

OwnerGUARD Gap

SIGN UP PROCESS

Dealers signing up for Gap, please submit the following:

- Dealer Application signed at the bottom
- Addendums initialed at the bottom

✓ Fax all information to 302-450-7140

Dealership approval time is approximately 2 days

PRODUCER AGREEMENT FOR GAP

THIS PRODUCER AGREEMENT FOR GAP ("GAP Agreement") is effective as of the date listed on the Producer Application to which it attaches and is by and between Producer as listed on the Producer Application and Program Administrator, a California corporation with its principal place of business located at 1785 Hancock Street, Suite 100, San Diego, California 92110-2051.

- AUTHORITY.** Upon full completion and submission of the Producer Application, this GAP Agreement and each Schedule attached hereto, PRODUCER is conditionally authorized to market and sell the non-insurance Program(s) at the agreed upon rate(s) in the attached Schedule(s). Upon approval of the Producer Application, PRODUCER shall be authorized to market and sell the non-insurance Program(s) at the agreed upon rate(s) in the attached Schedule(s). If the Program is insurance, then in addition to completing and submitting the Producer Application, this GAP Agreement and each Schedule attached hereto, the PRODUCER must also complete the PRODUCER Profile and Background Authorization form, and all necessary paperwork (including an additional application if group insurance is involved), submit written proof of licensure and if needed, cooperate for a background check. Upon approval, then PRODUCER shall be authorized to market and sell the insurance Program(s) solely at the agreed upon rate(s) in the attached Schedule(s).
- REMITTANCES.** PRODUCER shall hold all funds collected for any Program(s) which are payable to Program Administrator or Program Insurer(s) in a fiduciary capacity. PRODUCER must timely remit the "Administrator Copy" of Program contracts/policies and the appropriate fee pursuant to the Schedule(s) no later than the tenth (10th) day of the month following the month in which any Program contract/policy was sold. Remittance checks shall be made payable as set forth in the Schedule(s) and/or the Reporting Form. For non-insurance Programs, there is no insurance coverage for any Program contract where PRODUCER fails to report and pay premium by this date. At our sole discretion, we may attempt to place coverage for late reported Program contracts with the current remittance amount and an additional per-contract fee. PRODUCER shall not offset any amount due to Program Administrator or Program Insurer(s). Any payment or reimbursement due to PRODUCER from Program Administrator or Program Insurer may be used to offset any outstanding accounts receivable due to Program Administrator or Program Insurer. Acceptance of any payment by Program Administrator shall not be deemed a waiver as to the amount of that payment or as to the Program contract/policy form. PRODUCER shall remit any additional amount(s) owed upon written notice from Program Administrator. PRODUCER agrees to assist with the modification or rescission of any Program contract/policy submitted to Program Administrator and PRODUCER shall take all necessary steps to effect such action. Program Administrator will procure insurance for Program contracts/policies if full payment is timely received, any penalties are paid, the form is correct and it meets current program underwriting guidelines.
- PRODUCER COMPENSATION.** The attached Schedule(s) contain the rate(s) which is the PRODUCER'S cost. The PRODUCER'S sole compensation for the Program(s) for non-insurance Products shall be the difference between the retail sales price and the PRODUCER'S cost, as detailed in the attached Schedule(s). The PRODUCER is responsible for determining the retail sales price in accord with applicable law. The PRODUCER'S sole compensation for the Program(s) for insurance Products shall be the commissions, as detailed in the attached Schedule(s), and pursuant to state law. PRODUCER is solely responsible for payment of compensation to employees or agents used by the PRODUCER in the performance of this GAP Agreement.
