

Texas FAIR Plan Association
5700 South MoPac Expressway, Building A, Austin, TX 78749
P.O. Box 99080, Austin, Texas 78709-9080

TFPA CONDOMINIUM POLICY



Important Notice of Limited Coverage

The Texas FAIR Plan Association is a residual market residential property insurance carrier, and, as such, does not offer coverages that may be available from other insurance companies and the National Flood Insurance Program.

Please read the enclosed policy and endorsement(s) carefully

THIS POLICY JACKET WITH THE COMMON DECLARATIONS PAGE, COVERAGE PARTS, AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETES THIS POLICY.

IMPORTANT NOTICE

To obtain information or make a complaint:

You may call Texas FAIR Plan Association's toll-free telephone number for information or to make a complaint at:

1-800-979-6440

You may contact the Texas Department of Insurance to obtain information on companies, coverages, rights or complaints at:

1-800-252-3439

You may write the Texas Department of Insurance:

P.O. Box 149104
Austin, TX 78714-9104
FAX # (512) 475-1771
Web: <http://www.tdi.tx.gov>
E-mail: ConsumerProtection@tdi.tx.gov

To obtain price and policy form comparisons and other information relating to residential property insurance and personal automobile insurance, you may visit the Texas Department of Insurance/Office of Public Insurance Counsel website:

www.helpinsure.com

PREMIUM OR CLAIM DISPUTES: Should you have a dispute concerning your premium or about a claim you should contact the agent or the company first. If the dispute is not resolved, you may contact the Texas Department of Insurance.

ATTACH THIS NOTICE TO YOUR POLICY:

This notice is for information only and does not become a part or condition of the attached document.

AVISO IMPORTANTE

Para obtener information o para someter una queja:

Usted pueda llamar al numero de telefono gratis de Texas FAIR Plan Association para information o para someter una queja al:

1-800-979-6440

Pueda comunicarse con el Departamento de Seguros de Texas para obtener informacion acerca de companias, coberturas, derechos o quejas al:

1-800-252-3439

Pueda escribir al Departamento de Seguros de Texas:

P.O. Box 149104
Austin, TX 78714-9104
FAX # (512) 475-1771
Web: <http://www.tdi.tx.gov>
E-mail: ConsumerProtection@tdi.tx.gov

Para obtener formas de comparacion de precios y poliza y otra informacion acerca del seguro de propiedad residencial y del seguro de autom6vil, visite el sitio web del Departamento de Seguros de Texas y la Oficina del Asesor Publico de Seguros:

www.helpinsure.com

DISPUTAS SOBRE PRIMAS O RECLAMOS:

Si tiene una disputa concerniente a su prima o a un reclamo, debe comunicarse con el agente o la compania primero. Si no se resuelve la disputa, pueda entonces comunicarse con el departamento (TDI).

UNA ESTE AVISO A SU POLIZA: Este aviso es solo para proposito de informacion y no se convierte en parte o condicion del documento adjunto.

QUICK REFERENCE

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TFPA CONDOMINIUM POLICY

AGREEMENT

We will provide the insurance described in this policy in return for the premium and compliance with all applicable provisions of this policy.

DEFINITIONS

In this policy, "you" and "your" refer to the "named insured" shown on the declarations page and the spouse if a resident of the same household. Throughout this policy, the words "Association," "we", "us" and "our" refer to the Texas FAIR Plan Association. In addition, certain words and phrases are defined as follows:

1. **"Actual cash value"** is calculated as the amount it would cost us to repair or replace the damaged part of covered property, at the time of loss or damage, with material of like kind and quality and for the same use on the premises shown on the declarations page, subject to a deduction for deterioration and depreciation. "Actual cash value" applies to valuation of damage regardless of whether the property has sustained partial loss or total loss. The "actual cash value" of lost or damaged property may be significantly less than its replacement cost. We will not pay to repair or replace undamaged property due to mismatch of color, discontinued, outdated or obsolete material.
2. **"Bodily injury"** means bodily harm, sickness or disease. This includes required care, loss of services and death that results.
3. **"Business"** includes trade, profession or occupation.
4. **"Business day,"** when used in this policy means a day other than a Saturday, Sunday or holiday recognized by the state of Texas.
5. **"Cost of repair or replacement"** is calculated as the amount it would cost us to repair or replace the damaged part of covered property, at the time of loss or damage, with material of like kind and quality and for the same use on the premises shown on the declarations page, without deduction for deterioration and depreciation. We will not pay to repair or replace undamaged property due to mismatch of color, discontinued, outdated or obsolete material.
6. **"Insured"** means you and residents of your household who are:
 - a. your relatives; or
 - b. other persons under the age of 21 and in the care of any person named above.

Under Section II Liability, **"insured"** also means:

- c. any person or organization legally responsible for animals or watercraft to which this policy applies. You or a person included in 4.a. or 4.b. above must own the animal or watercraft. A person or organization using or having custody of these animals or watercraft without consent of the owner is not an **insured**.

- d. With respect to any vehicle to which this policy applies:
 - (1) any employee of an **insured** while engaged in the employment of the **insured**; or
 - (2) any other person using the vehicle on an **insured location** with your consent
7. **"Insured location"** means:
 - a. the **residence premises**.
 - b. the part of other premises, other structures and grounds you use as a residence and:
 - (1) which is shown on the declarations page; or
 - (2) which you acquire during the policy period for your use as a residence.
 - c. any premises you use in connection with a premises in **5.a.** or **5.b.** above.
 - d. any part of a premises:
 - (1) not owned by an **insured**; and
 - (2) where an **insured** is temporarily residing.
 - e. vacant land, other than farm land, owned by or rented to an **insured**.
 - f. land owned by or rented to an **insured** on which a one or two family dwelling is being built as a residence for an **insured**.
 - g. individual or family cemetery plots or burial vaults of an **insured**.
 - h. any part of a premises occasionally rented to an **insured** for other than **business** use.
8. **"Occurrence"** means an accident, including exposure to conditions, which results in **bodily injury** or **property damage** during the policy period.
9. **"Primary residence"** means the **residence premises** where you normally live as your principal residence as of the date of loss and during the majority of the policy period, and that is stipulated as your "primary dwelling" on the declarations page.
10. **"Property damage"** means injury to, destruction of or loss of use of property.
11. **"Residence employee"** means an employee of an **insured** who performs duties related to the ownership, maintenance or use of the **residence premises**, including maintenance or use of a motor vehicle. This includes employees who perform similar duties elsewhere for an **insured**. This does not include employees while performing duties related to the **business** of an **insured**.

