the Member (or other person insured under the Coverage Terms applicable to the Member). Furthermore, under Section 4.2(e) of the Amended and Restated Intergovernmental Cooperation Agreement, each Member (and person insured under the Coverage Terms applicable to the Member) waives the right to make, directly or indirectly, any claim or demand against HARRP that (i) HARRP pay any amount that is in excess of

HARRP's obligations under the Coverage Terms, including the payment of any punitive, exemplary or consequential damages, (ii) HARRP take any action (or omit to act) in any manner that is inconsistent with or not provided in the Coverage Terms, or (iii) HARRP pay the attorney's fees of the Member (or other person) in any claim or action against or by HARRP.

These limitations and waivers may preclude a Member from initiating legal proceedings against HARRP even though legal proceedings might be permitted under the same circumstances against an insurance company. As reflected in the Amended and Restated Intergovernmental Cooperation Agreement, these limitations and waivers have been implemented to enhance HARRP's financial and operational stability. The Members of HARRP have agreed to these limitations and waivers.

In the event of HARRP's insolvency, adverse financial condition or liquidation, the Amended and Restated Intergovernmental Cooperation Agreement and the Coverage Terms limit HARRP's liability to its available cash funds, investments and tangible assets. Therefore, in the event of HARRP's insolvency, adverse financial condition or liquidation, there is no recourse to any other Member for any additional payment other than the premiums due and owing to HARRP by the Member.

2. Membership Issues.

2.1 Expulsion. A Member may be expelled from membership in HARRP. On the effective date of the Member's expulsion, the Coverage Terms applicable to the Member will terminate except to the extent otherwise expressly provided in the Coverage Terms.

2.1.1 Cause for Expulsion. A Member may be expelled from membership in HARRP for cause. Cause for expulsion includes, but is not limited to, the following grounds:

(a) the Member's nonpayment, when due and owing, of premiums or any other amount that is due and owing to HARRP;

(b) the Member's failure to comply with the Amended and Restated Intergovernmental Cooperation Agreement, the Bylaws or any rules and regulations or internal policies which may be adopted by the Board of Directors;

(c) the Member's breach of or failure to comply with the terms and conditions of the Coverage Terms applicable to the Member;

(d) the Member's failure to promptly notify, provide adequate information or provide adequate cooperation to HARRP with respect to a claim, or the Member's improper assumption of an obligation or liability or making of an unnecessary admission in connection with a claim;

(e) fraud or misrepresentation of the Member affecting the Coverage Terms or in the presentation of a claim or loss;

- program;¹
- (f) the failure of the Member to comply with HARRP's risk management
 - (g) the Member's adverse claims experience or loss experience;
 - (h) the Member is subject to highly adverse risk of or exposure to future losses;
 - (i) evidence that the Member's operations are subject to poor management, understaffing, improper or inadequate staff training, unusual activities, dissatisfied tenants or other unfavorable circumstances that may increase the Member's exposure to claims or losses;
 - (j) the failure or refusal of HARRP's reinsurers to reinsure, wholly or in part, the Coverage Terms applicable to the Member;
 - (k) the Member's membership in HARRP or the provision of Coverage Terms to the Member is unlawful or would violate an order, directive or regulation of HUD or any other Federal, state or local regulatory or governmental body; or
 - (l) the Member engages in or encourages HARRP to engage in any act or omission that is dishonest or unlawful or that is or may be injurious to the reputation or business of HARRP.

The preceding enumeration of grounds for expulsion is not an exclusive listing; other grounds for expulsion may exist.

2.1.2 Procedures for Expulsion. A Member will be expelled from membership only if the Board of Directors determines that cause for expulsion exists. Notice of any determination by the Board of Directors regarding the expulsion of a Member must be given in writing not less than 60 days before the effective date of expulsion. The written notice must set forth the reasons for expulsion.

Within 10 days after receiving a written notice of expulsion, the Member may request to appear before the Board of Directors to urge reconsideration of the decision of the Board of Directors regarding the expulsion. In the event an appearance before the Board of Directors is requested by the Member, it will be scheduled by HARRP at such time as a majority of the directors of HARRP is available, but not less than 30 days before the effective date of expulsion.

The procedures used in connection with the appearance by the Member before the Board of Directors will be determined by HARRP, in its sole discretion; however, the Member will

¹HARRP's risk management program consists of those practices and procedures resulting in the identification, evaluation, reduction transfer and elimination of factors and circumstances which could result in physical damage, liability to third persons and public official and employee liability. HARRP's risk management program may be effected through various safety procedures, educational programs and other approaches.

be entitled: (i) to be accompanied by legal counsel; (ii) to present a written statement in support of the Member's position; and (iii) to present an oral argument, not exceeding 30 minutes, in support of the Member's position. In connection with the Member's appearance before the Board of Directors, the Member's representatives or legal counsel may be subject to examination or questioning by any of the directors or by HARRP's legal counsel.

