



EPIC

Protection Against the Elements

Elements
Property
Insurance
Company

AGENCY-COMPANY AGREEMENT

Effective DECEMBER 1, 2015 This Agreement is entered into by and between Elements Property Insurance Managers, LLC on behalf of Elements Property Insurance Company Inc., hereinafter referred to as "Company," and Independent Market Solutions hereinafter referred to as "Agent."

It being the intent of the Agent and Company to provide for stability in their relationship, this Agreement shall have an initial term beginning on the date agreed by the parties and extending through December 31 of the same calendar year. Thereafter, the agreement shall renew for additional one-year periods commencing each January 1, unless either party gives the other sixty (60) days' written notice of its decision not to renew this Agreement or the Agreement otherwise is terminated in accordance with Article IX.

The parties hereto mutually agree to the following:

I. Authority of Agent

The authority of the Agent shall extend to the lines and coverages as described in the Schedule of Commissions issued by the Company.

The Agent is an independent contractor, not an employee of the Company. Subject to requirements imposed by law, the terms of this Agreement and the underwriting rules and regulations and binding guidelines of the Company, the Agent is authorized to:

- A. Solicit, receive and transmit to the Company proposals for insurance contracts for which a commission is specified in the Commission Schedule, signed by the parties to this Agreement, and hereby made a part of this Agreement.
- B. Bind and execute insurance contracts in accordance with the Company underwriting and binding guidelines.
- C. Provide all usual and customary services of an insurance agent on insurance contracts placed by the Agent with the Company.
- D. Collect and receipt for premiums and, as compensation, retain commissions out of premiums so collected as specified in the Commission Schedule. The Agent agrees to refund return commissions on policy cancellations or reductions of coverage, in each case at the same rate at which such commissions were originally retained.
- E. Exercise authority personally or through authorized employees.
- F. Represent other companies.
- G. Exercise exclusive and independent control of time and the conduct of the Agency.
- H. Advance premiums on behalf of policyholders, in which event the Agent accepts full responsibility for collection of such premiums from the policyholders.

The Authority of the Agent may be terminated, suspended or modified in accordance with Article IX of this Agreement, or as otherwise stated therein.

II. Duties of Agent

The Agent agrees to:

- A. Comply with the underwriting rules, manuals and regulations of the Company, provided that the Company has furnished the Agent with copies of, and all changes to, said rules, manuals and regulations.
- B. Retain and maintain all original records of completed applications, binders, policies, certificates, endorsements and support documentation created, issued and/or collected by the Agent, of all liability accepted on the Company's behalf for a minimum of five (5) years or such longer period as may be required by law. Agent shall ensure that all such records are kept confidential and disclosed only where required by law or by request of the Company.
- C. Forward hard copies or electronic versions of all records detailed in Paragraph B above to the Company via the Company's policy administration system or otherwise notify the Company of all liability accepted on the Company's behalf within five (5) business days following the inception date of coverage.
- D. Comply with accounting procedures as hereinafter set forth.
- E. Allow the Company to have access during normal business hours to the Agent's books, records and files for the purpose of determining any fact relative to business placed with the Company by the Agent. The Company shall provide the Agent with reasonable notice prior to any inspection.
- F. Ensure that Agent's employees or independent contractors acting with respect to the Company's business are duly licensed and appointed where required and are subject to the Agent's oversight and control.
- G. Refrain from identifying the Company or its logos, insignia or other property in advertising, publications or similar media without the prior written consent of the Company.
- H. Agent shall implement and maintain adequate procedures to safeguard the confidentiality of personal financial information relevant to Company and Elements Property Insurance Company applicants and policyholders required by the Gramm-Leach-Bliley Financial Modernization Act ("GLB", 15 U.S.C. §6801 et seq.) and all applicable Federal and State provisions, including, but not limited to, those set forth in Chapter 690-128 of the Florida Administrative Code.
- I. Agent shall, at all times, maintain Errors and Omissions, general liability and motor vehicle policies in full force and effect, all providing coverage for Agent in an amount not less than \$500,000 per occurrence and \$1,000,000 annual aggregate. Agent's coverages as required by this paragraph shall be issued by insurers with at least an "A-" rating authorized and authorized to transact insurance in the State of Florida or by an eligible surplus lines insurer with at least an 'A-' rating. Agent shall continue to maintain such coverages with at least the same minimum limits and rating during the term of this Agreement. Proof of the coverages required by this paragraph shall be provided to Company upon execution of this Agreement and thereafter on the renewal of such policies. Company may terminate this Agreement immediately if Agent fails to provide written proof of such coverages or otherwise fails to maintain such coverages as required by this paragraph.