12. "**Residence premise**" means the condominium unit shown on the declarations page as the **residence premises** where an **insured** resides or intends to reside within 60 days after the effective date of this policy.

13. "**Sudden and accidental**" means an abrupt, fortuitous event which is unintended from the perspective of a reasonable person.

SECTION I – PROPERTY COVERAGE

COVERAGE B (PERSONAL PROPERTY)

We cover:

1. a. personal property owned, worn or used by an **insured** while on the **residence premises**. This includes window or wall air conditioning units.
- b. at your request, property of others while the property is on the part of the **residence premises** occupied by an **insured**.
2. a. personal property owned, worn or used by an **insured** anywhere in the world.
- b. at your request, personal property of a **residence employee** when:
 - (1) the property is away from the residence premises of the **residence employee** and in the control of the **residence employee**; and
 - (2) while the **residence employee** is performing work for you.

Our total limit of liability under 2.a. and 2.b. above is 10% of the Coverage B (Personal Property) limit of liability or \$1,000, whichever is greater. This is additional insurance and does not reduce the Coverage B (Personal Property) limit of liability.

3. a. alterations, fixtures, installations and additions which are part of the building and contained within the unfinished interior surfaces of the perimeter walls, floors and ceilings of the **residence premises**.
- b. the exterior surfaces of balconies and terraces of the **residence premises**.

We do not cover property in or on the residence premises which is defined in the condominium's declarations or by-laws as a common element.

SPECIAL LIMITS OF LIABILITY. These limits do not increase the Coverage B (Personal Property) limit of liability. The special limit for each numbered category below is the total limit for each loss for all property in that category.

1. Money/Bank Cards. \$100 on money or numismatic property or loss by theft or unauthorized use of bank fund transfer cards registered to an **insured**.
2. Bullion/Valuable Papers. \$500 on gold or silver bullion, manuscripts, notes, securities, stamps, philatelic property, accounts, bills, deeds, evidences of debt, letters of credit, passports, documents, transportation or other tickets.

3. Jewelry/Watches/Furs. \$500 for loss by theft of gems, watches, jewelry or furs.

4. **Business** Personal Property. \$2,500 on **business** property.

We do not cover any **business** property:

- a. that consists of samples or articles for sale or delivery; or
- b. If the property is away from the **residence premises**.

PROPERTY NOT COVERED. We do not cover:

1. articles separately described and specifically insured by this or other insurance.
2. animals or birds.
3. motor or engine propelled vehicles or machines designed for movement on land, including attached machinery or equipment.

However, we do cover such vehicles which are not subject to motor vehicle registration and are:

- a. devices and equipment for assisting the handicapped.
 - b. power mowers.
 - c. golf carts.
 - d. vehicles or machines used for recreational purposes while located on the **residence premises**.
 - e. farm equipment not designed for use principally on public roads.
4. trailers, semi-trailers or mobile homes.

However, we do cover:

- a. trailers and semi-trailers that are designed for use principally off public roads.
 - b. boat trailers while on the **residence premises**.
5. aircraft meaning any device used or designed for flight, except model or hobby aircraft not used or designed to carry people or cargo.

6. watercraft, including outboard motors and furnishings or equipment.

We do cover watercraft, including outboard motors and furnishings or equipment, while located on land on the **residence premises**.

7. property of roomers, tenants, or any other person regularly staying at the described location shown on

the declarations page for a period in excess of thirty consecutive days, except an **insured**.

8. property usually rented to others off the **residence premises**.
9. property regularly rented or held for rental to others by you.

We do cover:

- a. property contained in the part of the **residence premises** normally occupied solely by you and occasionally rented to others.
- b. property of an **insured** in the portion of the **residence premises** occupied by roomers or boarders.

EXTENSIONS OF COVERAGE.

1. **DEBRIS REMOVAL.** We will pay your expense for the removal from the **residence premise**, of:

- a. debris of covered property if a Peril Insured Against causes the loss.
- b. a tree that has damaged covered property if a Peril Insured Against causes the tree to fall.

This does not increase the limit of liability that applies to the damaged property.

2. **LOSS OF USE.** If a loss caused by a Peril Insured Against under Section I makes your **primary residence** wholly or partially untenable, we cover:

- a. additional living expense, meaning any necessary and reasonable increase in living expense you incur so that your household in your **primary residence** can maintain its normal standard of living.
- b. fair rental value, meaning the fair rental value of that part of your **primary residence** usually rented to others by you, less any expenses that do not continue.

We do not cover expenses that you incur as a result of evacuation or displacement from your **primary residence** due to voluntary or mandatory evacuation, order of civil authority restricting ingress, egress or access, loss or disconnection of utilities, damage or closure of roads, ferries, bridges or infrastructure, or loss that is excluded in the Exclusions of this policy, except to the extent such expenses were incurred because damage to your **primary residence** caused by a Peril Insured Against under Section I made your **primary residence** wholly or partially untenable.

The total limit of liability for all loss of use is 20% of the Coverage B (Personal Property) limit of liability. This is additional insurance and does not reduce the Coverage B (Personal Property) limit of liability. The deductible clause does not apply to loss of use coverage.

Payment will be for the reasonable time required to repair or replace covered damage to your **primary**

residence. If you permanently relocate, payment will be for the reasonable time required for your household to become settled.

The periods of time for loss of use are not limited by expiration of this policy.

