BEFORE THE INSURANCE COMMISSIONER

OF THE STATE OF CALIFORNIA

In the Matter of THE CALIFORNIA FAIR PLAN ASSOCIATION, Respondent.	STIPULATION AND ORDER NO. 2024-2 PROMULGATING THE CALIFORNIA FAIR PLAN ASSOCIATION'S REVISED PLAN OF OPERATION [Insurance Code § 10095]

WHEREAS, the California FAIR Plan Association ("FAIR Plan") is an association of all admitted insurers licensed to write and engaged in writing *Basic Property Insurance* in California, governed by Chapter 9 of Part 1, Division 2 of the California Insurance Code,[1] sections 10090 et seq. ("Chapter 9");

WHEREAS, pursuant to section 10095, subdivisions (f) and (g), administration of the FAIR Plan is subject to the supervision of the California Insurance Commissioner ("Commissioner");

WHEREAS, pursuant to section 10090, the FAIR Plan's purposes are:

> (a) to assure stability in the property insurance market for property located in the State of California;
> (b) to assure the availability of *basic property insurance* as defined by [Chapter 9];
> (c) to encourage maximum use, in obtaining *basic property insurance*, of the normal insurance market provided by admitted insurers and licensed surplus line brokers; and
> (d) to provide for the equitable distribution among admitted insurers of the responsibility for insuring qualified property for which *basic property insurance* cannot be obtained through the normal insurance market by the establishment of a FAIR Plan…;
> (Italics added.)

WHEREAS, pursuant to Insurance Code section 10095, subdivision (f), the Commissioner may, at any time, revoke approval of the FAIR Plan's Plan of Operation if the Commissioner feels it is necessary to carry out the purposes of Chapter 9 to help promote a stable insurance market and protect California consumers;

WHEREAS, pursuant to Insurance Code section 10095, subdivisions (f) and (g), the FAIR Plan's Plan of Operation is subject to the approval of the Commissioner;

[1] All statutory citations are to Chapter 9 of Part 1, Division 2 of the California Insurance Code, section 10090 *et seq.*

WHEREAS, the Commissioner and the FAIR Plan have jointly determined the current Plan of Operation (Ed. 11/30/23) should be revised as set forth herein;

WHEREAS, data compiled by the Commissioner demonstrates the FAIR Plan's market share has increased significantly in recent years as the normal market ceased writing new property insurance policies or non-renewed substantial numbers of property insurance policies in areas throughout the State of California exposed to wildfire risk, causing California consumers and businesses to increasingly rely on the FAIR Plan as California's insurer of last resort;

WHEREAS, the Commissioner has met with the Governor's Office, the State Legislature, the California Congressional Delegation, countless stakeholders and consumers across the state, and the FAIR Plan to discuss the urgent need to modernize the FAIR Plan as an integral part of the Commissioner's Sustainable Insurance Strategy to stabilize the normal insurance market and reduce reliance on the FAIR Plan;

WHEREAS, the FAIR Plan's current Plan of Operation (Ed. 11/30/23) requires the FAIR Plan to offer, under its Division I Commercial Property Program ("CPP"), combined coverage limits of $20 million per Location, as defined in the Plan, for building coverage, business personal property coverage, and other associated coverages at one Location;

WHEREAS, the Commissioner and the Department have met with representatives of commercial enterprises and non-profit entities throughout the State of California, including but not limited to, agricultural businesses, farmers, vintners, affordable housing developers, home builders, homeowners association boards, and condominium owners, among others, who informed the Commissioner about (1) the lack of availability of commercial property insurance coverage in the normal market, and (2) the fact that the FAIR Plan's current Division I CPP coverage limits are insufficient to meet Californians' insurance needs;

WHEREAS, the Commissioner has determined that the FAIR Plan's current combined Division I CPP coverage limits of $20 million per Location, as defined in the Plan, for building coverage, business personal property coverage, and other associated coverages at one Location, are insufficient to address the needs of Californians;

WHEREAS, the Commissioner has determined that it is necessary to amend the Plan of Operation to increase the available coverage limits that the FAIR Plan offers for Division I CPP coverage, and that doing so will fulfill the FAIR Plan's purposes by keeping pace with rising commercial property values to adequately protect Californians from risk of loss due to peril(s) covered by the FAIR Plan's policies;

WHEREAS, the Commissioner has determined that the FAIR Plan should offer, under Division I, a Commercial Property Insurance Policy with combined coverage limits of $20 million per structure for building coverage, business personal property coverage, and other associated coverages pertaining to each building located at one insured property address, with a total aggregate limit of $100 million per Location, as defined in the Plan.

WHEREAS, the Commissioner has determined that the FAIR Plan must offer combined commercial property limits of up to $100 million per Location for three years, which will ensure consumers have access to higher commercial limits until the normal market resumes offering higher limit commercial policies;

WHEREAS, the Commissioner has determined that the FAIR Plan must submit appropriate rate, rule, and/or form filings to the Commissioner for prior review and approval to evaluate potential rate impact and determine appropriate rates subject to California Insurance Code section 10100.2;

WHEREAS, the Commissioner has determined that, if necessary or appropriate to implement limits of up to $20 million per structure and up $100 million per Location in the aggregate for commercial property and related coverages written under Division I and to help ensure the Plan has funds available to pay increased risk exposure related to higher limits, the FAIR Plan may submit subsequent rate, rule and/or form filings to the Commissioner for prior review and approval;

WHEREAS, the Commissioner has determined that, to implement limits of up to $20 million per structure and up $100 million per Location in the aggregate for commercial property and related coverages written under Division I, and to help ensure the Plan has funds available to pay increased risk exposure related to higher limits, the FAIR Plan may submit rate, rule, and/or form filings that include a request to collect, at new policy inception or at any renewal, a temporary supplemental fee from policyholders that purchase a FAIR Plan policy with limits above $20 million per Location;

WHEREAS, the Commissioner has determined that, to implement limits of up to $20 million per structure and up $100 million per Location in the aggregate for commercial property and related coverages written under Division I, and to help ensure the Plan has funds available to pay increased risk exposure related to higher limits, the FAIR Plan may submit subsequent applications to collect additional temporary supplemental fees according to the Department's instructions for rule-change applications in effect at the time the application is made;

WHEREAS, the Commissioner has determined that, in order to assure the stability of the property insurance market and the availability of basic property insurance in the extremely unlikely event the FAIR Plan is authorized to levy assessments, in one calendar year, of up to $1 billion on member insurers that write residential property insurance policies with available limits of $3 million per Location or less, or up to $1 billion to member insurers that write commercial property insurance policies with available limits of $20 million per Location or less, or up to a total of $2 billion to member insurers that write residential and commercial property policies with available limits of $20 million per Location or less, the FAIR Plan's member insurers may request the Commissioner's prior approval to collect temporary supplemental fees from their own policyholders in order to recoup up to 50% of amounts assessed;

WHEREAS, the Commissioner has determined that, in order assure the stability of the property insurance market and the availability of basic property insurance in the extremely unlikely event the FAIR Plan is authorized to levy assessments, in one calendar year, that exceed $1 billion on member insurers that write residential property insurance policies with available limits of up to $3 million per Location or less, or exceed $1 billion to member insurers that write commercial property insurance policies with available limits of $20 million per Location or less, or exceed $2 billion to member insurers that write residential and commercial property policies with available limits of $20 million per Location or less, the FAIR Plan's member insurers may request the Commissioner's prior approval to collect temporary supplemental fees from their own policyholders in order to recoup all amounts assessed;

WHEREAS, the Commissioner has determined that, in the extremely unlikely event the FAIR Plan is authorized to levy assessments on member insurers that write commercial property insurance policies with available limits of $20 million per structure and $100 million per Location in the aggregate ("High Value Commercial Property Policies"), those member insurers may request the Commissioner's prior approval, as specified in the Plan, to collect temporary supplemental fees from their own High Value Commercial Property policyholders in order to recoup the full amount of assessment;

WHEREAS, the Commissioner and the FAIR Plan have jointly determined that the FAIR Plan should have access to credit facilities, as specified in the Plan promulgated pursuant to this Stipulation and Order **("New Plan"), attached hereto as Exhibit A**, in order to help ensure the FAIR Plan's solvency and ability to timely pay claims;

WHEREAS, the Commissioner and the FAIR Plan have jointly determined that the FAIR Plan shall identify in both of its Clearinghouse programs all participating policyholders who have completed one or more of the mandatory property-level mitigation efforts or optional factors specified in Title 10, California Code of Regulations, section 2644.9, subdivisions (d) and (e), or obtained a policy for a property in an area that has received a community-level designation as specified in Title 10, California Code of Regulations, section 2644.9, subdivisions (d) and (e);

WHEREAS, the Commissioner has determined that, commencing on July 1, 2025, and quarterly thereafter, the FAIR Plan should provide reports, as specified in the Plan, to increase transparency and help ensure the Plan's solvency;

WHEREAS, the Commissioner and the FAIR Plan have collaborated in good faith to promulgate an amended Plan of Operation in compliance with **Stipulation and Order 2024-1, attached hereto as Exhibit B**;

WHEREAS, the purpose of this Stipulation is to update the Plan of Operation for the reasons set forth above and in Stipulation and Order 2024-1, attached hereto as Exhibit B and incorporated by reference as though fully set forth herein.

