



BROKER'S FEE FINANCE AGREEMENT

This BROKER'S FEE FINANCE AGREEMENT (hereinafter "Agreement") is made and entered into this _____ day of _____, 20_____, by and between TOP PREMIUM FINANCE COMPANY, a division of Premier America Credit Union, (hereinafter "TOP"), and _____ (hereinafter "BROKER"). TOP and BROKER may collectively be referred to as "parties" and individually as "party".

INTRODUCTION

WHEREAS, TOP is a premium finance company, duly authorized to conduct business in the states permitted by law.

WHEREAS, BROKER is properly licensed in the states that it conducts insurance business;

WHEREAS, BROKER desires that TOP finance a certain percentage of the Broker's Fee and TOP agrees to finance a certain percentage of the Broker's Fee subject to the terms and conditions of this Agreement.

NOW, THEREFORE, for valuable consideration, and the covenants, conditions, representations, and warranties contained herein, the parties agree as follows:

AGREEMENT

1. DEFINITIONS

- 1.1 Broker's Fee(s): A fee charged by the BROKER to the insured for finding and procuring insurance.
- 1.2 Financed Broker's Fee: A Broker's Fee that is advanced by TOP, at TOP's sole and absolute discretion, with consent of the insured, to Broker and included on the Premium Finance Agreement ("PFA") as a financed item.
- 1.3 Reserve Account: An account in which a portion of the Financed Broker's Fee will be held as security for payment of the Financed Broker Fee in case of cancellation by the insured/borrower.
- 1.4 Charge-Backs: The pro-rated portion of the Financed Broker's Fee calculated from the cancellation effective date of the policy/policies through the intended expiration date of the policy/policies listed on the PFA.
- 1.5 Loan: The amount financed by TOP on behalf of the insured/borrower to pay the insurance premium and Financed Broker Fee pursuant to the terms of the PFA.

2. FINANCING BROKER'S FEES

The parties agree as follows:

- 2.1 TOP shall have the sole and absolute discretion to finance Broker's Fees and reserves the right to reject any request by BROKER to finance Broker's Fees on a case-by-case basis.
- 2.2 The amount of the Financed Broker's Fee shall be limited to 25% of the total premium amount, excluding any non-policy specific fees. Any amount above the 25% is subject to TOP's sole and absolute discretion to modify the Financed Broker's Fee amount on a case-by-case basis.
- 2.3 TOP shall pay a percentage of the Financed Broker's Fee to BROKER within ten (10) business days after the close of each monthly cycle.
- 2.4 TOP shall retain in a Reserve Account the remaining portion of the Financed Broker's Fee. At the discretion of TOP, the funds from a Reserve Account may be deposited into United States government bonds, treasury certificates, certificates of deposit, municipal bonds, and/or other sound investments. TOP will solely retain any and all interest, profits and proceeds generated from the aforementioned investments.
- 2.5 TOP reserves the right to unilaterally, at its sole discretion, increase the amount of the Reserve Account.
- 2.6 In the event of a cancellation of the insurance policy BROKER authorizes TOP to retain Charge-Backs on the Loan(s) from the Reserve Account. TOP may retain the Charge-Backs for any outstanding Loan(s) where funds are due for Financed Broker Fees attributable to Broker. Additionally, TOP may apply Reserve Account funds against any unpaid unearned commissions or other monies due by Broker to TOP for any Loan(s). Subject to the terms and conditions contained in this Agreement, TOP shall pay the remaining balance in the Reserve Account to BROKER within sixty (60) calendar days after BROKER or TOP provides written notice of termination of this Agreement, all loans have matured, and no further Charge-Backs, fees and/or charges are due TOP

2.7 Broker's Reserve Account must, at all times, be equal to or greater than the average of the last eight (8) months of cancellations attributable to Financed Broker Fees. If the balance falls below the average of the last eight (8) months of cancellations, you may be billed by TOP. If your reserve account is negative, the balance is due within 30 days of the billing date.

2.8 Finance Broker Fee Reserve Account may be audited annually. Any determined excess will be returned to Broker.

3. BROKER'S WARRANTIES AND REPRESENTATIONS

BROKER warrants and represents it will comply with all laws, regulations and Department of Insurance Bulletins concerning written disclosure of Broker's Fee to the insured. Additionally, BROKER warrants and represents that it will disclose to the insured that the Broker's Fee will be financed and non-refundable to the insured.