3. **REASONABLE REPAIRS.** If a Peril Insured Against causes the loss, we will pay the reasonable cost you incur for necessary repairs made solely to protect covered property from further damage. This coverage does not increase the limit of liability that applies to the property being repaired.
4. **PROPERTY REMOVED.** We pay for expense and damage incurred in the removal of covered property from an **insured location** endangered by a Peril Insured Against. This coverage exists on a pro rata basis for 30 days at each location to which such property is removed for preservation. This is not additional insurance and does not increase the Coverage B (Personal Property) limit of liability.
5. **CONSEQUENTIAL LOSS.** We insure:

- a. property contained in a building on the **residence premises** against loss due to change in temperature as a direct result of physical damage to the dwelling, or any equipment contained in the dwelling, caused by a Peril Insured Against. The deductible clause does not apply to this coverage.
- b. property contained in a building on the **residence premises** against a loss due to change in temperature as a direct result of physical damage to any power, heating or cooling equipment (including connections and supply pipes), not contained in or on the dwelling caused by a Peril Insured Against.

The total limit of liability for the coverage described in 5.b. above is \$500. This is not additional insurance and does not increase the Coverage B (Personal Property) limit of liability.

6. **AUTOMATIC REMOVAL.** If you move from the **residence premises** shown on the declarations page to another location within the United States, to be occupied as your principal residence, we cover:
 - a. the personal property under Coverage B (Personal Property) at each location in the proportion that the value at each location bears to the total value of all the personal property covered under Coverage B (Personal Property).
 - b. property in transit up to 10% of the Coverage B (Personal Property) limit of liability or \$1,000, whichever is greater.

We provide coverage for only 30 days from the date the removal begins.

SECTION I – PERILS INSURED AGAINST

COVERAGE B (PERSONAL PROPERTY)

We insure for **sudden and accidental**, direct physical loss to the property described in Section I Property Coverage, Coverage B (Personal Property) caused by a peril listed below, unless the loss is specifically excluded. The exclusions contained in this section do not apply to an ensuing loss caused by fire or explosion except as specifically provided.

1. **Fire and Lightning.**

We do not cover loss to electrical appliances, devices, or wiring caused by electricity, other than lightning.

2. **Sudden and Accidental Damage from Smoke.**

We do not cover loss caused by smog or by smoke from industrial or agricultural operations.

3. **Windstorm and Hail.**

This peril does not cover:

a. loss to the following:

- (1) cloth awnings, greenhouses, and their contents.
- (2) radio and television towers, outside satellite dishes, masts and antennas, including lead-in wiring, wind chargers and windmills.

- b. loss caused by rain, snow, sand, or dust, whether or not driven by wind, unless the direct force of wind or hail makes an opening in the roof or wall and the rain, snow, sand, or dust enters through this opening and causes the damage.

4. **Explosion.**

This peril does not include loss caused by or resulting from:

- a. Breakage of water, sewage or steam pipes, or any component of a plumbing system.
- b. Freezing of plumbing, heating or air conditioning systems or household appliances.
- c. Discharge, leakage or overflow of water, sewage or steam from within a plumbing, heating or air conditioning system or household appliance.

5. **Aircraft and Vehicles.**

6. **Vandalism and Malicious Mischief.**

This peril does not include loss caused by you, a roomer, tenant, or any other person regularly staying at the **residence premises** for a period in excess of thirty consecutive days.

7. **Riot and Civil Commotion.**

8. **Theft**, including attempted theft and loss of property from a known place when it is likely that the property has been stolen.

a. We do not cover loss by theft:

- (1) of personal property while away from the **residence premises** at any other residence owned by, rented to or occupied by an **insured**, except while an **insured** is temporarily living there.

- (2) of building materials and supplies not on the **residence premises**.

- b. While any portion of the residence premises normally occupied by you is rented to others, we do not cover loss by theft:

- (1) of money, bullion, numismatic property or bank notes.

- (2) of securities, accounts, bills, deeds, evidences of debt, letters of credit, notes other than bank notes, passports, railroad and other tickets, or stamps including philatelic property.

- (3) of jewelry, watches, necklaces, bracelets, gems, precious and semi precious stones, articles of gold and platinum or fur or fur trimmed articles when the principal value is the fur.

- (4) caused by a tenant, his employees or members of his household while renting tile portion of the **residence premises** normally occupied by you.

SECTION I – EXCLUSIONS

We do not insure for loss or damage consisting of or caused directly or indirectly by any of the following, regardless of any other cause or event that contributes concurrently or in any sequence to produce the loss or damage

1. **WATER DAMAGE.**

We do not cover under any and all circumstances loss or damage caused by or resulting from flood, surface water, waves, storm surge, tides, tidal water, tidal waves, tsunami, seiche, overflow of streams or other

bodies of water, or spray from any of these, all whether driven by wind or not.

We do cover ensuing loss by the perils of Fire or Explosion.

We do cover ensuing loss by the perils of Theft or attempted Theft.

2. **GOVERNMENTAL ACTION.**

We do not cover loss caused by the destruction of property by order of governmental authority.

But we do cover loss caused by acts of destruction ordered by governmental authority taken at the time of a fire to permit its spread if the fire would be covered under this policy.

3. **BUILDING LAWS.**

We do not cover loss caused by or resulting from the enforcement of any ordinance or law regulating the construction, repair or demolition of a building or structure.

4. **WAR DAMAGE.**

We do not cover loss resulting directly or indirectly from war. This includes undeclared war, civil war, insurrection, rebellion, revolution, warlike act by military personnel, destruction or seizure or use for a military purpose, and any consequence of these. Discharge of a nuclear weapon will be deemed a warlike act even if accidental.

5. **NUCLEAR DAMAGE.**

We do not cover loss resulting directly or indirectly from nuclear reaction, radiation or radioactive contamination, all whether controlled or uncontrolled or however caused. We do cover direct loss by fire resulting from nuclear reaction, radiation or radioactive contamination.

6. **MOLD, FUNGI OR OTHER MICROBES.** We do not cover any loss or damage caused by or resulting from mold, fungi or other microbes. We do cover direct physical loss caused by a Peril Insured Against under Section I to covered property containing mold, fungi or other microbes; however, we do not cover the additional cost or expense to test for, monitor, clean up, remove, contain, treat, abate or assess the effects of mold, fungi or other microbes on any materials or in the air.