STIPULATION

Based on the foregoing recitals, which are part of this agreement, the Department and the FAIR Plan stipulate as follows:

1. The Commissioner agrees to revoke the FAIR Plan's current Plan of Operation (Ed. 11/30/23) to the extent it is inconsistent with the New Plan.

2. The FAIR Plan agrees that it will, no later than 90 days from the date on which this Stipulation and the Order below are signed by the Commissioner, submit rule, rate, and form filings to enable the FAIR Plan to offer increased limits of $20 million per structure, and up to a total aggregate limit of $100 million per Location for commercial property and related coverages written under Division I CPP;

3. The FAIR Plan agrees that it will begin offering increased commercial property limits of $20 million per structure, and up to a total aggregate limit of $100 million per Location for commercial property and related coverages written under Division I CPP within 120 days from the date of the approval of the rule, rate and form filing(s) referenced in paragraph 2;

4. The increased commercial property limits of $20 million per structure, and up to a total aggregate limit of $100 million per Location, as defined in the New Plan, for commercial property and related coverages written under Division I CPP will sunset three years after the FAIR Plan begins offering policies with those limits. No new business or renewal policy shall incept after the sunset date, but policies written prior to the sunset date may remain in effect through the expiration date stated in the policy declarations. After the last High Value Commercial Property Policy expires, commercial property limits will revert to a maximum policy limit of $20 million per Location.

5. The FAIR Plan has collaborated in good faith with the Commissioner and submits the New Plan in compliance with Stipulation and Order 2024-1, attached hereto as Exhibit B;

6. For all of the foregoing reasons and as set forth in Stipulation and Order 2024-1, attached hereto as Exhibit B, it is necessary to amend the Plan of Operation as set forth in the New Plan, attached hereto as Exhibit A;

7. This Stipulation will become final and effective when it is approved by the Commissioner as

evidenced by the execution of the Order provided below, expressly adopting this Stipulation; and

8. The Commissioner and the FAIR Plan shall work together, in good faith, to make further amendments to the Plan of Operation so that the FAIR Plan may procure a line of credit, use catastrophe modeling and include the net cost of reinsurance in its rate applications.

8. The Commissioner retains jurisdiction to ensure compliance with the provisions and terms of this Stipulation and the Order requested thereon.

IT IS SO STIPULATED.

Dated: August 27, 2024

Lucy Wang

LU[illegible]r
Special Counsel to the California Insurance Commissioner

Dated: August 27, 2024

VICTORIA ROACH
President, The California FAIR Plan Association

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK. ORDER APPEARS ON NEXT PAGE.]

ORDER 2024-2

Based on the foregoing recitals, stipulation, and Order 2024-1, incorporated by reference as though fully set forth herein, the Commissioner orders as follows:

1. The Commissioner hereby revokes the FAIR Plan's current Plan of Operation (Ed. 11/30/23) to the extent that such Plan of Operation is inconsistent with the New Plan (Ed. 8/27/24), attached hereto as Exhibit A;

2. The FAIR Plan shall abide by all terms and provisions of the New Plan (Ed. 8/27/24), and comply with all deadlines set forth therein;

3. This Order and the New Plan (Ed. 8/27/24) shall take effect immediately upon signature by the Commissioner;

4. Orders 2023-2 and 2024-1 are hereby discharged upon the New Plan taking effect; and

5. This order is final immediatel

IT IS SO ORDERED.

Executed this 27th day of August, 2024.

California Insurance Commissioner

EXHIBIT A

Ed. (8/27/24)

CALIFORNIA FAIR PLAN ASSOCIATION

This is the Plan of Operation (hereinafter referred to as the Plan) of the California FAIR Plan Association (hereinafter referred to as the FAIR Plan, the Association, or Placement Facility) as required by Section 10095 of the California Insurance Code.

The FAIR Plan has been formed by the insurance industry for the purpose of making certain Property Insurance available to responsible applicants who have been unable to secure such insurance in the normal insurance market.

FAIR Plan offers Basic Property Insurance which includes: (1) Dwelling and Commercial Property Policies, including owner-occupied, rental dwellings, course of construction, manufacturing, office buildings, and agricultural properties, designated in this Plan of Operation as Division I; and (2) a multi-peril Businessowners' Policy, designated as Division II in this Plan.

Section I – Purposes of Plan

The purposes of the Plan are:

A. to make available, subject to the conditions hereinafter stated, Basic Property Insurance as defined herein;

B. to establish a FAIR Plan (Fair Access to Insurance Requirements), and to provide for the equitable distribution and placement of risks among Insurers in the manner and subject to the conditions hereinafter stated;

C. to conform with the applicable provisions of the Urban Property Protection and Reinsurance Act of 1968 and California Insurance Code, Chapter 9, Part 1, Division 2; and

D. to encourage maximum use of the normal insurance market by admitted insurers and licensed surplus brokers.

Section II – Effective Date

The Plan shall become effective upon approval of the Commissioner.

Section III – Definitions

A. "Insurer" means any insurance company or other organization which is licensed to write and is engaged in writing, Basic Property Insurance and other coverages with respect to such Basic Property Insurance, on a direct basis, in this State.

B. “Basic Property Insurance” means insurance against direct loss to real or tangible personal property at a fixed location in those geographic or urban areas designated by the Commissioner, from perils insured under the standard fire policy and extended coverage endorsement, vandalism and malicious mischief and such other insurance coverages as may be added with respect to such property by the Placement Facility with the approval of the Commissioner or by the Commissioner. Basic Property Insurance Division I policies shall not include insurance on automobile risks, commercial agricultural commodities or livestock, or equipment used to cultivate or transport agricultural commodities or livestock. (Insurance Code section 10091, subd. (c)(1).)

“Businessowners Policy” (“BOP”) means Basic Property Insurance Division II policies that shall include a combination of the Insurance Services Office (ISO)’s Standard Businessowners Property Coverage Form and ISO’s Standard Businessowners Liability Coverage Form, including as modified with the Commissioner’s prior approval, for coverage on certain small business operations necessary and incidental to the occupancy of the property. Basic Property Insurance Division II policies shall not include insurance on automobile risks, commercial agricultural commodities or livestock, or equipment used to cultivate or transport agricultural commodities or livestock. (Insurance Code section 10091, subd. (c).).

C. The terms “Association,” “Placement Facility,” or “FAIR Plan” as used in this Plan mean the joint reinsurance association known as the California FAIR Plan Association and formed for the following purposes:

1. to formulate and administer the Plan;

2. upon request by or on behalf of any person with an insurable interest applying for coverage with the FAIR Plan to distribute the risks involved equitably among the Insurers with which it is doing business; and

3. to place Basic Property Insurance, as defined in Paragraph B of this Section, up to the full insurable value of the risk to be insured subject to the limits of liability as stated in this Plan, with one or more Insurers with which it is doing business, except to the extent that deductibles, percentage participation clauses, and other underwriting devices are employed to meet special problems of insurability.

D. “Inspection Bureau” means the organization designated by the Placement Facility with the approval of the Commissioner to make inspections to determine the condition of the properties for which Basic Property Insurance is sought and to perform such other duties as may be authorized by the Placement Facility.

E. “Urban Area” includes any municipality or other political subdivision of this State, subject to population or other limitations defined in rules and regulations of the Secretary of the United States Department of Housing and Urban Development, and such additional areas as may be designated by the Commissioner.

F. “Geographical Area” means any area designated by the Commissioner or by the Committee with the approval of the Commissioner.

G. “Premiums Written” means gross direct premiums charged with respect to property in this State on all policies of Basic Property Insurance and the Basic Property

Insurance premium components of all multiperil policies, less returned premiums, dividends paid or credited to policyholders, or unearned portions of premium deposits.

H. “Commissioner” means the Insurance Commissioner of the State of California.

I. “Plan” means this Plan of Operation.

J. “Profits” for purposes of Insurance Code section 10095, subdivision (c) means Operating Income minus the sum of Operating Expense, incurred losses, and incurred loss adjustment expenses.

