



TEXAS WINDSTORM  
INSURANCE ASSOCIATION

# Agent Requirements & Performance Standards

10/1/2024

## Contents

|      |  |   |
|------|--|---|
| I.   | Introduction.....  | 3 |
| 1.   | Purpose and Application .....  | 3 |
| 2.   | Authority and Amendment.....   | 3 |
| II.  | Agent-Association Relationship.....                                  | 3 |
| 1.   | Quasi-Governmental, Not-for-Profit, Residual Market Association..... | 3 |
| 2.   | Eligible Agents .....  | 3 |
| 3.   | Agent - No Control by Association .....                              | 4 |
| 4.   | Commission.....  | 4 |
| III. | General Agent Responsibilities .....                                 | 4 |
| 1.   | Licensing and Appointment.....                                       | 4 |
| 2.   | Existing Property Appointment.....                                   | 4 |
| 3.   | Applicant's and Insured's Representative.....                        | 5 |
| 4.   | Not Agent of Association; Limitation of Producer's Authority .....   | 5 |
| 5.   | Specific Authority .....   | 5 |
| 6.   | Information Accuracy .....   | 5 |
| 7.   | Premiums.....  | 5 |
| 8.   | Escrow Agents/Mortgage Companies.....                                | 6 |
| 9.   | Advertising.....   | 6 |
| 10.  | No Tie-In Sales .....  | 6 |
| 11.  | Training.....  | 6 |
| IV.  | Applications & Policies.....   | 6 |
| 1.   | Territories.....   | 6 |
| 2.   | Agent Portal.....  | 6 |
| 3.   | No Binding Authority .....   | 6 |
| 4.   | Signed Applications .....  | 7 |
| V.   | Payments .....   | 7 |
| 1.   | Commission Statement/Account .....                                   | 7 |
| 2.   | Return of Commissions .....  | 7 |

|       |  |    |
|-------|--|----|
| 3.    | Offset.....                              | 8  |
| 4.    | Assignment or Sale.....                  | 8  |
| VI.   | Cancellations.....                       | 8  |
| 1.    | Flat Cancellation .....                  | 8  |
| 2.    | Policy Cancellation by Association ..... | 8  |
| VII.  | Records .....                            | 8  |
| 1.    | Financial Statements.....                | 8  |
| 2.    | Cooperation & Records.....               | 8  |
| VIII. | Claims .....                             | 9  |
| 1.    | Immediate Claim Reporting .....          | 9  |
| 2.    | Avenues to Report Claim.....             | 9  |
| 3.    | Coverage Determinations .....            | 9  |
| IX.   | Failure to Comply.....                   | 9  |
| 1.    | Suspension .....                         | 9  |
| 2.    | Notice of Termination.....               | 9  |
| X.    | General Legal.....                       | 10 |
| 1.    | Service Provider Agreement.....          | 10 |
| 2.    | Legal Expenses.....                      | 10 |
| 3.    | Indemnification.....                     | 10 |
| 4.    | Headings .....                           | 10 |
| 5.    | Controlling Law and Venue .....          | 11 |
| 6.    | Effective Date.....                      | 11 |
| 7.    | Signature Equivalent.....                | 11 |

## **I. Introduction**

### **1. Purpose and Application**

This document identifies the requirements and performance standards (“Requirements”) for all agents submitting an application or renewal application to Texas Windstorm Insurance Association (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.

### **2. Authority and Amendment**

The Requirements have been adopted by the Association under the authority granted in TEX. INS. Code s. 2210.106 and 28 TAC s. 5.9913 and may be amended from time to time at the discretion of the Association.

## **II. Agent-Association Relationship**

### **1. Quasi-Governmental, Not-for-Profit, Residual Market Association**

The Association was established in 1971 by the Texas Legislature as the insurer of last resort for wind and hail coverage on the Texas Coast. It is a not-for-profit entity that acts as an insurance company by issuing policies and paying covered losses. As such, many of the regulatory and procedural requirements for the Association are the same as with other, private market insurers, but some are unique to the Association. It is the Producer’s responsibility to comply with all applicable laws, rules, underwriting guidelines and procedures of the Association.

### **2. Eligible Agents**

Upon completion of the registration process and agreement on the Requirements, any Texas-licensed property insurance agent may submit an application to the Association on an applicant or insured’s behalf.

### **3. Agent – 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.

#### **4. Commission**

Association shall pay Producer commissions in the manner, amounts, and at such times as approved by the Commissioner of Insurance, 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.

### **III. General Agent Responsibilities**

#### **1. Licensing and Appointment**

Producer represents and warrants to the Association that Producer and any agent, or employee of Producer who (a) receives commission from the Association, or (b) solicits pursuant to these Requirements, or (c) is required by any law or regulation of the State of Texas to be licensed, 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, 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 shall not become effective until accepted by the Association; Producer further agrees to be responsible for the payment of any penalty assessed to the 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 shall immediately terminate.