7. **ASBESTOS.** We do not cover any loss or damage caused by or resulting from asbestos. We do cover direct physical loss caused by a Peril Insured Against under Section I to covered property containing asbestos materials; however, we do not cover the additional cost or expense to test for, monitor, clean up, remove, contain, treat, abate or assess the effects of asbestos-containing materials or asbestos on any materials or in the air.

8. **INTENTIONAL LOSS.** We do not cover any loss or damage caused by or resulting from any act that any insured, roomer, tenant, or any person regularly staying at the described location, commits or conspires to commit:

- with the intent to cause a loss;
- with reckless disregard for the property insured; or
- in connection with a dishonest act or criminal offense.

This exclusion does not apply to an insured who did not commit or conspire to commit the act causing the loss if that insured has filed a police report and fully cooperated with the law enforcement investigation and prosecution relating to any other insured causing the loss; provided, however, payment to an insured under this exception to exclusion 8 will be limited to that insured's interest in the property involved in the loss.

SECTION I – DEDUCTIBLE

DEDUCTIBLE CLAUSE 3 The amount shown on the declarations page for Deductible Clause 3 will be deducted from the total amount of each loss under

Coverage B (Personal Property). If a single event causes loss by windstorm, hail or wind driven rain and loss by lightning, the deductible will apply only once.

SECTION I – CONDITIONS

1. **Insurable Interest and Limit of Liability.** Even if more than one person has an insurable interest in the property covered, we will not be liable in anyone loss:

- to the insured for more than the amount of the insured's interest at the time of loss; or
- for more than the applicable limit of liability.

Each time there is a loss to any alterations, fixtures, installations and additions which are part of the building insured under Coverage B (Personal Property), the amount of insurance applicable to alterations, fixtures, installations and additions which are part of the building for loss by fire will be reduced by the amount of the loss. As repairs are made, the amount of insurance will be reinstated up to the limit of liability as shown on the declarations page.

Sec. 862.053. Policy a Liquidated Demand. A fire insurance policy, in case of a total loss by fire of property insured, shall be held and considered to be a liquidated demand against the company for the full amount of such policy. The provisions of this article shall not apply to personal property.

2. **Residential Community Property Clause.** This policy, subject to all other terms and conditions, when covering residential community property, as defined by state law, shall remain in full force and effect as to the Interest of each spouse covered, irrespective of divorce or change of ownership between the spouses unless excluded by endorsement attached to this policy until the expiration of the policy or until cancelled in accordance with the terms and conditions of this policy.

3. Duties After Loss:

a. **Your Duties After Loss.** In case of a loss to covered property caused by a peril insured against, you must:

- (1) give us written notice of the facts relating to the claim promptly after the date of loss that is the subject of the claim.
- (2) file a police report with a complete inventory of the property involved in any loss by theft, vandalism, malicious mischief or other illegal act.
- (3) (a) protect the property from further damage.
(b) make reasonable and necessary repairs to protect the property.
(c) keep an accurate record of repair expenses.
- (4) furnish a complete inventory of damaged personal property showing the quantity, description and amount of loss. Attach all bills, receipts and related documents which you have that justify the figures in the inventory.
- (5) as often as we reasonably require:
 - (a) provide us access to the damaged property.
 - (b) provide us with pertinent records and documents we request and permit us to make copies.
 - (c) submit to examination under oath and sign and swear to it.
- (6) send to us, if we request, your signed sworn proof of loss within 91 days of our request on a standard form supplied by us. We must request a signed sworn proof of loss within 15 days after we receive your written notice, or we waive our right to require a proof of loss. Such waiver will not waive our other rights under this policy.

This proof of loss shall state, to the best of your knowledge and belief:

- (i) the date, time and cause of loss;
- (ii) the interest of the **insured** and all others in the property involved including all liens on the property, and any changes in title during the term of the policy;
- (iii) other insurance which may cover the loss;
- (iv) name of the occupant at the time of the loss, and any changes in occupancy during the term of the policy;

(v) a detailed repair estimate, receipts, invoices and expense records; and

(vi) The **actual cash value** of loss or damage to each item of damaged property.

b. Our Duties After Loss:

(1) Within 15 days after we receive your written notice of claim, we must:

(a) acknowledge receipt of the claim.

If our acknowledgment of the claim is not in writing, we will keep a record of the date, method and content of our acknowledgment.

(b) begin any investigation of the claim.

(c) specify the information you must provide in accordance with "Your Duties After Loss" (item 3.a. above).

We may request more information, if during the investigation of the claim such additional information is necessary.

(2) After we receive the information we request, we must notify you in writing whether the claim will be paid or has been denied or whether more information is needed:

(a) within 15 **business days**; or

(b) within 30 days if we have reason to believe the loss resulted from arson.

(3) If we do not approve payment of your claim or require more time for processing your claim, we must:

(a) give the reasons for denying your claim, or

(b) give the reasons we require more time to process your claim. But, we must either approve or deny your claim within 45 days after requesting more time.

4. Loss Settlement.

a. Personal Property (excluding alterations, fixtures, installations and additions which are part of the building).

Our limit of liability and payment for covered losses under Section I will not exceed the smallest of the following:

(1) the **actual cash value**; or

(2) the specified limit of liability of the policy.

b. Alterations, fixtures, installations and additions which are part of the building.

Our limit of liability and payment for covered losses under Section I will be cost of **repair or replacement**.

We will pay only the **actual cash value** until repair or replacement is complete. Repair or

replacement must be completed within 545 days after the date of loss. Upon completion and documentation of all repairs or replacement, we will pay the additional amount claimed under replacement cost coverage, but our payment will not exceed the smallest of the following:

- (1) the limit of liability under this policy applicable to the damaged or destroyed building structure(s);
- (2) the **cost of repair or replacement**; or
- (3) the amount actually and necessarily spent to repair or replace the damaged building structure(s), as documented by records, including invoices, bills, statements, and receipts, submitted to us.

Any amount collectible for the damaged or destroyed property from other insurance covering the interest of the unit-owners of the condominium collectively, will be deducted from the amount of loss to be paid under this policy.