K. “Operating Income” means earned premiums plus investment income.

L. “Operating Expense” means income taxes and all other expenses of the Plan.

M. “Location” includes all buildings or structures which are located at one address or single assessor’s parcel, or at contiguous addresses or assessor’s parcels, owned by the same property owner(s). With respect to condominiums, a “location” also includes all units described on a recorded final map, parcel map or condominium plan, as set forth in California Civil Code section 4125. Residences, other than condominiums, at contiguous addresses or assessor’s parcels shall be considered to be separate “locations.” Adjacent houses on separate parcels occupied by family members or tenants of a common owner or landlord shall be considered separate “locations.”

N. “High Value Commercial Property Coverage” or “High Value Commercial Property Policies” mean any commercial property policy or policies with a limit over $20 million per Location, written as a Commercial Property Policy under Division I.

Section IV – Reasonable Underwriting Standards

The FAIR Plan shall adopt, with the prior approval of the Commissioner, reasonable underwriting standards for determining whether a risk is eligible for coverage under the Plan as well as pricing and coverage options. Reasonable underwriting standards mean specific, objective factors, or categories of specific, objective factors, which have a substantial relationship to the loss exposure of the property. An insured or applicant whose property meets the underwriting standards for eligibility to purchase coverage under the Plan shall qualify to purchase the insurance.

A. Ineligible property: These types of properties are ineligible for coverage under the Plan:

   1. Motor Vehicles, meaning automobiles and vehicles designed for use on public roads that are subject to motor vehicle registration;

   2. Farm property, meaning commercial agricultural commodities or livestock, or equipment used to cultivate or transport agricultural commodities or livestock;

   3. Residential properties that are capable of being moved and that are not affixed to a foundation;

4. Buildings that are vacant or unoccupied for longer than one year, unless the vacancy or lack of occupancy is due to ongoing construction;
5. Buildings that have been condemned or deemed uninhabitable by a civil authority;
6. Property used to store flammable or explosive materials in violation of law;
7. Property used by the applicant or insured in the commission of a felony in a manner that increases the risk of loss to the property, including arson, fraud, or other insurance related offenses;
8. Property owned by an applicant or insured with a felony conviction for insurance related offenses, including arson or fraud, within the last 10 years;
9. Property intended to be demolished;
10. Lender-owned property; and
11. Residential property that is used exclusively for storage.

B. Eligible property with substandard conditions: Properties with substandard conditions are eligible for coverage under the Plan but may be subject to a conditions surcharge, subject to the Commissioner's prior approval. The FAIR Plan shall delineate specific substandard conditions, with the Commissioner's prior approval, that are generally either:

1. A physical condition of the property that substantially increases the risk of loss from a covered peril, including substandard construction, heating, or wiring, or evidence of previous fires or general deterioration; or
2. A present use or housekeeping of the property that substantially increases the risk of loss from a covered peril, such as storage of rubbish or flammable materials.

C. Neighborhood or area location or any hazard beyond the control of the property owner shall not be deemed to be acceptable criteria for declining or surcharging a risk and shall not make a property ineligible for coverage or subject to surcharge under the Plan.

<u>Section V – FAIR Plan – Inspections and Reports</u>

A. Any person having an insurable interest in real or tangible personal property in the State of California within the area covered under the Plan shall be entitled upon written or oral request therefor to the Placement Facility, to a prompt inspection of the property by the Inspection Bureau without cost, to determine whether the risk is eligible for coverage or subject to surcharge under the Plan.

B. The manner and scope of the inspections of FAIR Plan business shall be prescribed by the Placement Facility subject to the approval of the Commissioner.

C. An inspection report shall be made for each property inspected. The report shall cover pertinent structural and occupancy features as well as the general condition of the building and surrounding structures. Representative photograph(s) of the property may be taken during the inspection.

D. The inspector shall have no authority to advise whether any Insurer or the FAIR Plan will provide the coverage.

E. After the inspection, a copy of the completed inspection report, and any photograph(s) indicating the pertinent features of building, construction, maintenance, occupancy and surrounding property shall be sent to the designated insurer or to the Placement Facility promptly, and in any event within five days after the report is completed. The report shall include a description of any conditions for which charges or surcharges may be imposed. A copy of the inspection report shall be sent to the applicant or his agent upon request.

Section VI – Procedure After Inspection

A. The FAIR Plan shall provide basic property insurance to any eligible risks in the State of California upon request and after prompt inspection. Eligibility of risks shall be determined by the FAIR Plan's underwriting guidelines, which shall be reasonable and are subject to the Commissioner's prior review and approval. The Placement Facility shall, within three business days after receipt of the inspection report and request, complete an action report, advising that:

1. the risk is eligible under the Plan and if surcharged, the improvements necessary before it will provide coverage at an unsurcharged rate;

2. the risk will be eligible under the Plan if the improvements noted in the action report are made by the applicant and confirmed by reinspection; or

3. the risk is not eligible under the Plan for the reasons stated in the action report.

B. If the risk is accepted, the Placement Facility shall deliver the policy to the applicant upon payment to the Placement Facility of the premium. Premiums for Division I may be paid by applicants or existing policyholders in full or in monthly installments by personal check, cashier's check, money order, credit card or electronic funds transfer.

C. In the event a risk is declined because it is ineligible per the Plan's reasonable underwriting standards, the Placement Facility shall notify the applicant and shall include a copy of the inspection report and the action report.

D. In the event the risk is conditionally surcharged because the property does not meet reasonable underwriting standards but can be improved to meet such standards, the Placement Facility shall promptly advise the applicant what improvements noted in the action report should be made to the property, and the notification and advice to the applicant shall include a copy of the inspection report and the action report. Upon completion of the improvements by the applicant or property owner, the Placement Facility, when so notified, will have the property promptly re-inspected or, if appropriate without reinspection, remove the surcharge.

E. If the inspection of the property reveals that there are one or more substandard conditions, surcharges may be imposed in conformity with any applicable substandard rating plan.

Section VII – California FAIR Plan Association – Placement Distribution

A. The FAIR Plan is hereby created consisting of all Insurers licensed to write property and casualty insurance in California.

B. The Association shall be authorized:

1. to write and issue policies of insurance as provided in this Plan on behalf of its Insurers; the respective liabilities of the Insurers shall be several and not joint, except as stated in this Plan, and each such Insurer shall be considered to be a direct insurer for its share in such writings, such share to be determined for each Insurer pursuant to pertinent provisions of the Plan;

2. to assume and cede reinsurance pursuant to Insurance Code section 10095, subdivision (b), under terms discussed with the Commissioner, then approved by the Governing Committee;

3. to arrange for determination and collection of premium charges consistent with this Plan and disbursement of return premiums and commissions; and

4. to direct and control the investigation, adjustment, defense, and payment of the losses and claims arising under the policies of insurance issued pursuant to this Plan.

C. Maximum Policy Limits

1. Division I – Dwelling and Commercial Property Policies

The maximum limit of liability for Division I fire and allied lines policies which may be placed through this Plan is $3 million at one Location.

The maximum limit of liability for Division I commercial property policies which may be placed through this Plan is $20 million per structure for building coverage, business personal property coverage, and other associated coverages, with a total aggregate limit of $100 million per Location, regardless of the number of structures at one Location. The policy declarations must separately identify each insured structure located on the property and the specific limit of liability associated with it.

2. Division II – Businessowners Policies

The maximum limit of liability for Commercial Multiperil Businessowners Program policies which may be placed through Division II of this Plan as part of a Businessowners Insurance policy is a combined limit of $20 million for building coverage, business personal property coverage, and other associated coverages at one Location. The maximum applicable limit of business liability insurance which may be placed through Division II of this Plan with respect to such property as part of a Commercial Multiperil Businessowners Insurance policy is $1 million per occurrence and $3 million in the aggregate per policy.

3. High Value Commercial Property Coverage Rates, Rules, and Forms

The FAIR Plan shall file a rate, rule, and/or form application, as appropriate, for approval to offer High Value Commercial Property Policies within 90 days after the effective date of an order directing the Plan to offer such limits. The application shall seek the Commissioner's prior review and approval to begin offering High Value Commercial Property Policies by the effective date approved in the filing.

a. The FAIR Plan's initial High Value Commercial Property Coverage rate application may include a request to impose a temporary supplemental fee at new policy inception and at each renewal, if any, to help ensure the Plan has funds available to pay increased risk exposure in the event of losses. After the initial rate application, the FAIR Plan may request approval for additional temporary supplemental fees. The Plan shall hold the temporary supplemental fees in a separate account bearing interest at the same rate as the FAIR Plan's other premium accounts. Premium from High Value Commercial Property Policies shall only be used for losses related to High Value Commercial Property Policies.

b. All Applications to collect temporary supplemental fees are subject to the Commissioner's prior review and approval, and shall be considered, and approved, with the FAIR Plan's initial rate, rule and form filings. After approval of the initial rate application, any application for additional temporary supplemental fees must be submitted according to the Department's instructions for rule-change applications in effect at the time the application is made.

