



TEXAS FAIR PLAN
ASSOCIATION



Texas FAIR Plan Producer Requirements and Performance Standards

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The following Texas FAIR Plan Association ("Association") requirements and producer performance standards ("Requirements and Standards") shall apply to and be binding upon any agent who submits applications for insurance to the Association or who renews or seeks to renew insurance on behalf of an insured of the Association. The Requirements and Standards have been adopted by the Association under the authority granted in Art. 21.49A, TEX. INS. Code and 28 TAC 5.9913 and may be amended from time to time at the discretion of the Association. In consideration for the benefit of submitting an application or seeking to renew an Association policy on behalf of and as the agent of an Association insured or applicant for insurance, and in consideration for the right to receive commissions from the Association, each such agent ("Producer") acknowledges and agrees to the following Requirements and Standards.

1. **SPECIFIC AUTHORITY.** Producer shall have full authority to submit to the Association applications for insurance covering only such classes of risk and in such amounts and for such terms as Association may, from time to time, authorize, pursuant to Association's Plan of Operation and written underwriting rules, guidelines, rate charts and other written instructions as amended by Association in its sole discretion from time to time. Producer is not authorized to submit to the Association an application for insurance if the applicant (i) is insured under a homeowners policy or other residential property policy that has not been the subject of a notice of cancellation or nonrenewal; or (ii) has a renewal offer or quote from an authorized insurance company in the voluntary market. Producer is not authorized to receive and receipt for premium from premium finance companies or endorse any checks made payable to the Association, unless specifically authorized by the Association or its Servicing Carrier on a case- by-case basis. All such premiums must be sent directly to the Association or to the Servicing Carrier to which the Producer is assigned, as directed by the Association or Servicing Carrier. Producer shall enter all applications for insurance coverage over the World Wide Web on the Association's web site, daily reports, endorsements and all other evidences of insurance or intent to insure or modify existing insurance must be sent to the Servicing Carrier to which Producer is assigned in accordance with the instructions of such Servicing Carrier. The commission to be received by Producer, as described in Paragraph 5 hereinafter, is Producer's sole compensation for the servicing of the policies of insurance placed through Producer pursuant to these Requirements and Standards during the entire term of such policy.

2. **BINDING AUTHORITY.** Producer shall have no authority to bind new business or increase the exposure of the Association on existing policies except as specified in this paragraph. New policies shall be processed only by the entry of the policy information on the Association's forms at the Association web site. New policies will be considered as bound only upon the issuance of confirmation by the Association. Additional coverages or increases in existing coverages shall be made only by the Association or the Producer's assigned Servicing Carrier as directed by the Association or such Servicing Carrier.



3. TERRITORY. Producer shall make application to the Association only for insurance on property located in the State of Texas.

4. PREMIUMS HELD IN TRUST. All premiums or other amounts collected by Producer for policies issued by Association through Producer, shall be the exclusive property of the Association and shall be held in trust by Producer in a fiduciary capacity as trustee for the Association until remitted to Association. Should any dispute arise, Producer specifically agrees to pay over to Association, all premiums held by it in trust on behalf of Association and such payments shall not otherwise affect Producer's rights.

5. APPLICATIONS, COMMISSIONS AND REMITTANCES. The Producer agrees to cause one applicant to sign each original application. The Producer agrees to retain the original application, signed by the applicant, in the Producer's files. Association shall pay Producer commissions in the manner, amounts, and at such times as specified in the underwriting manual of the Association, which may be amended from time to time without notice to Producer, as Producer's full and sole compensation for the performance of Producer's obligations. Producer shall be responsible for and immediately pay to Association, its successors or assigns, in Austin, Travis County, Texas, all premiums and other sums due or to become due that come into the possession of the Producer. In the event the Commission Statement (sometimes hereinafter referred to as "Account") reflects a balance due to Association, Producer agrees to pay such Account as rendered by Association, within ten (10) days from the date of Producer's receipt thereof; provided, however, Producer may take exceptions to specific items which are incorrect by notifying Association in writing at the time of payment and paying all undisputed amounts due. Any exception taken by Producer and subsequently denied by Association is due and payable immediately. Use of this exception provision in order to delay payment dates, as determined by Association in its sole discretion, shall be cause for immediate termination of these Requirements and Standards. The omission of any item(s) from an Account rendered by Association shall not affect the responsibility of either party to account for and pay all sums due the other, nor shall it prejudice the rights of either party to collect all such amounts due from the other. Return of unearned commissions from Producer shall be at the same rate as paid to Producer. No commission is paid on that portion of the policy premium which is designated as a policy or billing fee. The Producer is prohibited from charging or collecting any fees of any kind in connection with Association policies other than the premium on Association policies, unless authorized by the Association in advance in writing.

