



**STATE OF WEST VIRGINIA**  
**Offices of the Insurance Commissioner**  
**Company Analysis and Examinations Division**

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**Third Party Administrator Affidavit**

\_\_\_\_\_, with principal address at  
(Name of Person, Company, Corporation, Partnership or Other Legal Entity)

\_\_\_\_\_, hereby certifies that:  
(Street) (City) (State) (Zip Code)

- 1) The applicant shall not act as an administrator without a written agreement between the administrator and the insurer, and such agreement shall be retained as part of the official records of the administrator for the duration of the agreement and five (5) years thereafter;
- 2) The applicant shall not enter into any agreement with any employer or co-employer for the adjustment or handling of workers' compensation claims for its employees or co-employees that are residents of this state, or accept compensation of any kind for the adjustment or handling of workers' compensation claims for its employees or co-employees that are residents of this state, unless it has a master services agreement applying to such claims with the insurance carrier responsible for the payment of claims attributable to the employer or co-employer;
- 3) The written agreement shall include a statement of duties that the administrator is expected to perform on behalf of the insurer and the lines, classes or types of insurance which the administrator is to be authorized to administer. The agreement shall make provision with respect to underwriting or other standards pertaining to the business underwritten by the insurer;
- 4) Whenever an insurer utilizes the services of the administrator under the terms of the written agreement as required above, the payment to the administrator of any premiums or charges for insurance by or on behalf of the insured shall be deemed to have been received by the insurer, and the payments of return premiums or claims by the insurer to the administrator shall not be deemed payment to the insured or claimant until such payments are received by the insured or claimant;
- 5) An administrator shall maintain and make available to the insurer complete books and records of all transactions performed on behalf of the insurer. The books and records shall be maintained in accordance with prudent standards of insurance recordkeeping and shall be maintained for a period of not less than ten (10) years from the date of their creation. In the event the insurer and the administrator cancel their agreement, the administrator may, by written agreement with the insurer, transfer all records to a new administrator rather than retain them for ten years. In those cases, the new administrator shall acknowledge in writing, that it is responsible for retaining the records of the prior administration as required in W. Va. Code §33-46;
- 6) An administrator may use only advertising pertaining to the business underwritten by an insurer that has been approved in writing by the insurer in advance of its use;
- 7) All insurance charges or premiums collected by an administrator on behalf of or for an insurer and the return of premiums received from that insurer shall be held by the administrator in a fiduciary capacity. The written agreement between the administrator and the insurer shall provide for the administrator to periodically render an accounting to the insurer detailing all transactions performed by the administrator pertaining to the business

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underwritten by the insurer. The administrator shall not pay any claim by withdrawals from a fiduciary account in which premiums or charges are deposited. All claims paid by the administrator from funds collected on behalf of or for an insurer shall be paid only on drafts or checks of and as authorized by the insurer. Withdrawals from the account shall be made as provided in the written agreement between the administrator and the insurer;

- 8) An administrator may not enter into an agreement or understanding with an insurer in which the effect is to make the amount of the administrator's commissions, fees or charges contingent upon savings effected in the adjustment, settlement and payment of losses covered by the insurer's obligations;
- 9) The administrator shall provide a written notice approved by the insurer to covered individuals advising them of the identity of, and relationship among, the administrator, the policyholder and the insurer;
- 10) The administrator shall disclose to the insurer all charges, fees and commissions received from all services in connection with the provision of administrative services for the insurer, including any fees or commissions paid by insurers providing reinsurance; and,
- 11) The administrator or any individual responsible for the conduct of affairs of the administrator, has not had any insurance or administrator certificate of authority or license denied or revoked for cause by any jurisdiction.

\_\_\_\_\_  
Signature of President

\_\_\_\_\_  
Signature of Secretary

\_\_\_\_\_  
Print Name of President

\_\_\_\_\_  
Print Name of Secretary

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

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