4. High Value Commercial Property Policy Sunset.

a. The Plan shall cease to offer High Value Commercial Property Policies within three (3) years after approval and implementation of the requisite filings ("Sunset Date"). No new business or renewal High Value Commercial Property Policy may incept after the Sunset Date. However, a High Value Commercial Property Policy issued on or before the Sunset Date may remain in effect for one year after policy inception, even if the policy term expires after the Sunset Date.

b. All High Value Commercial Property Policies shall be nonrenewed on or after the Sunset Date. All applications for commercial policies issued after the Sunset Date, including nonrenewed High Value Commercial Property Policies, shall issue at a maximum policy limit of $20 million per location. The FAIR Plan shall comply with all relevant nonrenewal statutes to ensure that High Value Commercial Property Policyholders are given legally-required notice of the need to apply for new coverage.

c. Within thirty (30) days after the last High Value Commercial Property Policy claim is closed, but in no event no later than two years after the Sunset Date, the Plan shall refund, on a pro-rata basis with interest at the same rate earned by the Plan, any unused temporary supplemental fees to High Value Commercial Property Policyholders. The FAIR Plan may seek the Commissioner's prior approval to reserve funds as necessary to pay losses and refund temporary supplemental fees for any claims that cannot be closed within two years after the Sunset Date. The pro-rata determination will be based on the total amount of premium paid by each High Value Commercial Policyholder while the program is in place. Any unclaimed portion of the fund is subject to laws governing escheatment.

The maximum Division I and Division II policy limits set forth herein are subject to periodic review and may be adjusted as deemed necessary by the Commissioner. Higher limits of liability also may be placed through the FAIR Plan under written guidelines adopted by a majority of the Governing Committee present and voting. The FAIR Plan may file any rate or rule application necessary to implement the maximum limits of liability required by this Paragraph.

D. Insurer Participation in Writings, Expenses, Profits, and Losses

1. Division I – Dwelling and Commercial Property Policies: Except as modified in this Plan, each insurer shall participate in the writings, expenses, profits and losses of Division I of this Plan (including assessments for operating the Placement Facility) in the same proportion that its Premiums Written during the second preceding calendar year bear to the aggregate Premiums Written by all Insurers in the Plan, excluding that portion of the Premiums Written attributable to the operation of the Association.

2. Division II – Businessowners Policies: Except as modified in this Plan, each Insurer shall participate in the writings, expenses, profits and losses of the business written pursuant to Division II of this Plan (including assessments for operating the Placement Facility) in the same proportion as its Commercial Multiperil premiums written during the second preceding calendar year bear to the aggregate Commercial Multiperil premiums written by all Insurers in the Plan, excluding that portion of the premiums written attributable to the operation of the Association pursuant to Division II of this Plan.

3. For both Division I and Division II, the amount an insurer is assessed shall be based on the proportion that the insurer's premiums written during the second preceding calendar year for that line of business bear to the aggregate premiums written by all insurers in the program for that line of business, excluding that portion of the premiums written attributable to the operation of the association, so that the assessment owed equals the insurer's market share of losses for that line of business. For purposes of assessment, High Value Commercial Property Policies shall be treated as a separate line of business. The amount an insurer is assessed by the Association shall also be bifurcated by line of business to reflect losses proportionate to that line of business so that, for example, an assessment to cover losses related to Division I commercial property coverages are solely allocated to commercial property lines of business and an assessment to cover losses related to Division I dwelling property coverages are solely allocated to residential property lines of business.

a. Interest at a rate equal to the current federal reserve discount rate plus 2.5% per annum shall be added to the assessment of any member insurer that fails to remit payment within 30 days after the request is sent to the insurer.

b. The Commissioner may suspend or revoke the certificate of authority to transact business in this state of a member insurer that fails, without good cause, to pay an assessment when due and after demand has been made.

c. Upon request by a member insurer, supported by an audited financial statement, and subject to the Commissioner's prior approval, the Association may exempt or defer, in whole or in part, payment of an assessment by a member insurer, if the assessment payment would cause the member insurer's financial statement to reflect an amount of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. However, during the period of deferment: (1) interest on the amount deferred will accrue at the current federal reserve discount rate plus 2.5% percent per annum; and (2) the company for which the premium charge was deferred shall not pay dividends to shareholders or policyholders. Upon request by the Association, and at least quarterly during any period of deferment that may be granted, the member insurer shall provide the Association with audited financial statements and shall pay the deferred amount, plus interest, within 15 days of submitting a financial statement that demonstrates the payment will not reduce capital or surplus below required minimums.

4. The Association's losses and operating expenses, except those related to High Value Commercial Property polices, shall be paid in the following order:

a. First, from retained earnings from the sale of non-High Value Commercial Property Policies;

b. Second, from reinsurance proceeds, any line of credit, and, if sold, catastrophe bonds; and

c. Third, if the Plan is substantially threatened with insolvency because the funding sources in subparagraphs a and b, immediately above, are insufficient to pay all of the Plan's losses and operating expenses, any remaining liabilities shall be paid through a pro-rata assessment on all Plan members, calculated in accordance with Section VII, paragraph D, subparagraphs 1, 2, and 3, above.

5. The Association's losses and operating expenses related solely to High Value Commercial Property polices shall be paid in the following order:

a. First, from temporary supplemental fees, paid at policy inception, and premiums generated from the sale of High Value Commercial Property Policies;

b. Second, from reinsurance proceeds, any line of credit, and, if sold, catastrophe bonds;

c. Third, if the Plan is substantially threatened with insolvency because the funding sources in paragraphs a and b, immediately above, are insufficient to pay all of the Plan's losses and operating expenses related to High Value Commercial Property Policies, any remaining liabilities shall be paid through a pro-rata assessment on all Plan members, calculated in accordance with Section VII, paragraph D, subsection 3.

6. Applications to collect temporary supplemental fees for High Value Commercial Property Policies are subject to the Commissioner's prior review and approval. After initial rate application approval, requests to collect temporary supplemental fees must be submitted according to the Department's instructions for rule-change applications in effect at the time the application is made. The amount of any temporary supplemental fee shall be separately stated on a notice, bill, or policy declaration sent to an insured and shall include the following language:

> "The California FAIR Plan Association makes basic property insurance available to California consumers who would otherwise be unable to obtain such insurance through the normal insurance market. As authorized, the FAIR Plan may charge each High Value Commercial Property policyholder its fair share if necessary to pay the Plan's operating expenses and High Value Commercial Property policyholder claims.
>
> This 'Temporary Supplemental Fee' amount, if charged, is displayed on a notice, bill, or your policy declarations."

7. Notwithstanding any other limits on assessments, and subject to the Commissioner's prior approval, the association may levy upon member insurers special bond assessments in the amount necessary to pay the principal and interest on the bonds, and to meet other requirements established by agreements relating to the bonds. The assessments shall be collected only from the member insurers providing insurance in the line of business for which the bonds are issued, and shall be applied in the same manner as separate assessments are used. Special bond assessments made pursuant to this section shall also be subject to the temporary supplemental fees described above.

8. A group of Insurers under the same management, ownership, or control shall have the option of designating an Insurer from within the group to assume all obligations on behalf of the entire group.

Nothing contained in this section shall modify or reduce the Commissioner's prior approval authority over the FAIR Plan's assessments, the Plan of Operation, or prior approval rate applications by the FAIR Plan and its member insurers.

E. Additional Proportionate Reduction in Plan Participation for Voluntary Writings

1. Division I – Dwelling and Commercial Property Policies: Insurers that voluntarily write Basic Property Insurance on risks located in areas designated as brush hazard areas by the ISO, inner city areas designated by the Commissioner, and high or very high fire hazard severity zones as determined and mapped by the Department of Forestry and Fire Protection, pursuant to Section 51178 of the Government Code, will to that extent, be proportionately relieved of the liability to participate in the Plan.

2. Division II – Businessowners Policies: Insurers that voluntarily write Commercial Multiperil Insurance on risks located in specific areas designated by the Governing Committee or by the Commissioner will, to that extent, be proportionately relieved of the liability to participate in Division II of this Plan.

Section VIII – Standard Policy Coverage

All Basic Property Insurance Division I and Division II policies issued pursuant to this Plan shall be on standard policy forms, such as those issued by the ISO, except as may be or may have been modified with the prior approval of the Commissioner, and shall be issued for a term of one year.

