

NAMIC PROPERTY CASUALTY CONFERENCE CLAIM ARBITRATION AGREEMENT

(Successor Agreement to that of
Conference of Casualty Insurance Companies Claim Arbitration Agreement)

*As amended by the Board of Directors of Conference of Casualty Insurance Companies
May 4, 1960; May 3, 1961; October 13, 1971; June 23, 1981; June 28, 1983;
September 5, 1986; September 8, 1989; September 7, 1990
By the Board of Directors of the NAMIC Property Casualty Conference
September 20, 1998; June 23, 2003; December 6, 2005*

This Agreement has for its objective the promotion of the settlement of disputed claims by arbitration rather than by litigation.

Subscribers

Any property casualty insurance company may become a Signatory by signing the NAMIC Claim Arbitration Agreement (Agreement), which shall be filed with the Arbitration Administrator. The effective date for participation shall be thirty (30) days after the signed Agreement is received. The new Signatory shall be bound by the decisions of the Committee in all claims that are submitted for arbitration on or after the effective date. Claims that are in litigation on the effective date may be dismissed and submitted to the Committee only upon agreement of both Signatories.

The Arbitration Administrator shall annually mail to all Signatory companies a list of Signatories and notify them of any Signatory company additions or withdrawals, if they should occur.

Withdrawal of Signatories

Any Signatory may withdraw from the Agreement by filing a notice of withdrawal with the Arbitration Administrator. The effective date shall be ninety (90) days after notice of withdrawal from the Agreement is received. Signatories withdrawing from the Agreement are bound by the Agreement in the case of accidents in which the date of loss occurs before such withdrawal becomes effective.

Subscription or Program Fees and Expenses

The Board of Directors of the Conference may provide for all or a portion of the Program's expense to be assumed by the Signatory companies as a whole, or by the Signatory companies submitting claims for arbitration, which may include a change in the filing fee. If the Board of Directors takes such action, it shall not become effective until after thirty (30) days notice to the Signatory companies.

Claim Arbitration Committee

The Arbitration Administrator of the Conference shall be Secretary of the Arbitration Committee and shall keep its docket. The Secretary shall provide every Signatory with a list of the regular members of the Committee who will serve until the next annual claim meeting.

The Committee shall consist of at least six (6) representatives of Signatory companies who shall serve a term of two (2) years or until their successors are appointed. The Arbitration Administrator shall invite representatives of Signatory companies to fill vacancies of retiring Committee members.

Any representative of a Signatory company is eligible to serve on the Committee, provided the Committee members represent different subscribing companies, the representative is involved in the claim function of the Signatory company and the Signatory company is a current NAMIC member.

If a member of the Committee severs his/her relationship with the Signatory company, which he/she represented when appointed to the Committee, his membership on the Committee shall terminate automatically, and he/she will be ineligible to attend or participate in any future meetings of the Committee. The Arbitration Administrator shall appoint an eligible representative of a Signatory to serve until the next annual claim meeting.

If a member of the Committee is unable to serve a full two (2) year term due to death, continued physical disability, or resignation, the Arbitration Administrator shall appoint an eligible representative of a Signatory to fill the vacancy and to serve until the next annual claim meeting.

Following each annual claim meeting the members of the Committee shall meet and by a majority vote elect a Chairman and Vice Chairman. The Chairman shall call and preside at all meetings of the Committee. The Vice Chairman shall act in the absence of the Chairman, and furnish a summary report of the proceedings to the President of NAMIC.

The Committee may make reasonable rules for its procedure under this Agreement, which are not inconsistent with the intent and spirit of its provisions. Any such rules, or changes to such rules, shall be submitted to the Board of Directors of the Conference and, if approved, the President of NAMIC shall inform the Signatories.

Alternate Arbitrators

In addition to the regular members of the Arbitration Committee, alternate arbitrators shall be available at the call of the Chairman to assist the Committee by accepting assignments and participating in the consideration and determination of arbitration cases.

Alternate arbitrators shall not be required to serve on the Committee except on call of the Chairman to: (1) substitute for regular members who are unable to serve at any meeting due to illness, ineligibility to participate, or other temporary disability; or (2) assist at any meeting for

which the number of cases pending, at the discretion of the Chairman, would create an excessive burden on the regular members of the Committee or cause postponement of pending cases.

Regular members of the Arbitration Committee whose terms expire each year shall automatically be appointed upon retirement from the Committee as alternate arbitrators.

Arbitration of Claims

Any Signatory may become a Petitioner and request an arbitration of a claim by the Committee by submitting a copy of the file and two (2) copies of the petition and contentions (Petition) to the Arbitration Administrator of the Conference. Upon receipt of a Petition, the Arbitration Administrator shall notify the company against whom the Petition is filed (Respondent) by sending one (1) copy of the Petition to the Respondent and requesting a copy of the Respondent's file together with two (2) copies of the Respondent's response and contentions (Response).

Should the Respondent need additional time to file a Response, a request for a one-time thirty (30) day extension of time to file a Response may be made. This request must be made on or before the initial Response due date. Once a Response is filed, however, no extension will be allowed. Responses or materials postmarked after the Response date communicated by the Arbitration Administrator will not be accepted or considered by the Committee. In the event that a timely Response or request is not received, the Arbitration Administrator shall place the case on the docket.

In the event that the Arbitration Administrator receives Respondent's Response, the Arbitration Administrator shall place the case on the docket. The docket shall be maintained as a calendar of the business of the Committee. The Arbitration Administrator will send a copy of any Response filed to the Petitioner.

