

# Terms and Conditions

## 1. Introduction & Scope

- 1.1 These Terms and Conditions (“**Agreement**”) govern the relationship between Texas REALTORS® (“**the Association**”), as the Texas Real Estate Commission (TREC) and Texas Appraisal Licensing & Certification Board (TALCB) approved education provider, and you (“**Host**”), who may be an individual REALTOR® instructor or a local Texas REALTOR® association co-sponsoring certain real estate or appraiser courses with the Association.
- 1.2 The courses governed by this Agreement (hereinafter referred to as “**Course**” or “**Courses**”) are those real estate education courses approved TREC and TALCB and as identified on the Association’s instructor course webpage (hereinafter referred to as “**EdConnect**”).

## 2. Association Services

As a Course co-sponsor, the Association agrees to:

- (a) Provide Host with the necessary course administration information, including the proctor policies and supplemental course hosting documents.
- (b) Provide Host with the required course materials, including manuals, exams, evaluations, and credit reporting forms (“**Course Materials**”), no later than two (2) business days before the Course commencement date.
- (c) Ensure Courses and instructors are approved by TREC, TALCB, the Center for REALTOR® Development (CRD), the Real Estate Business Institute (REBI), or other applicable entities.
- (d) Advertise approved Courses as the Association deems appropriate.
- (e) Maintain participant records for at least four (4) years following course completion, including each participant’s name, attendance, grade, credit earned, evaluations, and enrollment agreements.
- (f) Submit any required course completion records to the appropriate regulatory or credentialing entities.

## 3. Host Obligations

As a Course co-sponsor, and in consideration for the Association services provided to Host, Host agrees to:

- (a) Notify the Association through EdConnect when a Course is scheduled by providing course name, date, time, location, instructor, any guest instructor(s), and an administrative contact for Host. Host is responsible for ensuring that all such information is entered into EdConnect in a timely manner and is promptly updated if any changes occur.
- (b) Provide the Association with access to all course registration information - TREC/TALCB rules require that each registrant have access to the provider name,

- provider number, Course name, Course number, and refund or cancellation policy.
- (c) Actively promote and advertise the Course consistent with TREC or TALCB rules, Association policies, and Section 8 of this Agreement.
  - (d) Provide staff or other administrative support for the Course, including but not limited to registering participants, course proctoring, assisting instructors and participants, and administering the exam in compliance with any applicable TREC, TALCB, Association, and National Association of REALTORS® (NAR) rules and requirements.
  - (e) Submit participant and any other course administration records to the Association through EdConnect within two (2) business days after the Course completion date.
  - (f) Ensure that all instructors engaged by Host have been approved by the Association prior to teaching any Course Materials.

#### 4. Audits

Host agrees that the Association may audit Host's course administration processes and individual Course sessions at any time to ensure compliance with the Association's policies and applicable TREC or TALCB rules. If deemed necessary by the Association, the Association will provide Host with a written summary of the findings and may require Host to make changes to Host's course administration practices. Host's failure to promptly implement any required changes may result in a \$100.00 fine and/or termination of Association Services under this Agreement.

#### 5. Fees

- 5.1 Fees for Courses are provided in EdConnect. The Association, in its sole discretion, may update Course fees from time to time, and any such updates are hereby incorporated into this Agreement by reference at the time published in EdConnect.
- 5.2 Host shall pay to the Association the per-participant course fees for each Course offered by Host, as specified in EdConnect.
- 5.3 Host understands and agrees that Host may be assessed a \$50 fee for failure to comply with Host's Obligations as set forth in Section 3 of this Agreement or for the submission of incorrect or incomplete participant or course administration records. This fee may be assessed on a per occurrence basis to compensate the Association for administrative time.
- 5.4 Host agrees to pay all fees to the Association within three (3) days of Host's receipt of invoice. Host's failure to remit timely payment may result in suspension of Association Services under this Agreement until payment is received in full.
- 5.5 Service Level/Prepaid Courses are Courses that do not require the Association to remit a royalty fee or to grade exams, and specifically do not include any specialist certification courses provided through the Association, NAR, CRD, REBI, or any other such accrediting institute.
  - i) If Host is a local association and desires the Association to provide any Association Services described in Section 2 of this Agreement for Service

Level/Prepaid Courses, Host shall pay to the Association the one-time, flat fee indicated in “Purchase Packages” in EdConnect. This one-time, flat fee is in lieu of the per-participant course fee described in Section 5.1 above and is applicable to Service Level/Prepaid Courses only.