Account information:

i) Producer shall immediately upon receipt submit all premiums, fees and other amounts received by the Producer gross without deduction.



ii) Association will provide Producer with a monthly Commission Statement itemizing all commissions and return commissions processed for the subject month.

iii) NO FLAT CANCELLATIONS WILL BE ACCEPTED BY THE ASSOCIATION WITHOUT PROOF OF DUPLICATE COVERAGE.

iv) Association shall identify Producer by name on all communications to policyholders and shall provide Producer with copies of all such correspondence.

v) Escrow Agents. In the event the premium for a policy of Homeowners insurance is to be paid by an Escrow Agent (usually the mortgage company), Producer shall furnish to Association the name, address, and such other information as may be reasonably required by Association in order that Association may submit a statement to such Escrow Agent for the subject premium.

vi) Premium Financing. No premium financing shall be permitted, except for installment plans provided by the Association.

6. FINANCIAL STATEMENTS. Producer shall furnish Association current financial statements (including income statements) prepared in accordance with generally accepted accounting principles within 30 days of request by Association.

7. PROPERTY OF ASSOCIATION. All supplies furnished to Producer by Association shall be and always remain the properties of Association and shall be returned to Association upon demand.

8. NOT AGENT OF ASSOCIATION, LIMITATION OF PRODUCER'S AUTHORITY. Producer shall be deemed to be acting solely as the agent of the applicant or Association policyholder, not as an agent of the Association, any member insurer, administrator, or servicer of Association policies. Producer's authority hereby conferred does not extend to the adjustment, compromise or settlement of claims against the Association or the waiver of any condition of any policy of insurance in relation thereto. Payment of premium to the Producer shall not constitute payment to the Association.

9. CLAIMS. Producer must immediately upon receipt, report and forward to the Association or Servicing Carrier, all notices of and information concerning claims and losses (whether oral or in writing) together with all documents, instruments and writings received by Producer thereto.

10. COOPERATION/RECORDS. Producer shall keep true and complete records and accounts of all transactions and contracts with policyholders and/or applicants and with Association which shall include the date and time of receipt of all premiums, payments, endorsement requests and all other

requests and communications relating to any policies, binders or other contracts of insurance and claims. Such records shall be open at all reasonable times to the inspection and copying by duly authorized representatives of Association. Producer shall cooperate with Association in the investigation, settlement or defense of any claim or suit arising out of business produced on behalf of Association. Further, Producer will do nothing after a claim or suit arises to prejudice the rights of Association. Producer shall maintain such records for the period required by the Texas Department of Insurance or four years, whichever is greater.

11. **ADVERTISING.** The Producer shall not insert any advertisements respecting the Association in any publications, issue any circular or paper referring to the Association, or have any signage containing any reference to the Association without first obtaining the consent of the Association in writing.

12. **PRODUCER-NO CONTROL BY ASSOCIATION.** Except as expressly provided herein, the Association shall have no right of control over the Producer as to time, means or manner of the Producer's conduct within the authority granted herein and nothing herein is intended or shall be deemed to constitute the Producer as an employee or agent of Association. Association shall not be responsible for any expenses incurred by Producer.

13. **NO TIE-IN SALES.** Producer is prohibited from conditioning the application for or sale or renewal of a FAIR Plan policy on the acquisition of any other policy of insurance, product or service from the Producer, its subsidiary or affiliate or from or through any particular agent, solicitor, insurer, or any other person or entity.

14. **NOTICE OF TERMINATION.** Producer's authority may be canceled by the Association upon written notice. However, in the event of fraud, breach of any material term or condition of these Requirements and Performance Standards, or sale/transfer of Producer or its business without prior written consent of Association, these Requirements and Performance Standards may be canceled by Association immediately without prior written notice and any indebtedness of Producer owing to Association, and all premium in the hands of Producer or for the collection of which Producer is responsible, notwithstanding any provision herein to the contrary, shall become immediately due to Association. All obligations of Producer to Association shall survive termination of Producer's authority. Unless otherwise notified by Association, Producer shall continue to service Association inforce or renewal policies.

15. **SUSPENSION.** Notwithstanding anything to the contrary contained herein, in the event Association in its sole discretion determines that Producer may have failed to make remittances as required herein or may have otherwise failed to comply with Association's underwriting guidelines, rates, regulations or other lawful instructions, Association may suspend Producer's authority granted under



these Requirements and Standards for a period up to 30 days during which Association may investigate the facts and circumstances leading to such suspension after which Producer's authority hereunder may be reinstated or terminated.

16. RETURNS. Producer's commissions, as provided herein, are earned at the same rate as premium is earned. Producer shall repay ratably to Association, commissions on return unearned premiums at the same rate at which such commissions were originally retained or paid.

17. POLICY CANCELLATION. Association reserves the right to cancel direct any contract of insurance at any time and Producer hereby acknowledges that Producer has no authority to reinstate or represent to any party that any policy of insurance, once cancelled, will be reinstated unless given specific written authorization to do so by Association.