After the initial Petition and/or Response has been filed, either the Petitioner or Respondent may make one (1) more submission of documentation or legal arguments regarding the case. One (1) copy of the additional submission should be sent to the Arbitration Administrator and a separate copy must be sent to the opposing company. However, any such documentation or argument must be postmarked by the date communicated by the Arbitration Administrator. Materials postmarked after the date communicated by the Arbitration Administrator will not be accepted or considered by the Committee.

The Committee, regardless of when the information is received, will not consider any further submissions of documentation or arguments with the following exceptions:

- a) Additional documentation submitted solely for the purpose of establishing the **amount** of damage that is in dispute will be accepted up to the day of the scheduled hearing of the case.
- b) If the Respondent has made a counterclaim, the Petitioner has the opportunity to provide a Response to the counterclaim but must do so by the date communicated by the Arbitration Administrator.

- c) Whenever it shall appear to the majority of the Committee that there are circumstances that justify deferment of any case, the Committee may defer such a case for one (1) year from the date of filing of the Petition. At the time that a deferred case is ready to be heard by the Arbitration Committee, either Petitioner or Respondent may submit additional arguments or documentation (Additional Submission). One (1) copy of the Additional Submission should be sent to the Arbitration Administrator and a separate copy must be sent to the opposing Company. However, any such Additional Submission must be postmarked by the date communicated by the Arbitration Administrator. Any Additional Submission postmarked after the date communicated by the Arbitration Administrator will not be accepted or considered by the Committee.

All cases submitted for arbitration shall be considered and decided on the basis of the files submitted by the companies involved.

The authority of the Committee shall include the arbitration of claims paid under automobile policies covering:

- a) Material damage subrogation claims, including the determination of the amount of damages where that question is specifically pleaded in Respondent's Response;
- b) Subrogation claims created by the payment of claims or benefits to insureds or qualified third parties under the mandatory benefits portion of automobile accident reparations statutes;
- c) Subrogation of medical payments coverage claims where permitted by state law;
- d) By agreement of the companies involved, subrogation of excess or voluntary optional benefits provided under any automobile accident reparations statute;
- e) By agreement of the companies involved and the Committee, questions of policy coverage involving the rights of the two insurance companies only;
- f) Third party contribution claims.

The amount paid by Petitioner or Counterclaiming Respondent shall be prima facie evidence of the amount of loss or damage in the Petition or Counterclaim, and if the decision of the Committee is in favor of the Petitioner or in the favor of the Counterclaiming Respondent, recovery shall be in the amount claimed unless the company against whom the Petition or Counterclaim is filed proves to the satisfaction of the Committee that the amount paid by the Petitioner or Counterclaiming Respondent is excessive, in which event the Committee shall determine the amount of the recovery by the evidence.

If the Petitioner and Respondent settle a claim (whether as part of a Petition or a Counterclaim) that has been submitted to the Arbitration Administrator for arbitration before the case has been considered by the Committee, it shall be the duty of the company that submitted the claim for

arbitration to notify the Arbitration Administrator so that the case can be removed from the docket.

Three (3) members of the Committee shall constitute a quorum. Members of the Committee affiliated with a Signatory, which is involved in an arbitration case, shall be ineligible to participate in the consideration of that case, and shall withdraw completely from the hearing. If there is not a quorum after the ineligibility of a Committee member because of company interest, the consideration of the case shall be postponed until the next meeting of the Committee. The agreement of a majority of the members of the Committee present shall constitute a decision binding upon the companies submitting the case to arbitration.

Each Committee member shall prepare a written decision in each case associated to him/her. They shall prepare sufficient copies of the decision for use during the arbitration hearing. The Arbitration Administrator shall note disposition of the case on the docket, file one (1) copy of each decision as a permanent record, and mail one (1) copy to the appropriate participating company representatives as soon as possible after each meeting of the committee.

The claim amount paid by the petitioning company shall be prima facie evidence of the amount of loss or damage with the authority of the Committee not to exceed \$100,000. Claims in excess of \$100,000 may also be submitted with the prior consent of the parties.

For the purpose of determining the authority of the Committee with regard to the amount of loss or damage not to exceed \$100,000, Signatories agree to consider a claim and counterclaim as two (2) separate claims within the meaning of this rule. Similarly, Signatories agree to consider a claim and companion claim for different lines of coverage as separate claims within the meaning of this rule.

Special Arbitration

In Special Arbitration, the Committee may hear a wide variety of claims (homeowner and farmowner losses, BI, etc.). Filing procedures are the same as regular arbitration with the exception that a Special Claim Arbitration Agreement (Special Arbitration) must be signed by all parties consenting to be bound by the decision rendered.

Meetings

It shall be the duty of the Chairman to call as many meetings of the Committee as are required to service the Signatories. At least two (2) meetings shall be held each year. The Chairman shall fix the time and place of the meetings, subject to the foregoing provisions.

Amendments

This Agreement may be amended by the action of a majority of the members of the Board of Directors of the Conference. The Arbitration Administrator shall forward a notice of any amendment to the members of the Conference and to all Signatories. Any amendment adopted by the Board of Directors of the Conference shall not become effective until thirty (30) days after the mailing of the notice by the Arbitration Administrator.

Claim Arbitration Agreement

Whereas it is our desire to approve and participate in the Claim Arbitration Agreement (Agreement) approved by the Board of Directors of the NAMIC Property Casualty Conference the undersigned hereby agrees to forego litigation of the claims between the subscribers to the Agreement within the authority of the Claim Arbitration Committee, and in place thereof to submit to arbitration all questions that may arise with another subscriber within the authority of the Claim Arbitration Committee.

Name of Subscriber Company/Group
(If signing for group, please include companies
to become signatory to this agreement on next page)

Date

**Printed Name of Company
Representative**

Telephone Number

Signature of Company Representative

Address

Title of Company Representative

City/State/Zip Code