Section IX – Cancellation

A. No Division I or Division II policy issued under this Plan shall be cancelled except:

1. for cause which would have been grounds for non-acceptance of the risk under the Plan had such cause been known to the Placement Facility at the time of acceptance;

2. for non-payment of premium; or

3. for other reasons described in Insurance Code sections 676 or 676.2 as applicable.

A Notice of Cancellation, together with a statement of the reason therefor, shall be sent to the insured, accompanied by a statement that the insured has a right of appeal as hereinafter provided.

B. Notices of cancellation of policies on risks eligible for Plan inspection or coverage, sent by the Placement Facility or by any Insurer participating in the Plan, shall be sent to the insured not less than thirty days in advance of the effective date of cancellation, together with information concerning Facility placement procedures; provided, however, that this Paragraph B shall be inapplicable in cases of non-payment of premiums, evidence of incendiarism, or evidence of material misrepresentation or concealment.

C. The provisions of Paragraph B immediately above shall also be applicable to notice of non-renewal of such policies.

Section X – Rates

A. All rates charged by the FAIR Plan shall be subject to the Commissioner's prior written approval. The FAIR Plan's rates shall not be excessive, inadequate, or unfairly discriminatory and shall be actuarially sound so that premiums are adequate to cover expected losses, expenses, and taxes, and shall reflect the FAIR Plan's investment income. For all rate applications, the FAIR Plan shall provide all information and data required by the Commissioner to determine whether the rate proposed by the FAIR Plan is, *inter alia*, actuarially sound, as required by Insurance Code section 10100.2, subdivision (a).

B. Division I – Dwelling and Commercial Property Policies: The FAIR Plan shall file a rate application for the dwelling line of business within 24 months after the effective date of any approved change to dwelling rates, unless otherwise directed by the Commissioner. The FAIR Plan shall file a rate application for the commercial line of business within 36 months after the effective date of any approved change to the commercial rates, unless otherwise directed by the Commissioner.

C. Division II – Businessowners Policies: For Division II, the FAIR Plan shall file a rate analysis on or before July 1, 2024. After such rate analysis is reviewed by the Commissioner, the FAIR Plan shall not be required to file a subsequent rate analysis or application, unless otherwise directed by the Commissioner, except that the FAIR Plan shall be required to file a rate application promptly if Division II reaches 1,000 policies, and so long as Division II retains 1,000 policies, the FAIR Plan shall file a rate application within 36 months after the effective date of the new BOP rates, unless otherwise directed by the Commissioner.

D. Pursuant to Insurance Code section 10100.2, subdivision (c), all information considered by the FAIR Plan to establish rates shall be public records.

E. Use of Catastrophe Models in Rating, Eligibility, and Underwriting for Division I and Division II Policies: The Plan may include projected losses based on probabilistic catastrophe models in any rating plan or underwriting or eligibility guideline submitted to the Commissioner for prior approval. To the extent the Plan seeks to rely upon a catastrophe model in any rate application, it may utilize pre-application model review procedures approved by the Commissioner.

Section XI – Right of Appeal

Any Applicant or Insurer shall have the right of appeal to the Governing Committee. A decision of the Governing Committee may be appealed to the Commissioner within thirty days from the action or decision of the Governing Committee. Each denial of insurance shall be accompanied by a statement that the applicant has the right of appeal to the Governing Committee and the Commissioner and setting forth the procedures to be followed for such appeal.

Section XII – Commission

Commission shall be paid to the licensed producer designated by the applicant and shall be determined by the Governing Committee.

Section XIII – Administration

A. This Plan shall be administered by a Governing Committee (herein referred to as the Committee) of the Placement Facility, subject to the supervision of the Commissioner, and operated by a President appointed by the Committee.

B. The Committee shall consist of nine voting Insurers, which shall be elected as follows, to the extent practicable:

two members from the American Property Casualty Insurance Association

one member from all other stock insurers

one member from all other non-stock insurers

five members from at-large insurers

Not less than four of the members of the Committee shall be California domiciled companies, so long as four or more such companies are willing and able to serve on the Committee.

In the event that the FAIR Plan is unable to secure sufficient qualified members to serve on the Governing Committee, the Commissioner and the Association shall work together in good faith to secure sufficient members for the Governing Committee.

The Committee shall, in addition, have as non-voting members one representative of insurance agents, one representative of insurance brokers, one representative of the public, and one representative of surplus line brokers, each to be appointed by the Governor of the State of California.

Not more than one participating Insurer in a group under the same management or ownership shall serve on the Committee at the same time. Representatives on the Committee shall serve for a period of one year or until successors are elected.

All members of the Governing Committee shall execute a Non-Disclosure Agreement, subject to the approval of the Commissioner, agreeing to maintain the confidentiality of (1) any pending or anticipated litigation, and any matters falling within the attorney-client privilege, to the extent that confidentiality is required for the attorney to exercise his/her ethical duties as a lawyer; and (2) any matter involving employment, termination, terms and conditions of employment, evaluation, promotion or disciplining of any prospective or current FAIR Plan employee or contractor, and which shall include a provision that the defense and indemnification obligations contained in Section VI of this Plan will not apply with respect to a breach of the Non-Disclosure Agreement.

C. The Chairman of the Committee shall appoint a Nominating Committee consisting of not less than three voting members who shall place in nomination the voting Insurers for election at the annual meeting. If nominations are made at the annual meeting for voting Insurers other than those nominations made by the Nominating Committee, such nominations shall designate the category of voting Insurers as indicated in Paragraph B of this Section.

D. Voting for election to the Committee at the annual meeting will be on a weighted basis in accordance with Premiums Written (as defined in this Plan) during the second preceding calendar year as disclosed in the reports filed by the Insurers with the Commissioner.

E. The Governing Committee may establish subcommittees that may convene to deliberate with respect to only those matters specified in the respective charter for each such subcommittee and to make recommendations to the Governing Committee regarding such specified matters. The charters shall be approved by the Governing Committee annually, at a meeting of the Governing Committee at which the Commissioner and/or his or her representatives are present, and such charters shall be provided to the Commissioner in advance of such meeting as part of the Governing Committee packet, at the same time or before the Governing Committee packet is provided to the Governing Committee members. The subcommittees authorized by this Plan of Operation are as follows: Underwriting Subcommittee; Claims Subcommittee; Accounting

Subcommittee; Investment Subcommittee; Nominating Subcommittee, Reinsurance Subcommittee, and an Executive Subcommittee. Each subcommittee shall include at least one nonvoting member of the Governing Committee. Additional subcommittees may be created subject to approval of the Commissioner.

F. Only the Executive subcommittee may exercise delegated authority from the Governing Committee. The Executive subcommittee shall include the nonvoting member of the Governing Committee described in Insurance Code section 10094 as the "representative of the public."

Section XIV - Meetings

A. There shall be an Annual Meeting of Insurers on a date fixed by the Governing Committee for the purpose of electing the voting members of the Governing Committee in the manner prescribed in this Plan and for the purpose of conducting such other items of business as may be properly brought before it. A majority of Insurers, on a weighted basis, in accordance with each Insurer's Premiums Written, as specified in this Plan, present in person or via remote technology, shall constitute a quorum. The Plan shall provide twenty days' advance written notice of the Annual Meeting to the Insurers, the non-voting members of the Governing Committee, and the Commissioner and his or her designee(s).

B. The FAIR Plan shall provide advance written notice to the Governing Committee, the Commissioner and the person(s) designated by the Commissioner of the time, date, and place and an agenda for any meeting of the Governing Committee. The Plan shall provide advance written notice to the members of all subcommittees and the person(s) designated by the Commissioner of the time, date, and place and an agenda for any subcommittee meeting, except that notice to the Commissioner and/or his or her designees of Executive Subcommittee meetings shall not be required if such meetings are properly closed to the Commissioner pursuant to this Plan. Notice of each such meeting shall be provided to the Commissioner in the same manner and at the same time as the notice provided to the meeting attendees.

C. The Commissioner and the person(s) designated by the Commissioner shall be permitted to attend any meeting of the Governing Committee and any subcommittee at which a quorum is present, except any meeting of the Executive Subcommittee closed to the Commissioner as described in this Plan, or any portion of a Governing Committee meeting called to discuss: (1) any pending or anticipated litigation, and any matters falling within the attorney-client privilege, to the extent that confidentiality is required for the attorney to exercise his/her ethical duties as a lawyer; or (2) any matter involving employment, termination, terms and conditions of employment, evaluation, promotion or disciplining of any prospective or current FAIR Plan employee or contractor. Any portion of a Governing Committee meeting called to discuss any matter pertaining to (1) or (2) hereof may be closed to the Commissioner and his/her designees, but not to the nonvoting members, and shall be so declared by a formal motion of the Governing Committee at a meeting the Commissioner and his/her designees are authorized to attend.