18. LICENSE AND APPOINTMENT. Producer represents and warrants to Association that Producer and any agent, or employee of Producer who (a) receives commission, or (b) solicits pursuant to these Requirements and Standards, or (c) is required by any law or regulation of the State of Texas, holds a current license issued by the Texas Department of Insurance for the purpose of writing business permitted to be submitted by Producer hereunder. Producer agrees that Producer and any such producer or employee receiving any such commissions pursuant to these Requirements and Standards, shall do all things necessary to renew each such license on or before the expiration date reflected on such license. Producer acknowledges that these Requirements and Standards shall not become effective until accepted by the Association; Producer further agrees to be responsible for the payment of any penalty assessed to Association for Producer's violation of any license or appointment provisions of any applicable state insurance code. Should Producer's license be suspended, revoked or fail to be renewed, Producer's authorization to apply for any new or renewal policies or to increase coverages of the Association policies pursuant to these Requirements and Standards shall immediately terminate.

19. LEGAL EXPENSES. Producer will reimburse Association for any and all expenses incurred in a successful action to enforce the conditions of these Requirements and Standards, or the collection of money due hereunder; such expenses shall include, but are not limited to, reasonable attorney's fees, court costs, expert fees, witness expenses and other related costs.

20. INDEMNIFICATION. Producer agrees to indemnify and hold harmless Association, its officers, directors, employees, agents and representatives from any liability including cost of defense in the event Producer or any person acting on behalf of Producer breaches any provision of these Requirements and Standards. Association agrees to indemnify and hold Producer harmless from any liability, including costs of defense, which is caused by Association's errors in preparing, processing or



billing any policy, contract or agreement, provided that the Producer's violation of these Requirements and Standards or instructions or underwriting guidelines of Association did not cause, contribute to or compound such acts, errors or omissions and provided that the Producer shall have given the Association prompt notice of any claim asserted against the Producer and provided further that Association is permitted to direct the investigation, settlement and defense of any such claim.

21. PRIOR AGREEMENTS SUPERSEDED. All former contracts, agreements, or understandings between the parties hereto relating to business covered herein, if any, are hereby superseded and are of no further force and effect. These Requirements and Standards may be modified and/or amended from time-to-time by the Association in its sole discretion upon thirty (30) days notice to Producer.

22. HEADINGS AND GENDER. Descriptive headings are for convenience only and shall not affect the meaning or construction of any provision of these Requirements and Standards. All references to gender herein are for convenience only and shall be construed as the appropriate gender for all interpretations hereof.

23. OFFSET. Association shall be entitled to offset any sums owed to it pursuant to these Requirements and Standards or any other agreement between Association and Producer against any commissions, fees or other payments due Producer (or any entity, business or operation owned in whole or in part by Producer) hereunder.

24. ASSIGNMENT. Producer shall not attempt to assign these Requirements and Standards in any respect without the prior written consent of Association. Any potential sale of Producer's business must be reviewed and approved in writing by Association before said sale shall be deemed effective as regards Producer's liability to Association for premium or other sums due to Association.

25. CONTROLLING LAW AND VENUE. These Requirements and Standards shall be construed in accordance with the laws of the State of Texas and if any provision hereof shall be held to be invalid under or in conflict with any of such laws, such provision shall be of no further force or effect, but in all other respects the remainder of these Requirements and Standards shall remain in full force and effect. Producer agrees to comply with all laws affecting its operation and the production of business hereunder. The venue for any controversy arising out of these Requirements and Standards, or for the breach thereof, shall be in Travis County, Texas.

26. EXISTING RESIDENTIAL PROPERTY APPOINTMENT. Producer represents and warrants to Association that Producer is appointed by an insurance company licensed (admitted) to write residential



property insurance in the State of Texas and that Producer has written such residential property business on behalf of such insurance company.

27. SERVICE PROVIDER AGREEMENT. Producer acknowledges that Association may transact business through more than one Servicing Carrier for the processing of policies produced under the terms of these Requirements and Standards. In the event more than one Servicing Carrier is used by the Association, Producer agrees to use that Servicing Carrier assigned to Producer for each policy of insurance submitted by the Producer.

28. EFFECTIVE DATE. These Requirements and Standards are subject to and effective only upon the approval of Association and the issuance by Association of a Producer Number. Receipt of an email with a Producer Number is the Producer's evidence that Association has accepted the Producer.

29. SIGNATURE. By the typing in of Producer's name on these Requirements and Standards electronically Producer agrees that such constitutes Producer's signature as if Producer had signed these Requirements and Standards in Producer's own handwriting and that it is a binding legal document. Producer further warrants and represents that Producer is duly authorized to execute these Requirements and Standards on behalf of the named Producer in the event the signer is signing these Requirements and Standards in a representative capacity.

PRODUCER

Producer's Name

Producer's Tax ID Number

Producer's Signature

Producer's TDI License Number

Title of person signing, if signed in a representative capacity or write the word "individually" if agency is a sole proprietorship.

_____ DO NOT TYPE BELOW THIS LINE _____

Producer Number: _____

Acceptance Date: _____