Within 10 days following the appearance by the Member, the Board of Directors (outside of the presence of the Member's representatives and legal counsel) will make a final decision whether to uphold the Member's expulsion or continue the Member's membership in HARRP for any period. If the Board of Directors decides that the membership of the Member should be continued for any period, the Board of Directors may impose any conditions or restrictions that the Board of Directors believes, in its sole discretion, are appropriate. The final decision of the Board of Directors following the appearance of the Member will not be subject to further review and will be conclusive and binding on the Member. Except as otherwise determined by the Board of Directors, the effective date of expulsion will not be changed by the Member's request to appear or the Member's appearance before the Board of Directors.

2.1.3 Effective Date of Expulsion. The effective date of a Member's expulsion from membership in HARRP will be the annual renewal date for the Coverage Terms applicable to the Member. However, the effective date of the Member's expulsion from membership in HARRP may occur prior to the annual renewal date for the Coverage Terms in the event of (i) the Member's nonpayment of premiums, (ii) the Member's fraud or material misrepresentation affecting the Coverage Terms or in the presentation of a claim or loss, (iii) the Member's material breach of the terms or conditions of the Coverage Terms, (iv) the failure or refusal of HARRP's reinsurers to reinsure, wholly or in part, the Coverage Terms applicable to the Member or (v) the Member's membership in HARRP or the provision of Coverage Terms to the Member is unlawful or would violate an order, directive or regulation of HUD or any other Federal, state or local regulatory or governmental body.

2.1.4 Effect of Expulsion. The effect of expulsion from membership in HARRP is described in Section 4.7 of the Amended and Restated Intergovernmental Cooperation Agreement.

2.2 Other Membership Issues.

2.2.1 Board of Directors. Any membership issue (other than expulsion which is described above) will be brought before the Board of Directors upon the written request of any Member. The written request must specifically describe the nature of the membership issue and must be mailed or delivered to the Executive Director and at least one director of HARRP. Upon receipt of the written request, the membership issue will be placed on the agenda for the next meeting of the Board of Directors. If the Board of Directors has not previously made a decision on the membership issue, it will make an initial decision. If the Board of Directors has previously made a decision on the membership issue, it may, in its discretion, ratify or confirm its prior decision or reconsider or modify its prior decision. Furthermore, the Board of Directors may take any other action that it considers appropriate, including, but not limited to, deferral of its decision until a subsequent meeting of the Board of Directors or referral of the membership issue to a committee (whether standing or special) of the Board of Directors for evaluation of relevant information, a

recommendation to the Board of Directors, or action by the committee. A Member will be entitled to make a presentation on the membership issue at the meeting of the Board of Directors at which the membership issue will be addressed by the Board of Directors; however, the Board of Directors, in its discretion, may impose reasonable limitations or restrictions on any presentation by a Member.

After a final decision on the membership issue has been made by or under the authority of the Board of Directors, a Member will not be entitled at any subsequent time to bring the same membership issue before the Board of Directors.

2.2.2 Legal Proceedings. At any time, a Member may initiate legal proceedings against HARRP regarding a membership issue (other than expulsion which is described above). The nature and form of such legal proceedings will depend upon many factors, including, but not limited to, the nature of the membership issue, the relevant facts and circumstances and the state in which the Member is domiciled.

Under Section 4.2(d) of the Amended and Restated Intergovernmental Cooperation Agreement, each Member has waived the right to make, directly or indirectly, any claim or demand against any other Member, any officer, director, employee or agent of HARRP or any person acting on behalf of HARRP. Section 4.2(d) of the Amended and Restated Intergovernmental Cooperation Agreement requires that any legal proceedings only be brought against HARRP.

Under the Amended and Restated Intergovernmental Cooperation Agreement and the Bylaws, HARRP and the Board of Directors are granted considerable discretion. The broad discretion of HARRP and the Board of Directors may limit the Member's ability to challenge by appropriate legal proceedings any decision that is adverse to the Member. Furthermore, the Amended and Restated Intergovernmental Cooperation Agreement provides that many decisions of the Board of Directors are final (e.g., the acceptance or rejection of membership in HARRP and the allocation of dividends and liquidating distributions), which may limit or preclude the Member from initiating legal proceedings against HARRP.