- CANCELLATIONS.** If any Program contract/policy is cancelled and a refund is due, Program Administrator shall refund in accord with the method stated in the contract/policy to PRODUCER any portion retained by Program Administrator and Program Insurer(s), after taking into consideration the cancellation/processing fee (if applicable), along with notice of the balance due from PRODUCER. If the portion retained by Program Administrator and the Program Insurer(s) is insufficient to cover the entire cancellation/processing fee, then PRODUCER shall remit to Program Administrator any remaining cancellation/processing fee amount from amounts PRODUCER retained from the consumer. PRODUCER shall timely refund any amount(s) received from Program Administrator along with the refund balance due from PRODUCER, to the consumer or lienholder, in accord with the language in the Program contract/policy.
- WARRANTIES, REPRESENTATIONS AND DUTIES OF PRODUCER.** PRODUCER shall not modify, waive, alter, or change, either orally or in writing, any Program contract/policy. PRODUCER shall not make any representation to a purchaser or potential purchaser that is inconsistent with the terms and conditions in a Program contract/policy; if any such representations are made, Program Administrator will pursue PRODUCER for any and all liability related to such representations. The PRODUCER shall not market or sell any Program contract/policy except on the approved forms in effect at the time of such marketing or sale. Failure to adhere to any underwriting rule(s) may result in additional cost to PRODUCER, which shall be payable upon notice from Program Administrator. PRODUCER is governed by this GAP Agreement and is responsible for becoming familiar with and following the applicable law for the Program(s). PRODUCER (and if applicable, employees and agents) shall obtain and maintain all licenses necessary to do business in the state(s) of operation, including if applicable, an insurance license. PRODUCER shall not limit sales of the Program to any subset of PRODUCER'S business that is less favorable than PRODUCER'S overall business. PRODUCER warrants that all representations made in this GAP Agreement or in any future verbal or written statement delivered to Program Administrator or Program Insurer(s), shall be true in all material respects. PRODUCER shall pay all expenses related to PRODUCER'S performance under this GAP Agreement. PRODUCER shall not charge or commit Program Administrator or Program Insurer(s) to any expense unless prior written approval is obtained from Program Administrator. PRODUCER shall abide by any and all requests of Program Administrator in processing claims or cancellations, immediately supply any requested information or documents; and shall not interfere with, disrupt or hinder the claims or the cancellation processes.
- INTELLECTUAL PROPERTY.** Software and internet services, including access to Program Administrator's website and membership in Program Administrator's University, may be provided to PRODUCER; PRODUCER agrees to abide by all rules and regulations contained therein, and further agrees that all content therein is the intellectual property of Program Administrator. Business plans, operating procedures, trade secrets, know-how and processes provided to PRODUCER are and shall remain the intellectual property of Program Administrator. PRODUCER warrants not to use, for any purpose whatsoever or disclose, intellectual property of Program Administrator, except in connection with the Program(s).
- FORMS.** PRODUCER shall be provided with contracts/policies, marketing materials, and other forms required to market the Program(s), all of which are property of Program Administrator and must be kept in a secure location and all unused stock accounted for upon request and returned. Program Administrator or Program Insurer(s) may revise any Program, including contract/policy forms, at any time, and such revision will take effect upon notice to PRODUCER. No contract, policy, literature, circular, advertising material, or any similar material pertaining to any Program (including the name or logo of Program Insurer(s)), shall be printed, posted, published, disseminated or used in any manner by PRODUCER, unless pre-approved in writing by Program Administrator.