#### **2. Existing Property Appointment**

Producer represents and warrants to the Association that Producer is appointed by an insurance company licensed (admitted) to write property insurance in the State of Texas and that Producer has written such property business on behalf of such insurance company.

#### **3. Applicant's and Insured's Representative**

The Producer is the applicant's/insured's representative.

#### 4. 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.

#### 5. 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.

#### 6. Information Accuracy

Producer agrees that all information they provide to the Association in an insurance policy application or renewal is true and accurate, including all applicant and insured contact information.

#### 7. Premiums

Producer is not authorized to endorse any checks made payable to the Association, unless specifically authorized by the Association on a case -by-case basis. All such premiums must be sent directly to the Association as directed by the Association. Producer shall immediately upon receipt submit all premiums, fees and other amounts received by the Producer gross without deduction.

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.

#### 8. Escrow Agents/Mortgage Companies

In the event the premium for a policy 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.

## 9. 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. Producer may not use the Association's logo or any other Association intellectual property in or on Producer's website, social media profiles or presence, or any other electronic media without first obtaining the express written permission of the Association.

## 10. No Tie-In Sales

Producer is prohibited from conditioning the application for or sale or renewal of an Association 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.

## 11. Training

The Association may require Producer to complete training on its products and services, guidelines, online system, and procedures. Producer shall complete any and all such training and keep a record of same.

# IV. Applications & Policies

## 1. Territories

The Association only provides insurance coverage for properties located in the catastrophe area designated by the Commissioner of Insurance. Producer may submit applications only for properties in the designated catastrophe area.

## 2. Agent Portal

Producer shall enter all applications for insurance coverage and service policies on the Association's Agent Portal.

## 3. No 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's Agent Portal. New policies will be considered as bound only upon receipt of payment and the issuance of a policy by

the Association. Additional coverages or increases in existing coverages shall be made only through the Association's Agent Portal.

#### 4. Signed Applications

The Producer agrees to cause one applicant to sign each original application via hard copy or electronic means. The Producer agrees to retain the application as submitted, signed by the applicant, in the Producer's files.

### V. Payments

#### 1. Commission Statement/Account

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

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 to delay payment dates, as determined by the 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.

#### 2. Return of Commissions

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.

#### 3. Offset

Association shall be entitled to offset any sums owed to it pursuant to these Requirements 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.

#### **4. Assignment or Sale**

Producer shall not attempt to assign these Requirements 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.

## **VI. Cancellations**

### **1. Flat Cancellation**

No flat cancellations will be accepted by the Association without appropriate proof. Additionally, pursuant to Texas Insurance Code 2210.204, not all cancellations are subject to a refund. Producers are responsible for adhering to Association guidelines regarding cancellations and refunds.

### **2. Policy Cancellation by Association**

The 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 the Association.

## **VII. Records**

### **1. 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.

### **2. 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 or other contracts of insurance and claims. Such records shall be open at all reasonable times to inspection and copying by duly authorized representatives of the Association. Producer shall cooperate with the Association in the investigation,

settlement or defense of any claim or suit arising out of business produced on behalf of the Association. Further, Producer will do nothing after a claim or suit arises to prejudice the rights of the Association. Producer shall maintain such records for the period required by the Texas Department of Insurance or four years, whichever is greater.

## **VIII. Claims**

### **1. Immediate Claim Reporting**

Producer has no authority to accept claims or loss notices on behalf of the Association. Producer must immediately upon receipt, report and forward to the Association, all notices of and information concerning claims and losses (whether oral or in writing) together with all documents, instruments and writings received.

### **2. Avenues to Report Claim**

The avenues to report previously unreported claims are via the Agent Portal or 24/7 claims 800 number call center, available on the Association website.

### **3. Coverage Determinations**

Producer has no authority to accept or deny coverage for any claim under an Association policy.

## **IX. Failure to Comply**

### **1. 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 including the terms of these Requirements, Association may suspend Producer's authority granted under these Requirements 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.

### **2. 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, or sale/transfer of Producer or its business without prior written consent of Association, these Requirements may be canceled by the 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 in force or renewal policies.

## **X. General Legal**

### **1. 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. 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.

### **2. Legal Expenses**

Producer will reimburse Association for any and all expenses incurred in a successful action to enforce the conditions of these Requirements, 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.

### **3. 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. 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 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.

### **4. Headings**

Descriptive headings are for convenience only and shall not affect the meaning or construction of any provision of these Requirements.

## 5. Controlling Law and Venue

These Requirements 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 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, or for the breach thereof, shall be in Travis County, Texas.

## 6. Effective Date

These Requirements 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.

## 7. Signature Equivalent

By clicking the appropriate acknowledgement of these Requirements via the Association's online portal, Producer agrees that such constitutes Producer's signature as if Producer had signed these Requirements 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 on behalf of the named Producer in the event the signer is signing these Requirements in a representative capacity.