III. Premium Accounting

The Agent and the Company shall comply with the following accounting procedures:

- A. Itemized statements of money due shall be prepared monthly by the Company.
- B. The balance shown in the statement due the Company, or due the Agent shall be payable not later than 45 days after the end of the account month for which such statement was prepared.
- C. The omission of any item(s) from a monthly statement shall not affect the responsibility of either party to account for and pay all amounts due the other, nor shall it prejudice the rights of either party to collect all such amounts due from the other. Any extension of time granted to an insured by the Agent for the payment of premium due on any policy issued by the Company shall be done at the sole responsibility of the Agent, who shall be accountable to the Company in accordance with the provisions contained in this Agreement.
- D. All premiums collected or received by the Agent shall be held by the Agent in a fiduciary capacity in trust for the Company until paid to the Company.
- E. The Agent agrees to be accountable for the payment of the earned premium on each binder given or executed by the Agent.
- F. Additional exposures which may develop premium through audits, inspections, and/or reporting form policies shall be immediately endorsed onto the policy. At the written request of Agent, the Company will assume responsibility for the collection of audited premiums and retrospective additional premiums that the Agent has been unable to collect despite a demonstrable effort to do so. Agent must make such request of the Company in writing within 45 days of the premium billing date and no commission will be paid on premiums collected by Company.
- G. Agent shall remit any unearned commissions paid by Company and; should Agent fail to remit or return to Company any unearned commissions, Company may retain commissions from other Agent policies accordingly. Agent's failure to remit unearned commissions in accordance with this Agreement will be cause for the immediate termination of this Agreement.
- H. Agent may not offset against any amounts Agent is required to pay Company under this Agreement any amounts that may be due Agent from Company. In the event of a breach by Agent of this Paragraph H, Company may, without limiting any of its remedies under this Agreement, or at law, terminate this Agreement upon notice to Agent.

IV. Commissions

It is agreed that:

- A. The Company will pay and the Agent will accept as its sole compensation for all services rendered under this Agreement the commission percentages upon specific lines of business specified in the Commission Schedule, which is an addendum to this Agreement.
- B. The terms of this Agreement shall not prohibit the negotiation of special commission rates on individual policies by mutual agreement of the Agent and the Company.

V. Designation of Agent by Policyholder

If a conflict exists as to which Agent is authorized to represent an existing or prospective policyholder, the policyholder's written statement designating his or her agent shall be binding upon the Agent and the Company.

VI. Amendments

- A. The parties agree that any changes in, or amendments to, this Agreement shall be by mutual agreement, evidenced by a written document signed by both parties, and each party further agrees to negotiate with the other party in good faith in pursuing such changes and amendments; provided, however, that the Company from time to time may change the commission rates set forth in the schedule to this Agreement upon thirty (30) days' prior written notice to the Agent. Changes to the commission rates will apply to new and renewal policies with effective dates following the notice period.
- B. The Company shall give the Agent at least thirty (30) days' notice of intent to negotiate a change in, or amendment to, this Agreement before those changes shall go into effect.

VII. Direct Bill Business

- A. The Company shall specify the particular lines of business that will be put on direct bill and outline those functions the Company will provide and those the Agent will provide on direct bill business.
- B. The agency name shall be displayed prominently on communications from Company to insured, in the largest print practicable, and in any case in print no smaller than the largest used on the communication.
- C. A copy of all bills, underwriting requests, recommendation audits, engineering reports, and cancellation notices sent to insured by the Company shall be sent to the Agent prior to or concurrent with such mailing to the insured. Copies of mass mailings of public service, safety, or similar materials shall also be furnished to the Agent prior to or concurrent with such mailing. Information required by this paragraph may be sent to the Agent through electronic transmission.
- D. Agent may request and receive a complete list of direct billed policyholders together with expiration dates and necessary policy writing details of coverage, including mailing labels of the list, at any time at Agent's expense, and shall receive such information/materials within a reasonable time after termination, at Company expense.
- E. With regard to direct bill policies in force, the Company shall accept the responsibility for sending to the policyholder timely notices of cancellation and nonrenewal and changes made in the insured's policy as a result of changes in statutes, coverages, or forms, and for outlining any options available to the policyholder as a result of changes in statutes, coverages, or forms. Copies of all notices shall be sent to the agent prior to or concurrent with mailing to the insured. The Agent should be identified as to whom to direct questions and requests for service.