8. PROGRAM ADMINISTRATOR COMMUNICATIONS. The rules, policies and procedures of Program Administrator communicated to PRODUCER from time to time, shall be binding on the PRODUCER. PRODUCER shall send to Program Administrator a copy of each and every legal notice, service of process or complaint from any state insurance department or other regulatory authority, regarding any Program(s) covered by this GAP Agreement within twenty-four (24) hours of receipt.
9. CLAIMS. If PRODUCER receives notice of a potential claim under any Program contract/policy, PRODUCER must immediately report it directly to PROGRAM ADMINISTRATOR. PROGRAM ADMINISTRATOR shall have the sole discretion and responsibility for the authorization or denial of claims, transfers and cancellations under all Program contracts/policies.
10. RECORDS AND AUDIT. Until the expiration or cancellation of every contract/policy sold under the Program(s), PRODUCER shall make available to Program Administrator, Program Insurer(s) and/or their designated representatives for inspection and copying, all books and records of PRODUCER that pertain to PRODUCER'S performance of and compliance with its obligations, representations and warranties under this GAP Agreement. Such inspection and copying shall occur during normal business hours at the PRODUCER'S place of business.
11. TERM AND TERMINATION. This GAP Agreement and any Schedules or amendments shall be in effect until terminated as follows: (a) unilaterally and without cause by either party with thirty (30) days advance written notice to the other party; (b) immediately by either party upon the fraud or embezzlement of the other party; or (c) immediately by Program Administrator, if the PRODUCER violates any applicable law for the Program; violates Program Administrator rules, policies and procedures; becomes insolvent, declares bankruptcy, reorganizes or similar proceedings are instituted by or against PRODUCER; sells all or substantially all of its business assets; or fails to remit an outstanding amount due to Program Administrator for a period of more than ninety (90) days. Upon termination of this GAP Agreement for any reason, PRODUCER shall cease immediately marketing and selling the Program(s). PRODUCER shall return all unused Program materials to Program Administrator immediately. In the event of termination of this GAP Agreement, PRODUCER will promptly account for and remit outstanding fees, including, but not limited to, refunds and Program fees for which PRODUCER may be liable. All intellectual property of Program Administrator shall be accounted for and returned to Program Administrator immediately upon termination of this GAP Agreement.
12. DEFAULT. The occurrence of any of the following events or conditions shall constitute a default: (a) Any breach or failure of either party to observe or perform any term, condition, law, statute or covenant required to be observed or performed under this GAP Agreement, which breach or failure continues without cure for ten (10) days after written notice by the other party; or (b) The breach of any warranty, or falsity of any material representation, made by either party in connection with this GAP Agreement. Upon the occurrence of any event of default that is not cured within the periods specified, the non-defaulting party may, at its sole option and without further notice or demand upon the defaulting party, exercise any or all of the following remedies: (a) immediately terminate this GAP Agreement and declare the entire unpaid amount of funds payable to the non-defaulting party under the terms of this GAP Agreement due and payable and thereafter pursue and enforce any and all other remedies available in its favor under any other provisions of this GAP Agreement or existing at law, in equity or in bankruptcy; (b) continue performance of this GAP Agreement without prejudice or waiving any rights to money damages caused by said default.
13. INDEMNITY. PRODUCER agrees to indemnify and defend and hold Program Administrator and Program Insurer(s), and their officers, directors, employees and agents harmless, from any claim, liability, damage, loss, or expense, including attorneys' fees, resulting from any negligence, act, omission, willful conduct or misconduct, or failure to act including but not limited to the failure to remit a Program contract/policy, by PRODUCER or its employees or agents.
14. ATTORNEY'S FEES. This GAP Agreement shall be construed in accordance with the laws of the State of California, with venue in San Diego County. To the extent permitted by applicable law, the parties hereby waive their rights under any provision of law which renders any provision hereof nugatory or unenforceable in any respect, but if not permitted under applicable law, then the GAP Agreement shall be reformed to the extent necessary to comply with the law, but in all other respects shall remain valid and enforceable as executed by the parties. If any legal action or other proceeding is brought to enforce this GAP Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief it/they may be entitled to.
15. MISCELLANEOUS. The relationship between PRODUCER and Program Administrator shall be that of independent contractors. PRODUCER enters this GAP Agreement and will remain throughout the term of the GAP Agreement, an independent contractor. No forbearance or neglect on the part of Program Administrator to enforce any or all of the provisions of this GAP Agreement shall be construed as a waiver or estoppel of any rights or privileges of Program Administrator. No party is induced to enter into this GAP Agreement by, nor is any party relying on, any representation or warranty outside those in this GAP Agreement. This GAP Agreement shall not be amended by any verbal statement. The Producer Application, this GAP Agreement and any attached Schedule(s) constitute the final, complete, and exclusive statement of the terms of the GAP Agreement pertaining to the Program(s). No schedule, amendment or modification of this GAP Agreement shall be binding unless it is in writing and initialed by Program Administrator and PRODUCER. This GAP Agreement may not be assigned by PRODUCER or Program Administrator without the prior written consent of the other. This GAP Agreement is made solely for the benefit of PRODUCER and Program Administrator, except that all rights of Program Administrator shall inure to the benefit of any Program Insurer(s); no other person or entity shall have or acquire any right by virtue of this GAP Agreement. Any notices required or permitted to be given under this GAP Agreement shall be in writing and shall be deemed duly given if delivered personally or by overnight delivery service, signature required, to the party for whom it is intended. The PRODUCER address is listed on the Producer Application and the Program Administrator the address is listed on page one of this GAP Agreement; either party may change such address by giving notice to the other party pursuant to this provision.
16. SURVIVAL. The rights and obligations of the PRODUCER under Paragraphs 4, 6, 8, 9, 10, 13, and 14 of this GAP Agreement shall survive any termination of this GAP Agreement.

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