D. Except with respect to the Annual Meeting referenced in Paragraph A of this Section IV, and a Special Meeting referenced in this Plan, voting by proxy and mail shall not be permitted.

Voting by email shall be permitted only if the voting email is copied to all members of the Governing Committee, including nonvoting members.

E. A Special Meeting of the Insurers other than the Annual Meeting referenced in this Plan, may be called at such time and place designated by the Governing Committee, or upon the written request to the Governing Committee by a minimum of ten insurers, none of which are under common control with any of the other requesting insurers. If, at a Special Meeting, a vote of the Insurers is or may be required on any proposal, such votes shall be cast and counted on a weighted basis in accordance with each Insurer's Premiums Written as used to determine its participation in the Association under this Plan. The FAIR Plan shall provide notice to the Commissioner and the non-voting members of the Governing Committee of any Special Meeting of Insurers in the same manner and at the same time as the Insurers. The Commissioner and/or his or her designee(s) and the non-voting members shall be authorized to attend and participate in any such meeting.

F. The Executive subcommittee may meet in a session closed to the Commissioner only for the purpose of deliberating and deciding matters pertaining to: (1) any pending or anticipated litigation, and any matters falling within the attorney-client privilege, to the extent that confidentiality is required for the attorney to exercise his/her ethical duties as a lawyer; or (2) any matter involving employment, termination, terms and conditions of employment, evaluation, promotion or disciplining of any prospective or current FAIR Plan employee or contractor. While the FAIR Plan shall make diligent efforts to schedule meetings of the Executive Committee only if all members of the Executive subcommittee, including the nonvoting "member of the public," are available, any three members of the Executive subcommittee shall be sufficient to constitute a quorum. The Executive subcommittee shall promptly inform the Governing Committee of any final decision of the Executive subcommittee when it becomes public.

G. The Governing Committee shall meet annually with the FAIR Plan's auditors. At the discretion of the Committee, such meeting or a part thereof may be convened outside the presence of FAIR Plan employees or contractors and counsel for the FAIR Plan. All findings and any reports of the auditors shall be provided to the Commissioner and/or his or her designees.

Section XV – Duties of the Governing Committee

A. The Governing Committee ("Committee") shall meet as often as may be required to perform the general duties of administration of the Plan, or on the call of the Commissioner. A majority of the voting and at least one non-voting member of the Committee shall constitute a quorum.

B. The Committee shall be empowered to appoint a President and such other personnel as may be necessary, who shall serve at the pleasure of the Committee. The Committee also shall be empowered to: budget expenses; disburse funds; approve a request to the Commissioner to levy assessments and/or temporary supplemental fees, or to obtain a line of credit and/or authorize the use of funding vehicles, including without limitation, the issuance of catastrophe bonds; approve a request to individual member insurers to co-sign a line of credit as requested by a creditor; and perform all other duties provided herein or necessary or incidental to the proper administration of the Plan. The adoption of, or substantive changes in, pension plans or employee benefit programs shall be subject to approval of Insurers.

The Commissioner and the FAIR Plan shall work together in good faith, consistent with any statutes that may be enacted, so that the FAIR Plan may obtain financing needed to ensure prompt payment of claims and other obligations.

C. The Committee shall be further empowered to modify or amend any provision of this Plan as required by legislation, or by rule, regulation or administrative determination by the Commissioner, in accordance with this Plan.

D. Annually, the President shall prepare an operating budget which shall include the payment of all debt service due in the related period and which shall be subject to approval of the Committee. Such budget shall be furnished to the Insurers after approval.

E. The Committee shall furnish to all Insurers, and to the Commissioner, a written report on operations annually in such form and detail as the Committee may determine.

F. The Committee shall require periodic reports from the Inspection Bureau, and shall furnish copies of such reports to the Commissioner.

G. The Committee shall make every effort to obtain the full cooperation of all California producers licensed to write property lines, in connection with the operations of the Placement Facility and of the Plan.

H. The Committee shall adopt a pro forma capital management or liquidity management plan, subject to the Commissioner's approval, and update it as frequently as is necessary or desirable.

Section XVI – Indemnification

A. Except as provided in the Non-Disclosure Agreement to be signed by each member of the Governing Committee, the Association shall indemnify (a) every director, Governing Committee member, member of any other committee or any subcommittee, officer, and employee of the Association, and his heirs, executors, and administrators, and (b) every insurer member of the Association, both as a member or by reason of such insurer having one or more of its representatives or employees serving in any of the capacities or positions specified in clause (a) hereinabove; against all judgments, fines, amounts paid in settlement, reasonable costs and expenses including attorney fees, and any other liabilities that may be incurred as a result of any claim, action, suit, or proceedings, whether civil, criminal, administrative or other, prosecuted or threatened to be prosecuted for or on account of any act performed or omitted or obligation entered into, if done or omitted in good faith and without intent to defraud, and in connection with the administration, management, or conduct of the Association or its affairs.

B. Such indemnification shall be provided whether or not such person or insurer holds office in the Association at the time such claim, action, suit or proceeding is begun, prosecuted, or threatened, and whether or not the liability indemnified against was incurred or the act or omission occurred prior to the adoption of this Section.

The adjudication or termination of any such claim, action, suit, or proceeding by judgment, settlement, conviction, or plea of nolo contendere or its equivalent, shall not be deemed to create a presumption that such person or insurer did not act in good faith or acted with intent to defraud.

If any such claim, action, suit or proceeding is compromised or settled, this must be done with the approval of the Governing Committee of the Association.

C. Any such person or insurer shall be conclusively entitled to rely upon an opinion of legal counsel for the Association; and if the act or omission involved was reasonably done in reliance upon such an opinion, such person or insurer shall be entitled to the indemnification provided for by this Section. Such person or insurer shall also be entitled to indemnification provided for by this section. Such person or insurer shall also be entitled to indemnification hereunder if his, her or its defense to the claim, action, suit or proceedings has been wholly successful, whether on the merits or otherwise.

D. The right of indemnification hereunder shall not be exclusive of other rights such person or insurer may have.

E. In each instance in which a question of indemnification hereunder arises, determination in the first instance of the right to indemnification hereunder, and of the time and manner of payment thereof, shall be made by the Governing Committee. In the event that a majority of the members of the Governing Committee are seeking indemnification hereunder as a result of the same occurrence, such determination in the first instance shall be made by vote of the membership of the Association taken on a weighted basis as provided in Division I, Section VI, Paragraph D, and Division II, Section VI, Paragraph C hereof.

Nothing contained in this Paragraph E is intended to make an adverse determination finally binding upon the person or insurer seeking indemnity under this Section, or to preclude any such person or insurer from appealing an adverse determination against him, her or it, or from instituting legal proceedings to enforce a right of indemnification under this Section.

F. The indemnification provided for in this Section shall be deemed to be an expense of the Association to which all of the members of the Association shall contribute in the proportion that each member participates according to law in the writings, expenses, profits and losses of the Association.

Section XVII – Public Education

All Insurers agree to undertake a continuing public education program, in cooperation with producers and others, to assure that the Plan receives adequate public attention.

Section XVIII – Termination of the Plan

Any obligations incurred by the Association shall not be impaired by the termination of the Plan and such Association shall be continued for the purpose of performing such obligations.

Section XIX – Insolvency

Any member that, due to insolvency, is no longer licensed and authorized to write in California, or that, due to insolvency, is no longer engaged in writing in California, upon a direct basis, basic property insurance or any component thereof in homeowners or other multiperil policies, shall cease to be a member of the California FAIR Plan Association, as of the date that the member's license is revoked or suspended, the date upon which the member became no longer so authorized, or the date upon which the member ceased writing such insurance, whichever date occurs first.

Such member's proportionate share of expenses and/or losses shall be paid by the remaining members, each of which shall contribute such payment in the same proportion as specified in this Plan, calculated without reference to Premiums Written by such member. In calculating said payment for each remaining member, such member's Premiums Written from its voluntary writings as set forth in Section VII, paragraph E of this Plan, shall be excluded.

If the Association elects to make a distribution of funds to its members, no amount that would otherwise be distributed under the Plan of Operation shall be distributed to such member subject to an order of liquidation entered with the county clerk, or to its liquidator, receiver, conservator or statutory successor.

Section XX – Citation to the Commissioner

Failure of any member to comply with this Plan of Operation or with any rules prescribed hereunder by the Governing Committee or to pay any assessment levied within 30 days after notice thereof shall be grounds for proceedings consistent with the Insurance Code.