VIII. Indemnification

- A. The Company shall indemnify, hold harmless, save and defend the Agent against all liability, including attorney's fees and costs of investigation and defense incident thereto arising as a result

of (i) a Company act or omission, except to the extent the Agent has caused, contributed to or compounded such error; or (ii) failure of insured to receive notice of cancellation, nonrenewal, impairment of aggregate limits, or any other notice affecting coverage on Company billed business, where such notices are sent directly to the insured by the Company;

- B. The Company's obligation to indemnify shall be conditioned upon prompt notification by the Agent to the Company of any claim made or legal action brought against the Agent which is subject to indemnification as set forth above and the Company shall have the right to direct the investigation, settlement and defense of any such claim or action; provided, however, that Agent shall select counsel of recognized standing and competence reasonably acceptable to the Company and shall not enter into any settlement or consent to the entry of any judgment on behalf of the Company without the Company's written consent, which consent shall not be unreasonably withheld . If the Agent fails to notify the Company pursuant to this Section, the Company's obligation to indemnify the Agent under this Section shall not apply.
- C. The Agent shall indemnify, hold harmless, save and defend the Company against liability for damages (including reasonable expenses and legal fees) caused or resulting from any act or omission of the Agent or breaches of this Agreement except to the extent that the Company caused, compounded or contributed to the Agent's act or omission.
- D. The Agent's obligation to indemnify shall be conditioned upon prompt notification by the Company to the Agent of any claim made or legal action brought against the Company which is subject to indemnification as set forth above and the Agent shall have the right to direct the investigation, settlement and defense of any such claim or action; provided, however, that Agent shall select counsel of recognized standing and competence reasonably acceptable to the Company and shall not enter into any settlement or consent to the entry of any judgment on behalf of the Company without the Company's written consent, which consent shall not be unreasonably withheld . If the Company fails to notify the Agent pursuant to this Section, the Agent's obligation to indemnify the Company under this Section shall not apply.

IX. Termination

- A. This Agreement may be terminated at any time by written mutual consent of the parties.
- B. This Agreement may be terminated immediately by the Agent upon written notice to the Company.
- C. Except as provided in Section IX, paragraph D, this agreement may be terminated by the Company upon sixty (60) days' written notice to the Agent.
- D. Except if required to be extended by law, this Agreement shall terminate:
 - 1. Automatically, if any public authority of applicable jurisdiction cancels or declines to renew the license or certificate of authority of the Agent or the Company.
 - 2. Automatically upon the effective date of the sale or transfer of the Agent's business or the Agent's book of business. The Agent agrees to give advance notice to the Company of any sale or transfer of his or her business, or its consolidation with a successor firm, in order that the Company may, at its election and with the consent of the parties in interest enter into a new Agency Agreement with the successor.

3. Immediately upon any party giving written notice to the other party, in the event of abandonment, fraud, material breach of contract, gross or willful misconduct or bad faith on the part of a party. Gross or willful misconduct shall include, but not be limited to:
 - (a) the failure of the Agent to pay any funds owing to the Company for any reason within ten (10) days after a request has been made by the Company;
 - (b) the misdirection or misappropriation of the funds or property of the Company by the Agent;
 - (c) The delegation or attempted delegation of any of the Agent's obligations and/or assignment or attempted assignment of any of the Agent's rights under this Agreement without the prior written consent of the Company;
4. Immediately, should any party at any time:
 - (a) become subject to any insolvency proceeding;
 - (b) go into liquidation, whether voluntary or compulsory, or suffer the appointment of a receiver;
 - (c) become involved in serious financial difficulties evidenced by, but not limited to, any petition for reorganization, bankruptcy or receivership, or any attachment of a major portion of assets, or any judgment rendered remaining unsatisfied for thirty (30) days or more without having been bonded by an authorized surety company admitted in the jurisdiction where the judgment is entered; or
 - (d) be convicted, found guilty of or plead no contest, without regard to the fact that adjudication is withheld, to a felony or a crime involving the business of insurance, fraud or dishonesty.

E. Upon termination of this Agreement:

1. Agent shall be permitted to continue to service the business through the respective policy expiration dates and to account for premium in the same manner as provided in this Agreement.
2. The Company will put into effect a limited agency agreement setting forth the contractual rights of both parties and services to be provided to the policyholder and the Agent's ability to continue to perform routine service functions on the business. The limited agency agreement shall not restrict the agent's authority to obtain, or the Company's duty to provide, reasonable changes in coverages and limits of coverage. "Reasonable changes" are those which the Company would have permitted prior to termination of this Agreement.
3. If applicable, the Company shall assume the responsibility of notifying insureds of its intent not to renew their respective policies following the Agent's termination. The Company shall send copies of such nonrenewal notices to the Agent prior to or concurrent with mailing to the insured.