4. RELATIONSHIP OF PARTIES

This Agreement does not create, and shall not be construed to create, any joint venture or partnership between the parties. No officer, employee, agent, servant, or independent contractor of either party shall at any time be deemed to be an employee, servant, agent, or contractor of the other party for any purpose whatsoever. BROKER acknowledges that it is not an agent of TOP, and in no event shall TOP be legally bound by anything Broker represents to any insured, either in writing or orally.

5. TERMINATION

It is understood by the parties that this Agreement is not for a specified term and is at the mutual consent of TOP and BROKER. Either TOP or BROKER may terminate this Agreement with or without cause, immediately upon notice. Sections of the Agreement intended by their nature and content to survive termination of the Agreement shall so survive.

6. INDEMNIFICATION

BROKER shall indemnify, defend and hold harmless TOP, and its officers, directors, shareholders, employees, contractors and agents from and against any and all claims, damages, costs (including reasonable attorneys' fees and costs), liabilities and losses of any kind arising out of or relating to the financing of Broker's Fee.

7. CHOICE OF LAW

The rights and duties of the parties in the construction of this Agreement shall be governed by the laws of the State of California.

8. MODIFICATION

Except as specifically provided herein, the provisions of this Agreement may only be changed, modified or portions deleted by mutual agreement made in writing and attested to by the parties hereto.

9. NOTICE

All notices, requests, demands, and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given, made, and received only when personally delivered or delivered by Federal Express or other nationally recognized courier service, or two (2) days after having been deposited in the United States mail, certified mail, postage prepaid, return receipt requested (except when such notice is a termination notice, in which event any two (2) of the delivery methods described above must be used), addressed as set forth below:

If to TOP: Top Premium Finance Company,
A division of Premier America Credit Union
19867 Prairie Street
Chatsworth, CA 91311
Attention: Management Team

If BROKER:

11. CONSTRUCTION

As used herein, the masculine, feminine, or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates. The headings herein are for convenience only; they form no part of this Agreement and shall not be given any substantive or interpretive effect whatsoever.

12. INTEGRATION

This Agreement contains the entire understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements, or conditions, express or implied, oral or written, except as herein contained. The express terms hereof control and supersede any course of performance or usage of the trade inconsistent with any of the terms hereof.

13. ATTORNEY FEES/COSTS

The prevailing party in any dispute between the parties arising out of the interpretation, application, or enforcement of any provision of this Agreement shall be entitled to recover all of its reasonable attorneys' fees and costs whether suit be filed or not, including, without limitation, costs and attorneys' fees related to or arising out of any arbitration proceeding, trial, or appellate proceedings.

14. NON-ASSIGNABILITY

This Agreement shall not be assignable by BROKER without prior written consent of TOP. Any attempt to assign any rights, duties, or obligations that arise under this Agreement without such consent shall be void. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors.

15. MUTUAL AGREEMENT TO ARBITRATE CLAIMS

Any controversy (whether on an individual or class action basis) regarding any provision of this Agreement shall be submitted to binding arbitration in accordance with the then existing rules of ADR or JAMS. Furthermore, it is mutually agreed that the California Code of Civil Procedure shall be adopted, and followed, in the event of arbitration. Any award made by the ADR or JAMS may be enforced as a final judgment in any court of competent jurisdiction. The site for said arbitration shall be Los Angeles County, California.

16. SEVERABILITY

If any provision of this Agreement is held to be illegal, invalid, or unenforceable during the term hereof, such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties, or, if incapable of such enforcement, shall be deemed to be deleted from this Agreement and the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or its severance from this Agreement.

17. WAIVER

The failure of either party to seek a redress for violation, or to insist upon the strict performance, of any covenant, agreement, provision, or condition hereof shall not constitute the waiver of the terms or of the terms of any other covenant, agreement, provision, or condition, and each party shall have all remedies provided herein with respect to any subsequent act which would have originally constituted the violation hereunder.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first set forth above.

BROKER SIGNATURE: _____

By: _____ Date: _____
Officer or Principal Name & Title

TOP PREMIUM FINANCE COMPANY
A Division of Premier America Credit Union

Officer Signature Date: _____

Officer Name, Title Date: _____