Section XXI – Distributions of Profits and Assessments to Operate the Facility

Pursuant to Insurance Code section 10095, subdivision (c), the Insurers shall participate in the writing, expenses, Profits, and losses of the FAIR Plan in the same proportion that its premiums written during the second preceding calendar year bear to the aggregate premiums written by all Insurers in the program, excluding that portion of the premiums written attributable to the operation of the FAIR Plan.

No distributions of Profits, as defined in this Plan, shall be made to the Insurers without the Commissioner's prior written approval.

Pursuant to Insurance Code section 10094, the Insurers shall not be subject to any assessment without the Commissioner's prior written approval.

Section XXII – Amendments to this Plan

Any Insurer may propose an amendment to the Plan and present that proposed amendment to the Governing Committee for consideration. The proposal shall be considered at the next meeting of the Governing Committee. If the proposed amendment to the Plan is approved by a majority of the members of the Governing Committee present and voting at the Governing Committee meeting at which the proposed amendment to the Plan is considered, notice of the proposed amendment to the Plan shall be mailed to the Insurers not less than twenty days prior to the final date fixed by the Governing Committee for Insurers to vote thereon. Any vote of the Insurers on a proposed amendment to this Plan or any other Insurer proposal may be taken by e-mail and such votes shall be cast and counted on a weighted basis in accordance with each Insurer's

Premiums Written as used to determine its participation in the Association under this Plan. Any amendment to this Plan shall be approved by at least two-thirds of the votes cast by Insurers on such weighted basis before it is submitted to the Commissioner for prior review and approval.

No amendment to this Plan shall be effective without the prior written approval of the Commissioner.

Pursuant to Insurance Code section 10095, subdivision (f), the Commissioner may revoke his or her approval of this Plan if he or she feels it is necessary to carry out the purposes of Chapter 9 of the Insurance Code.

Notwithstanding the foregoing, once approved by the Commissioner, specific repayment terms shall not be altered by subsequent amendment to the Plan of Operation, and amendments to the Plan of Operation shall not impair the timely payment in full of any obligations of the FAIR Plan with respect to any bonds, loan agreements, lines of credit or other financing.

SECTION XXIII – Clearinghouse Programs

The FAIR Plan maintains separate clearinghouses for residential and commercial policies, where certain policyholder information is available for review by insurers who may wish to offer insurance to one or more FAIR Plan policyholders. Commencing on July 1, 2025, the FAIR Plan shall identify policyholders who have, to the FAIR Plan's knowledge, completed one or more of the mandatory property-level mitigation efforts or optional factors specified in Title 10, California Code of Regulations, section 2644.9, subdivisions (d) and (e), or obtained a policy for a property in an area that has received a community-level designation as specified in Title 10, California Code of Regulations, section 2644.9, subdivisions (d) and (e), and who have not opted out of participation in the clearinghouses.

SECTION XXIV – Financing

The FAIR Plan may do all of the following, subject to the prior approval of the Commissioner:

(a) If permitted by statute, request the California Infrastructure and Economic Development Bank to issue bonds from time to time to finance all or any portion of the costs of claims or to increase liquidity and claims-paying capacity.

(b) If permitted by statute, enter into loan agreements with the California Infrastructure and Economic Development Bank, pursuant to Section 63049.75 of the Government Code.

(c) Enter into line of credit agreements with one or more institutional lenders, as defined in Section 22600 of the Financial Code, or one or more broker-dealers, as defined in Section 25004 of the Corporations Code, for the purpose of financing the costs of claims or to increase liquidity and claims paying capacity and to refund lines of credit previously incurred for that purpose.

(d) Secure those loan agreements or line of credit agreements by a pledge of, and the grant of a lien and security interest in, collateral, including premiums, revenues, and receivables. That pledge, lien, and security interest is subject to Division 9 (commencing with Section 9101) of the Commercial Code.

(c) Enter into any other agreement or take any other action necessary or convenient to the execution and delivery of loan agreements or line of credit agreements.

The FAIR Plan may, with the prior approval of the Commissioner, assess all members to repay all obligations, costs and expenses with respect to a loan agreement or line of credit entered into pursuant to this Section XXIV and as otherwise specified in this Plan.

The Commissioner and the FAIR Plan shall work together in good faith, consistent with any statutes that may be enacted, so that the FAIR Plan may obtain financing needed to ensure prompt payment of claims and other obligations.

SECTION XXV – Reporting

A. By July 1, 2025, and quarterly thereafter, the Association shall make a report to the Commissioner, the Assembly Committee on Insurance, the Senate Committee on Insurance, and the Governor and shall post the report on the Association's public website. Solely for the purpose of posting on the Association's website, the reports are exempt from only the confidentiality provisions of Insurance Code section 10097. All other aspects of Section 10097 apply to the reports.

B. The report required by Paragraph A shall provide the information specified below:

1. The following information about dwelling fire policies, broken down by ZIP code and county, and categorized as follows: (a) owner-occupied single family residential; (b) tenant-occupied; (c) renters, and (d) condo unit-owners. For each of these categories, the Plan shall specify:

    a. The total number of policies at each wildfire risk score and within each policy category;

    b. Total exposures or total insured value for all dwelling fire policies and for each category;

    and

    c. Total written premium for all dwelling fire policies and for each category.

2. The following information about commercial property policies, broken down by ZIP code, county, and whether written limits exceed $20 million per Location, and further categorized as follows: (a) commercial habitational buildings; (b) retail; (c) manufacturing; (d) office buildings; and (e) agricultural. For each of these categories, the Plan shall specify:

a. Total commercial limits or total insured value for all commercial policies and for each category;

b. The total number of policies at each wildfire risk score and within each policy category;

c. Total exposures or total insured value for all commercial property policies and for each category; and

d. Total written premium for all commercial property policies and for each category.

3. The following information about the residential clearinghouse program and the commercial clearinghouse program:

   a. Policy counts at the start of the reporting period and at the end of the reporting period, including the percentage change and number of policies;

   b. Total exposure at the start of the reporting period and at the end of the reporting period, including the percentage change and number of policies; and

   c. Total written premium of the FAIR Plan in specific distressed areas identified by the Department at the end of each calendar year.

4. Upon receipt of the reports, the Commissioner is authorized to request and review additional information from the FAIR Plan and further investigate the FAIR Plan's health and solvency. The Commissioner maintains discretion to determine whether additional information obtained pursuant to this paragraph should be posted to the Association's public website.

[END OF DOCUMENT]

EXHIBIT B

BEFORE THE INSURANCE COMMISSIONER

OF THE STATE OF CALIFORNIA

In the Matter of THE CALIFORNIA FAIR PLAN ASSOCIATION, Respondent.	STIPULATION AND ORDER NO. 2024-1 [Insurance Code § 10095]

WHEREAS, the California FAIR Plan Association ("FAIR Plan") is an association of all admitted insurers licensed to write and engaged in writing *Basic Property Insurance* in California, governed by Chapter 9 of Part 1, Division 2 of the California Insurance Code,[1] sections 10090 et seq. ("Chapter 9");

WHEREAS, pursuant to section 10095, subdivisions (f) and (g), administration of the FAIR Plan is subject to the supervision of the California Insurance Commissioner ("Commissioner");

WHEREAS, pursuant to section 10090, the FAIR Plan's purposes are:

> (a) to assure stability in the property insurance market for property located in the State of California;
> (b) to assure the availability of *basic property insurance* as defined by [Chapter 9];
> (c) to encourage maximum use, in obtaining *basic property insurance*, of the normal insurance market provided by admitted insurers and licensed surplus line brokers; and
> (d) to provide for the equitable distribution among admitted insurers of the responsibility for insuring qualified property for which *basic property insurance* cannot be obtained through the normal insurance market by the establishment of a FAIR Plan…; (Italics added.)