X. Ownership of Expirations

- A. The use and control of expirations, including those on direct billed business, the records thereof, and the Agent's work product, shall remain in the undisputed possession and ownership of the Agent, and the Company shall not use its records of those expirations in any marketing method for the sale, service, or renewal of any form of insurance coverage, or other product which shall abridge the Agent's right of ownership, use, and control, nor shall the company refer or communicate this expiration information or work product to any other agent or broker; provided, however, that to ensure timely service to policyholders following terminations due to abandonment, neglect or similar circumstances, if the Agent does not notify the Company within thirty (30) days of termination of this Agreement of the Agent's intent to exercise possession of and control over the expirations, the Company may in its sole discretion renew or nonrenew policies without obligation to the Agent therefore and make such arrangements as the Company in its sole discretion considers appropriate for the future servicing of the policies. During the thirty (30) day notice period (or until such earlier time as the Agent provides the notice contemplated by this provision), the Company may renew or nonrenew such of the policies as it considers appropriate in its sole discretion.
- B. Notwithstanding anything contained in Paragraph A above, in the event of termination of this agreement, if the Agent has not then properly accounted for and paid all premiums to the company for which the Agent is liable, the use and control of such expirations including all right, title, and interest in and to the records thereof shall be vested in the Company as of the date of such termination. In the exercise of its right to collect any indebtedness due from the Agent through use and control of such expirations, the Company shall use reasonable business judgment in selling such expirations and shall be accountable to the Agent for any sums received which, net of expenses, exceed the amount of indebtedness. The Agent shall remain liable for the excess of the indebtedness over the sums received by the Company. Any indebtedness due from the Agent shall not prevent application of the ownership of expirations clause in favor of the Agent if the Agent furnishes collateral security acceptable to the Company in the amount of such indebtedness to be held by the Company until the indebtedness is satisfied. A difference of opinion with respect to balances owed by the Agent does not constitute a failure to pay and does not have the effect of vesting title to expirations in the Company.
- C. Nothing in this section shall interfere with the company's obligation to renew policies containing contractual renewal guarantees or which must be renewed pursuant to state law, regulation, or by order of government authority, and the agent shall be entitled to receive commissions on such policies at the prevailing rate of commission then in effect. The Company's obligation to renew for reasons set forth in this paragraph shall not in any other way alter or interfere with the Agent's ownership of expirations as provided in this section.

XI. Confidentiality

Agent agrees that all information which relates to Company or Elements Property Insurance Company's business, insureds, or customers, and which is provided by Company or Elements Property Insurance Company (the "providing party") is "Confidential Information". Excluded is any information which is (i) previously known by the party receiving the information (the "receiving party"), (ii) available from public sources, or (iii) available from

third parties on a non-confidential basis. Unless otherwise agreed in writing, the Confidential Information shall be used solely for the purposes for which provided, and may be disclosed only to employees and others with a need to know ("Representatives"). Representatives shall be required to comply with this Paragraph XI, and the receiving party shall be liable for any breach of this Paragraph XI by its Representatives. The receiving party shall immediately notify the providing party if it is compelled by legal process to disclose any Confidential Information, and shall assist and cooperate with all efforts of the providing party to obtain a protective order, negotiate the terms of disclosure, or otherwise respond to the legal process.

The receiving party agrees that Confidential Information shall remain confidential and shall not be disclosed to any third party other than to perform the business of insurance as permitted by law and contemplated by this Agreement. In the event the receiving party intends to disclose Confidential Information, the receiving party agrees to provide affected customers and/or consumers with the required legal notice and an opportunity to tell the receiving party that they do not want the receiving party to share the information.

XII. Additional Provisions

- A. The Company reserves the right to mail or deliver to any policyholder offers or solicitations that would enable the policyholder, upon application and payment of premium, to add one or more supplemental coverages to his policy. Any premium generated by such offers shall be credited to the Agent in accordance with the commission schedule attached hereto as may be amended from time to time, provided that the Agent holds appropriate licenses and appointments for the lines of business transacted.
- B. This Agreement represents the entire understanding of the parties with respect to the subject matter hereof, and supersedes and terminates any prior or contemporaneous agreements, whether written or oral, in which the Agent and the Company are parties, except that commissions earned under any prior agreements will continue to be paid. Agent will perform all acts proper to continue and service insurance written under any previous agency agreement and renewal of any business previously written under such agreement shall be deemed renewals under this Agreement.
- C. The Company shall not be responsible for any costs or expenses incurred by Agent, whether on the Agent's own behalf or on the Company's behalf, unless such costs or expenses are approved in advance and in writing by the Company.
- D. Agent acknowledges and agrees that Agent is fully responsible for the acts and omissions of all persons, whether licensed or unlicensed, whom Agent employs, retains, or allows to transact or assist in the transacting of insurance under this Agreement as if those acts or omissions were those of the Agent.
- E. This Agreement shall not be assigned by a party to any other person without the prior written consent of the other.

IN WITNESS WHEREOF, the parties have executed or caused this Agreement to be duly executed by their corporate officers on the dates as indicated hereafter.

"AGENT" Independent Market Solutions "COMPANY" ELEMENTS PROPERTY MANAGERS, LLC

By: D D B

By: [Signature]

Title: Agent In Charge

Title: VICE PRESIDENT, SALES & MARKETING

Date: 12/1/15

Date: 12/1/15