5. **Loss to a Pair or Set.** In case of loss to an item which is part of a pair or set, the measure of loss shall be a reasonable and fair proportion of the total value of the pair or set. The importance of the item will be considered in assessing the loss. Such loss will not be considered a total loss of the pair or set.

6. **Salvage Rights.** If we notify you that we will pay your claim or part of your claim, the notice must also state whether we will or will not take all or any part of the damaged property. We must bear the expense of our salvage rights.

7. **Appraisal.**

- a. If you and we fail to agree on the amount of loss, either may demand an appraisal of the loss. In this event, each party will choose a **qualified** appraiser and notify the other of the appraiser's identity within 20 days after receiving a written request from the other. The two appraisers will choose a **qualified** umpire. If they cannot agree upon an umpire within 15 days after selection of the second appraiser, you or we may request that a **qualified** umpire be chosen by a district judge of a court of record in the county where the loss occurred. You and we may agree to delay selection of an umpire until the appraisers have first attempted to reach agreement on the amount of the loss.
- b. The term "**qualified**" means competent, impartial, and disinterested appraiser or umpire. The umpire and appraisers, and their employers, may not have an interest in the property that is the subject of the claim or have a financial interest that is conditioned on the outcome of the appraisal or the claim. The umpire may not have made or received substantial referrals of business to or from you or us, or representatives of you or us. The umpire and appraisers must be one of

the following and be licensed or certified as required by the applicable jurisdiction:

- (1) an engineer, architect, adjuster, or public adjuster with experience and training in investigation, estimating, and repair of the type of property damage in dispute;
- (2) an attorney mediator or former state judge with experience or training in the mediation, arbitration or trial of legal actions over investigation, estimating and repair of the type of property damage in dispute; or
- (3) have experience and training in building construction, repair, estimating, or investigation of the type of property damage in dispute.

- c. By accepting appointment, the appraisers and umpire agree that if requested by you or us, they will:
 - (1) within 7 days after a request, disclose to you and us his or her qualifications, fee agreement, and any known facts which a reasonable person may consider to affect the appraiser's or umpire's independence, neutrality, or impartiality;
 - (2) review any estimates, repair records, written statements, expert opinions, photos, and other pertinent information that you or we provide to the appraisers, umpire and each other; and
 - (3) personally inspect the property.
- d. The appraisers will separately set and itemize the **actual cash value** of the damaged part of the property. If the appraisers submit a written report of an agreement to us, the amount agreed upon will be the **actual cash value**. If they fail to agree, they will submit their differences, only, to the umpire. An itemized decision agreed to by any two of these three and filed with us will set the **actual cash value**, and any additional items determined under subparts e.(1) through e.(4), when received by us. Such an award shall be binding on you and us. The following conditions apply to appraisal:
- e. If you or we request that they do so, the appraisal will also determine:
 - (1) the full replacement cost of the dwelling at the time of loss for purposes of the Loss Settlement Condition;
 - (2) the **cost of repair or replacement** of the damaged part of covered property, if the policy includes an endorsement for replacement cost coverage;
 - (3) the amount that you actually and necessarily spent to repair or replace the damaged property; and

(4) the amount of loss for any applicable Extensions of Coverage.

- f. Each party will pay its own appraiser and bear the other expense of the appraisal and umpire equally. Any fees for expert witnesses or attorneys will be paid by the party who hires them.
- g. Each party must be given at least 3 **business days** advance written notice of the date, time, location and identity of any judge who will be asked to choose an umpire. If such notice is not given, a judge's selection of an umpire at the request of one party who has not given such notice to the other party as described in this paragraph shall invalidate that selection and require selection of a new umpire either by agreement or by another judge after advance written notice as described in this paragraph.
- h. You, we, and each of our representatives shall cooperate with the appraisal process, provide the appraisers and umpire with existing repair bids, estimates, invoices, receipts, expense records, inventories, and photos which are reasonably requested, and allow the appraisers and umpire reasonable and timely access to inspect the damaged property.
- i. Neither party waives the right to an appraisal if the request for appraisal is made within 90 days after an impasse is reached or a suit is filed over the amount of loss, whichever is later.
- j. The appraisers and umpire are not authorized to determine coverage, exclusions, conditions, forfeiture provisions, conditions precedent, or any other contractual issues that may exist between you and us, and the appraisal decision is not binding on these issues.

8. Loss Payment.

- a. If we notify you that we will pay your claim, or part of your claim, we must pay within 5 **business days** after we notify you.
- b. If payment of your claim or part of your claim requires the performance of an act by you, we must pay within 5 **business days** after the date you perform the act.

9. Catastrophe Claims.

If a claim results from a weather related catastrophe or a major natural disaster each claim handling deadline shown under the Duties After Loss and Loss Payment provisions is extended for an additional 15 days.

Catastrophe or Major Natural Disaster means a weather related event which:

- a. is declared a disaster under the Texas Disaster Act of 1975; or
- b. is determined to be a catastrophe by the commissioner of insurance

10. Other Insurance - Section I. If a loss covered by this policy is also covered by:

- a. other insurance in the name of the condominium association, the insurance provided in this policy will be excess over the amount collectible under the other insurance.
- b. other insurance (not in the name of the condominium association), we will pay only the proportion of the loss that the limit of liability that applies under this policy bears to the total amount of insurance covering the loss.

11. Suit Against Us. No suit or action can be brought unless the policy provisions have been complied with. Suit or action brought against us must be started within two years and one day after the cause of action accrues.

Before you file or proceed with a suit or action against us concerning the amount of a loss:

- a. You must provide us with written notice of your dispute, and a copy of all existing repair bids, estimates, invoices, receipts, expense records, inventories, and photos that relate to the dispute;
- b. You must make a written demand to us for appraisal of the amount of loss under Section I – Conditions, part 7; and
- c. The appraisal must be completed as required by Section I – Conditions, part 7.

These conditions precedent to suit or action may be waived only by a written agreement signed by you and us. If suit is filed prior to compliance with these conditions precedent, the parties agree to abatement of the lawsuit until these conditions precedent are fulfilled.