WHEREAS, pursuant to Insurance Code section 10095, subdivision (f), the Commissioner may, at any time, revoke approval of the FAIR Plan's Plan of Operation if the Commissioner feels it is necessary to carry out the purposes of Chapter 9 to help promote a stable insurance market and protect California consumers;

WHEREAS, pursuant to Insurance Code section 10095, subdivisions (f) and (g), the FAIR Plan is required to amend its Plan of Operation at the direction of the Commissioner;

[1] All statutory citations are to Chapter 9 of Part 1, Division 2 of the California Insurance Code, section 10090 *et seq.*

WHEREAS, the Commissioner and the FAIR Plan have jointly determined the current Plan of Operation (Ed. 11/30/23) should be revised as set forth herein;

WHEREAS, data compiled by the Commissioner demonstrates the FAIR Plan's market share has increased significantly in recent years as the normal market ceased writing new property insurance policies or non-renewed substantial numbers of property insurance policies in areas throughout the State of California exposed to wildfire risk, causing California consumers and businesses to increasingly rely on the FAIR Plan as California's insurer of last resort;

WHEREAS, the Commissioner has met with the Governor's Office, the Assembly Insurance Committee, the Senate Insurance Committee, and the FAIR Plan to discuss the urgent need to modernize the FAIR Plan as an integral part of the Commissioner's Sustainable Insurance Strategy to stabilize the normal insurance market and reduce reliance on the FAIR Plan;

WHEREAS, the FAIR Plan's current Plan of Operation (Ed. 11/30/23) requires the FAIR Plan to offer, under its Division I Commercial Property Program ("CPP"), combined coverage limits of $20 million per Location, as defined in the Plan, for building coverage, business personal property coverage, and other associated coverages at one Location;

WHEREAS, the Commissioner and the Department have met with representatives of commercial enterprises and non-profit entities throughout the State of California, including but not limited to, agricultural businesses, housing developers and builders, homeowners association boards, and condominium owners, who informed the Commissioner about (1) the lack of availability of commercial property insurance coverage in the normal market, and (2) the fact that the FAIR Plan's current Division I CPP coverage limits are insufficient to meet Californians' insurance needs;

WHEREAS, the Commissioner has determined that the FAIR Plan's current combined Division I CPP coverage limits of $20 million per Location, as defined in the Plan, for building coverage, business personal property coverage, and other associated coverages at one Location, are insufficient to address the needs of Californians;

WHEREAS, the Commissioner has determined that it is necessary to amend the Plan of

Operation to increase the available coverage limits that the FAIR Plan offers for Division I CPP coverage, and that doing so will fulfill the FAIR Plan's purposes by keeping pace with rising commercial property values to adequately protect Californians from risk of loss due to peril(s) covered by the FAIR Plan's policies;

WHEREAS, the Commissioner has determined that the FAIR Plan should offer, under Division I, a Commercial Property Insurance Policy with combined coverage limits of $20 million per structure for building coverage, business personal property coverage, and other associated coverages pertaining to each building located at one insured property address, with a total aggregate limit of $100 million per Location, as defined in the Plan.

WHEREAS, the Commissioner has determined that the FAIR Plan must offer combined commercial property limits of up to $100 million per Location for three years, which will ensure consumers have access to higher commercial limits until the normal market starts offering higher limit commercial policies;

WHEREAS, the Commissioner has determined that the FAIR Plan must submit appropriate rate, rule, and/or form filings to the Commissioner for prior review and approval to evaluate potential rate impact and determine appropriate rates subject to California Insurance Code section 10100.2;

WHEREAS, the Commissioner has determined that, to implement limits of up to $20 million per structure and up $100 million per Location in the aggregate for commercial property and related coverages written under Division I, and to help ensure the Plan has funds available to pay increased risk exposure related to higher limits, the FAIR Plan may submit rate, rule, and/or form filings that include a request to collect, at new policy inception or at any renewal, a temporary supplemental fee from policyholders that purchase a FAIR Plan policy with limits above $20 million per Location;

WHEREAS, the Commissioner has determined that, to implement limits of up to $20 million per structure and up $100 million per Location in the aggregate for commercial property and related coverages written under Division I, and to help ensure the Plan has funds available to pay increased risk exposure related to higher limits, the FAIR Plan may submit subsequent applications to collect additional temporary supplemental fees according to the Department's instructions for rule-change applications in effect at the time the application is made;

WHEREAS, the Commissioner has determined that, in order assure the stability of the property insurance market and the availability of basic property insurance in the extremely unlikely event the FAIR Plan is authorized to levy assessments, in one calendar year, of up to $1 billion on member insurers that write residential property insurance policies with available limits of $3 million per Location or less, or up to $1 billion to member insurers that write commercial property insurance policies with available limits of $20 million per Location or less, or up to a total of $2 billion to member insurers that write residential and commercial property policies with available limits of $20 million per Location or less, the FAIR Plan's member insurers may request the Commissioner's prior approval to collect temporary supplemental fees from their own policyholders in order to recoup up to 50% of amounts assessed;

WHEREAS, the Commissioner has determined that, in order assure the stability of the property insurance market and the availability of basic property insurance in the extremely unlikely event the FAIR Plan is authorized to levy assessments, in one calendar year, that exceed $1 billion on member insurers that write residential property insurance policies with available limits of up to $3 million per Location or less, or $1 billion to member insurers that write commercial property insurance policies with available limits of $20 million per Location or less, or $2 billion to member insurers that write residential and commercial property policies with available limits of $20 million per Location or less, the FAIR Plan's member insurers may request the Commissioner's prior approval to collect temporary supplemental fees from their own policyholders in order to recoup all amounts assessed;

WHEREAS, the Commissioner has determined that, in the extremely unlikely event the FAIR Plan is authorized to levy assessments on member insurers that write commercial property insurance policies with available limits of $20 million per structure and $100 million per Location in the aggregate ("High Value Commercial Property Policies"), those member insurers may request the Commissioner's prior approval, as specified in the Plan, to collect temporary supplemental fees from their own High Value Commercial Property policyholders in order to recoup the full amount of assessment;

WHEREAS, the Commissioner and the FAIR Plan have jointly determined that the FAIR Plan should have access to credit facilities, as specified in the Plan to be promulgated pursuant to this Stipulation and order, in order to help ensure the Plan's solvency and ability to timely pay claims;

WHEREAS, the Commissioner and the FAIR Plan have jointly determined that the FAIR Plan shall identify in its Clearinghouse program all policyholders who have completed one or more of the mandatory property-level mitigation efforts or optional factors specified in Title 10, California Code of Regulations, section 2644.9, subdivisions (d) and (e), or obtained a policy for a property in an area that has received a community-level designation as specified in Title 10, California Code of Regulations, section 2644.9, subdivisions (d) and (e);

WHEREAS, the Commissioner has determined that, commencing on July 1, 2025, and quarterly thereafter, the FAIR Plan should provide reports, as specified in the Plan, to increase transparency and help ensure the Plan's solvency;

WHEREAS, the purpose of this Stipulation is to update the Plan of Operation for the reasons set forth above;

STIPULATION

Based on the foregoing recitals, which are part of this agreement, the Department and the FAIR Plan stipulate as follows:

1. The Commissioner agrees to revoke the FAIR Plan's current Plan of Operation (Ed. 11/30/23) when furnished with a Plan of Operation consistent with the recitals above and this Stipulation.

2. The FAIR Plan agrees that it will, no later than 120 days from the date on which this Stipulation and the Order below are signed by the Commissioner, submit rule, rate, and form filings to enable the FAIR Plan to offer increased limits of $20 million per structure, and up to a total aggregate limit of $100 million per Location for commercial property and related coverages written under Division I CPP;

3. The FAIR Plan agrees that it will begin offering increased commercial property limits of $20 million per structure, and up to a total aggregate limit of $100 million per Location for commercial property and related coverages written under Division I CPP within 120 days from the date of the approval

of the rule, rate and form filing(s) referenced in paragraph 2;

4. The limits specified in paragraphs 3 and 4 of this Order will sunset three years after the FAIR Plan begins offering policies with those limits. No new business or renewal policy shall incept after the sunset date, but policies written prior to the sunset date may remain in effect through the expiration date stated in the policy declarations. After the last High Value Commercial Property Policy expires, commercial property limits will revert to $20 million per Location.

5. The FAIR Plan shall submit an amended Plan of Operation consistent with this Stipulation and Order within 30 days, during which the FAIR Plan and the Commissioner shall continue to collaborate on an amended Plan of Operation;

6. The Commissioner retains jurisdiction to ensure that the Parties comply with the provisions and terms of this Stipulation and the Order requested thereon, and retains authority under Insurance Code section 10095, subdivisions (f) and (g), to issue an order promulgating an amended Plan of Operation 30 days from the date of this stipulation and order if the FAIR Plan does not submit an appropriately revised Plan as set forth in paragraph 5, above; and

7. This Stipulation will become final and effective when it is approved by the Commissioner as evidenced by the execution of the Order provided below, expressly adopting this Stipulation.

IT IS SO STIPULATED.

Dated: July 25, 2024

Lucy Wang

LUCY F. WANG, Deputy Commissioner
Special Counsel to the California Insurance Commissioner

Dated: July 25, 2024

LUCY F. WANG --

VICTORIA ROACH
President, The California FAIR Plan Association

ORDER 2024-1

This order is final immediately upon execution.

IT IS SO ORDERED.

Executed this 25 day of July, 2024.

California Insurance Commissioner