12. Abandonment of Property. There can be no abandonment of property to us.

13. No Benefit to Bailee. We will not recognize any assignment or grant any coverage for the benefit of a person or organization holding, storing or moving property for a fee.

SECTION II – LIABILITY COVERAGE

COVERAGE C (Personal Liability)

If a claim is made or a suit is brought against an **insured** for damages because of **bodily injury** or **property damage** caused by an **occurrence** to which this coverage applies, we will:

- 1. pay up to our limit of liability for the damages for which the **insured** is legally liable. Damages include prejudgment interest awarded against the **insured**; and
- 2. provide a defense at our expense by counsel of our choice even if the suit is groundless, false or

fraudulent. We may Investigate and settle any claim or suit that we decide is appropriate.

COVERAGE D (Medical Payments To Others)

We will pay the necessary medical expenses incurred or medically determined within three years from the date of an accident causing **bodily injury**. Medical expenses means reasonable charges for medical, surgical, x-ray, dental, ambulance, hospital, professional nursing, prosthetic devices and funeral services. This coverage does not apply to you or regular residents of your household. This coverage does apply to **residence employees**. As to others, this coverage applies only:

1. to a person on the **insured location** with the permission of an **insured**.
2. to a person off the **insured location**, if the **bodily injury**:
 - a. arises out of a condition on the **insured location** or the ways immediately adjoining.
 - b. is caused by the activities of an **insured**.
 - c. is caused by a **residence employee** in the course of the **residence employee's** employment by an **insured**.
 - d. is caused by an animal owned by or in the care of an **insured**.

SECTION II – EXCLUSIONS

1. Coverage C (Personal Liability) and Coverage D (Medical Payments to Others) do not apply to:

- a. **bodily injury** or **property damage** which is caused intentionally by or at the direction of the **insured**;
- b. **bodily injury** or **property damage** arising out of or in connection with a **business** engaged in by an **insured**. But this exclusion does not apply to activities which are ordinarily incidental to non-business pursuits.
- c. **bodily injury** or **property damage** arising out of the rental or holding for rental of any part of any premises by an **insured**.
- d. **bodily injury** or **property damage** arising out of the rendering of or failure to render professional services.
- e. **bodily injury** or **property damage** arising out of a premises:
 - (1) owned by an **insured**;
 - (2) rented to an **insured**; or
 - (3) rented to others by an **insured**;that is not an **insured location**.

This exclusion does not apply to **bodily injury** to a **residence employee** arising out of and in the course of the **residence employee's** employment by an **insured**.

- f. **bodily injury** or **property damage** arising out of the ownership, maintenance, operation, use, loading or unloading of:
 - (1) motor or engine propelled vehicles or machines designed for movement on land, including attached machinery or equipment;
 - (2) trailers, semi-trailers or mobile homes;which are owned or operated by or rented or loaned to an **insured**.

However, this exclusion does not apply to:

- (1) motor vehicles which are not subject to motor vehicle registration and are:
 - (a) used for assisting the handicapped.
 - (b) used to service an **insured location**.
 - (c) golf carts while on the **residence premises** or used for golfing purposes.
 - (d) designed and used for recreational purposes, and are:
 - (i) not owned by an **insured**; or
 - (ii) owned by an **insured** while on the **residence premises**.
 - (e) in dead storage on the **residence premises**.
 - (f) used exclusively on the **residence premises**.
- (2) trailers or semi-trailers while not being towed by or carried on a motor vehicle.

This exclusion does not apply to **bodily injury** to a **residence employee** arising out of and in the course of the **residence employee's** employment by an **insured**.

- g. **bodily injury** or **property damage** arising out of the ownership, maintenance, operation, use loading or unloading of watercraft:
 - (1) with inboard or inboard-outdrive motor power of more than 50 horsepower owned by or rented to an **insured**.
 - (2) powered by one or more outboard motors with more than 25 total horsepower if the outboard motor is owned by an **insured**. But, outboard motors of more than 25 total horsepower are covered for the policy period if:
 - (a) you acquire them prior to the policy period 2. and:
 - (i) you declare them at policy inception; or

- (ii) your intention to insure is reported to us in writing within 45 days after you acquire the outboard motors.

(b) you acquire them during the policy period.

- (3) that is a sailing vessel, with or without auxiliary power, which is 26 feet or more in length owned by or rented to an **insured**.

This exclusion does not apply while the watercraft is on the **residence premises**.

This exclusion does not apply to **bodily injury** to a **residence employee** arising out of and in the course of the **residence employee's** employment by an **insured**.

- h. **bodily injury** or **property damage** arising out of the ownership, maintenance, operation, use, loading or unloading of aircraft.

Aircraft means any device used or designed for flight, except model or hobby aircraft not used or designed to carry people or cargo.

This exclusion does not apply to **bodily injury** to a **residence employee** arising out of and in the course of the **residence employee's** employment by an **insured**.

- i. **bodily injury** or **property damage** arising out of:
 - (1) the entrustment by an **insured** to any person; or
 - (2) the negligent supervision by an **insured** of any person;

with regard to the ownership, maintenance or use of any motor vehicle, watercraft or aircraft which is excluded in paragraph f., g. or h. above.

This exclusion does not apply to **bodily injury** to a **residence employee** arising out of and in the course of the **residence employee's** employment by an **insured**.

- j. **bodily injury** or **property damage** caused directly or indirectly by war. This includes undeclared war, civil war, insurrection, rebellion, revolution, warlike act by a military force or military personnel, destruction or seizure or use for a military purpose, and any consequence of these. Discharge of a nuclear weapon will be deemed a warlike act even if accidental.
- k. **bodily injury** or **property damage** arising out of the transmission of sickness or disease by an **insured** through sexual contact.
- l. **bodily injury** to any person eligible to receive any benefits voluntarily provided or required to be provided by an **insured** under any workers' compensation law or occupational disease law.
- m. **bodily injury** or **property damage** arising out of any actual, alleged or threatened sexual misconduct, sexual harassment, sexual molestation, corporal punishment, physical

abuse, or mental abuse. For purposes of this policy, abuse means an act which is committed with the intent to cause harm.

- n. **bodily injury** or **property damage** caused by any dog or other animal owned by you or in your care that has a prior history of biting causing **bodily injury** or **property damage**.
- o. **bodily injury** or **property damage** arising out of any physical conduct, oral or written expression, publication of information, or use of the internet, email, instant messaging, audio or video recording, digital imagery, or electronic communication, in any manner that:
 - (1) slanders or libels a person;
 - (2) violates a person's right of privacy;
 - (3) frightens, harasses, intimidates, torments, stalks, ridicules, or mentally abuses a person; or
 - (4) acquires or uses another person's name, personal information, or electronic account without authorization.

2. **Coverage C (Personal Liability)** does not apply to.

- a. liability under any contract or agreement.

However, this exclusion does not apply to written contracts:

- (1) that directly relate to the ownership, maintenance or use of an **insured location**; or
- (2) where the liability of others is assumed by an **insured**;

unless excluded elsewhere in this policy.

- b. **property damage** to property owned by an **insured**.
- c. **property damage** to property rented to, occupied or used by or in the care of the **insured**.

This exclusion does not apply to **property damage** caused by fire, smoke or explosion.

- d. **bodily injury** or **property damage** for which an **insured** under this policy is also an **insured** under a nuclear energy liability policy or would be an **insured** under that policy but for the exhaustion of its limit of liability.

A nuclear energy liability policy is one issued by American Nuclear Insurers, Mutual Atomic Energy Liability Underwriters, or Nuclear Insurance Association of Canada.

- e. **bodily injury** to you or an **insured** within the meaning of part a. or part b. of **insured** as defined.

3. **Coverage D (Medical Payments to Others)** does not apply to:

- a. bodily injury to a residence employee if the bodily injury:

- (1) occurs off the **insured location**; and
- (2) does not arise out of or in the course of the **residence employee's** employment by an **insured**.

- b. **bodily injury** to any person, other than a **residence employee** of an **insured**, regularly residing on any part of the **insured location**.

SECTION II – ADDITIONAL COVERAGES

We cover the following in addition to the limits of liability:

1. **Claim Expenses.** We pay:

- a. expenses we incur and costs taxed against an **insured** in any suit we defend.
- b. premiums on bonds required in a suit we defend but not for bond amounts more than the limit of liability for Coverage C (Personal Liability). We need not apply for or furnish any bond.
- c. reasonable expenses incurred by an **insured** at our request, including actual loss of earnings (but not loss of other income) up to \$50 per day, for assisting us in the investigation or defense of a claim or suit.
- d. interest on the entire judgment which accrues after entry of the judgment and before we pay or tender, or deposit in court that part of the judgment which does not exceed the limit of liability that applies.

2. **Imperative Medical Expenses to Others.** We pay expenses incurred by an **insured** for immediate medical and surgical relief to others if imperative at the time of the accident.

3. **Damage to Property of Others.** We pay replacement cost up to \$500 per **occurrence** for **property damage** to property of others caused by an **insured**.

We do not pay for **property damage**:

- a. caused intentionally by an **insured** who is 13 years of age or older.
- b. to property owned by an **insured**.
- c. to property owned by or rented to a tenant of an **insured** or a resident in your household.
- d. arising out of:
 - (1) a **business** engaged in by an **insured**.
 - (2) any act or omission in connection with a premises owned, rented or controlled by an **insured**, other than the **insured location**.
 - (3) the ownership, maintenance, use, loading or unloading of aircraft, watercraft or motor vehicles or all other motorized land conveyances.

This exclusion does not apply to any motorized land conveyance designed for recreational use off public roads, not subject to motor vehicle registration and not owned by an **insured**.

SECTION II – CONDITIONS

1. **Limit of Liability.** The limit of liability for Coverage C (Personal Liability) shown on the declarations page is our total liability under Coverage C (Personal Liability) for all damages resulting from any one **occurrence**. This limit is the same regardless of the number of **insureds**, claims made or persons injured.

The limit of liability for Coverage D (Medical Payments to Others) shown on the declarations page is our total liability under Coverage D (Medical Payments to Others) for all medical expense payable for **bodily injury** to one person as the result of one accident. The total limit of our liability for all expenses payable to two or more persons injured in one accident is \$25,000.

2. **Severability of Insurance.** This insurance applies separately to each **insured**. This condition will not increase our limit of liability for anyone **occurrence**.

3. **Duties After Loss.** In case of an accident or **occurrence**, the **insured** will perform the following duties that apply or will help us by seeing that these duties are performed:

- a. Give written notice to us or our agent as soon as is practical, which sets forth:

- (1) the identity of the policy and **insured**.
- (2) reasonably available information on the time, place and circumstances of the accident or occurrence.
- (3) names and addresses of any claimants and witnesses.

b. Promptly forward to us every notice, demand, summons or other process relating to the accident or **occurrence**.

c. At our request, help us:

- (1) to make settlement.
- (2) to enforce any right of contribution or indemnity against any person or organization who may be liable to an **insured**.
- (3) with the conduct of suits, including attending hearings and trials.
- (4) to secure evidence and obtain the attendance of witnesses.

d. The **insured** will not, except at the **insured's** own cost, voluntarily make payment, assume obligation or incur expense other than for

immediate medical and surgical relief to others at the time of the **bodily injury**.

4. **Duties of an Injured Person - Coverage D (Medical Payments to Others).**

The injured person or someone acting for the injured person will:

- a. give us written proof of claim, under oath if required, as soon as is practical.
- b. authorize us to obtain copies of medical reports and records.

The Injured person will submit to a physical exam by a doctor of our choice when and as often as we reasonably require.

5. **Payment of Claim - Coverage D (Medical Payments to Others).** Payment under this coverage is not an admission of liability by an **insured** or us.

6. **Suit Against Us.** No action can be brought against us unless there has been compliance with the policy provisions. Suit or action brought against us must be started within two years and one day after the cause of action accrues.

No one will have the right to join us as a party to any action against an **insured**. Also, no action with respect to Coverage C (personal Liability) can be brought against us until the obligation of the **insured** has been determined by final judgment or agreement.

Under Coverage D (Medical Payments to Others), no action can be brought until 30 days after the required proofs of claim have been filed with us.

7. **Bankruptcy of the Insured.** Bankruptcy or insolvency of the **insured** or of the **insured's** estate will not relieve us of our obligations under this policy.

8. **Other Insurance - Section II.** This insurance is excess over other valid and collectible insurance except insurance written specifically to cover as excess over the limits of liability that apply in this policy.

However, with respect to **bodily injury** or **property damage** arising out of the ownership, maintenance, operation, use, loading or unloading of:

- a. any motor vehicle or recreational motor vehicle at the **residence premises**; or
- b. watercraft,

this policy will not apply if any valid and collectible insurance is available to the **insured**.

9. **Notice of Settlement of Liability Claim.**

- a. We will notify the **insured** in writing of any initial offer to compromise or settle a claim against the **insured** under the liability section of this policy. We will give the **insured** notice within 10 days after the date the offer is made.
- b. We will notify the **insured** in writing of any settlement of a claim against the **insured** under the liability section of this policy. We will give the **insured** notice within 30 days after the date of the settlement.

SECTION I AND II – CONDITIONS

1. **Policy Period.** This policy applies only to loss in Section I or bodily injury or property damage in Section II which occurs during the policy period stated on the declarations page.

2. **Concealment or Fraud.** This policy is void as to you and any other **insured** if you or any other **insured** under this policy has intentionally concealed or misrepresented any material fact or circumstance, made false statements or committed fraud relating to this insurance, whether before or after a loss.

3. **Liberalization Clause.** If the commissioner of insurance adopts a revision which would broaden or extend the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened or extended coverage will immediately apply to this policy.

4. **Waiver or Change of Policy Provisions.** Changes in this policy may be made and perils added only by attaching a written endorsement properly executed by our authorized agent. No provision of this policy may be waived unless the terms of this policy allow the provision to be waived. Our request for an appraisal or examination will not waive any of our rights.

5. **Cancellation:**

- a. You may cancel this policy at any time by notifying us of the date cancellation is to take effect. We will send you any refund due when the policy is returned to us. This refund will be pro rata, subject to our minimum premium.
- b. We may cancel this policy for the reasons stated in this condition by mailing you notice in writing of the date cancellation takes effect.

(1) We may not cancel this policy unless:

- (a) there is a property condition which would have been grounds for nonacceptance of the risk had such condition been known to us at the time of acceptance;
- (b) it is determined that your property does not meet our underwriting rules;
- (c) you do not pay the premium or any portion of the premium when due, including nonpayment of premium on a prior Texas FAIR Plan Association policy;
- (d) you commit fraud;
- (e) you make a material misrepresentation;

- (f) there is evidence of incendiarism by you or another person acting on your behalf; or
- (g) you make a written request for cancellation.

The effective date of cancellation cannot be before the 10th day after we mail notice if we cancel for non-payment of premium or the 30th day after we mail notice if we cancel for any other reason listed above.

- c. If we cancel, our notice to you will state that if the refund is not included with the notice, it will be mailed within 10 **business days** of the effective date of cancellation. The refund will be pro rata, subject to our minimum premium.
 - d. We may not cancel this policy based solely on the fact that the policyholder is an elected official.
6. **Refusal to Renew.** We may refuse to renew your policy if we determine the property does not meet our underwriting rules.

Every two years starting with the second renewal we will non-renew the policy and you must reapply for residential property insurance in the voluntary market. You are no longer eligible for coverage unless:

- a. You receive two current declinations from insurers licensed to write property insurance and actually writing residential property insurance in the state; and
- b. You do not receive a valid offer of comparable residential property insurance from an insurance company licensed by the State of Texas, other than a surplus lines carrier.

If we refuse to renew this policy, we must deliver to you, or mail to you at your mailing address shown on the declarations page and any mortgagee named on the declarations page, written notice of our refusal to renew not later than the 30th day before the date on which this policy expires. Our notice of non-renewal will state the reason for non-renewal. Proof of mailing will be sufficient proof of notice.

We may not refuse to renew this policy based solely on the fact that the policyholder is an elected official.

7. **Assignment.** Your rights and duties under this policy may not be assigned. Assignment of this policy or your claim under this policy will not be valid.
8. **Subrogation.** An **insured** may waive in writing before a loss all rights of recovery against any person. If not waived, we may require an assignment of rights of

recovery for a loss to the extent that payment is made by us.

If an assignment is sought, an **insured** must sign and deliver all related papers and cooperate with us.

Subrogation does not apply under Section II to Medical Payments to Others or Damage to Property of Others.

9. **Death.** If the named insured dies, we insure:
- a. the named insured's spouse, if a resident of the same household at the time of death.
 - b. the legal representative of the deceased. However, if this legal representative was not an **insured** at the time of death of the named insured, this policy will apply to such legal representative only with respect to the premises of the original named insured.
 - c. any person who is an **insured** at the time of such death, while a resident of said premises.
10. **Proper Party.** Service of any notice, proof of loss, legal process or other communication with respect to this policy shall be made upon us, and any action by you constituting a claim under this policy shall be brought only against us, and we shall be the proper party for all purposes in any action brought under or in connection with this policy.
11. **Automatic Termination.** If we offer to renew and you or your representative do not accept, this policy will automatically terminate at the end of the current policy period. Failure to pay the required renewal premium when due shall mean that you have not accepted our offer.
12. **Right to Appeal.** Any applicant shall have the right to appeal any action or decision of the Association or inspector to the staff of the Association or its administrator under 28 Texas Administrative Code Sec. 5.9919. Such appeal must be made in writing within thirty days after receipt of notice of the action or decision to be appealed. The staff of the Association or its administrator shall render its decision on the appeal and notify the applicant of its decision within forty-five days of receipt. Any applicant shall then have the right to appeal to the commissioner of insurance any action or decision within thirty days of the decision. The decision of the commissioner of insurance of an appeal under 28 Texas Administrative Code Sec. 5.9919 is a final order and is subject to judicial review as provided in Texas Insurance Code Chapter 36, Subchapter D.