- ii) If Host or an instructor is authorized by the Association to teach a Service Level/Prepaid Course at a local association, the local association must also have a separate written agreement with the Association permitting it to offer the Service Level/Prepaid Courses.

5.6 Broadcast Courses: If Host is a local association and desires to co-sponsor a Broadcast Course, Host must notify the Association no later than thirty (30) days prior to the Course commencement date. All Broadcast Courses and associated fees are available through EdConnect. Notwithstanding anything to the contrary in this Agreement, if the Course is offered for live broadcast by the Association, the Association will:

- i) select the instructor and pay any instructor compensation; and
- ii) set the per-participant fee to be remitted by Host to the Association.

## 6. Qualifying Courses

6.1 If co-sponsoring a Qualifying Course, as that term is defined by TREC, Host shall complete the Course within seventy-five (75) days. This seventy-five (75) day period begins on the Course commencement date and encompasses all course activities, including administration of the final exam.

6.2 Only local REALTOR® associations may co-sponsor Graduate REALTOR® Institute (GRI) designation courses.

## 7. Instructor Provisions

7.1 All instructors must be approved in advance by the Association.

7.2 With the exception of Broadcast Courses as described in paragraph 5.5, and unless otherwise notified by the Association, Host is solely responsible for hiring and compensating Association-approved instructors.

7.3 Host may engage a guest instructor who is not Association-approved, provided the following conditions are met:

- i) The guest instructor may not teach more than ten percent (10%) of the total class time for any Qualifying Course.
- ii) Host must notify the Association at least ten (10) business days prior to the Course date or the selection of the guest instructor, whichever is earlier.
- iii) Host must ensure that the guest instructor has all of the required and necessary materials to teach the Course on the designated date.
- iv) A guest instructor may not teach any portion of a course that leads to: (a) a designation or certification, or (b) a non-elective continuing education course, as defined by TREC.

## 8. Marketing Materials

Host must submit all proposed course marketing and advertising materials to the Association for review and approval before use. No modifications to approved materials may be published without the Association's prior written consent.

## 9. Subscription Program Courses

- 9.1 The Association is a TREC-approved provider of real estate education courses.
- 9.2 Host, acting in its capacity as a subscriber ("Subscriber"), affirms that it is licensed to operate in the State of Texas.
- 9.3 The Host/Subscriber desiring to offer Association-sponsored real estate education courses may do so only in accordance with this Agreement and as specified in EdConnect for the "Purchased Packages" selected by Host/Subscriber.

## 10. Course Materials

- 10.1 Course Materials refers to all instructional content provided for use in teaching the Course(s), including but not limited to materials developed by the Association ("Association-Owned Course Materials") as well as third-party materials supplied to or authorized for use by the Association.
- 10.2 Association-Owned Course Materials are proprietary materials independently developed by the Association for teaching certain courses. The Association exclusively owns and retains all rights, title, and other interests in and to the Association-Owned Course Materials, including all intellectual property rights, whether registered or unregistered, and including but not limited to copyrights, trademarks, trade secrets, and any derivative works thereof.
- 10.3 The Association will provide Host and the instructor, if Host is not the instructor, with Course Materials, or otherwise make Course Materials available to Host when such materials are required for use in presentation of the Course. Upon termination of this Agreement or earlier if requested by the Association, Host shall return all unused and/or proprietary Course Materials to the Association.
- 10.4 The Association grants to Host a limited, non-exclusive, non-transferable, revocable license to use, reproduce, and distribute Course Materials, including applicable Association-Owned Course Materials and third-party course materials, solely for the administration of approved Courses. Host shall not, directly or indirectly, use or publish course materials for any purpose other than teaching or administering the Courses to course participants. Host shall not, without Association approval, modify, adapt, translate, republish, or create derivative works from any Course Material.
- 10.5 The unauthorized reproduction, distribution, or modification of Course Materials, including Association-Owned Course Materials is strictly prohibited.

10.6 Host shall promptly notify the Association in writing upon discovering any unauthorized or unlawful use, copying, adaptation, publishing, or distribution of any Course Materials.

## 11. Host Representations & Warranties

Host represents and warrants as follows:

(a) Host has full power and authority to enter into and perform its obligations under this Agreement.

(b) Host will comply with all terms, conditions, and obligations set forth in this Agreement, and will perform its duties in a professional and diligent manner. Host further represents that it will materially comply with all applicable federal, state, and local laws, rules and regulations, including but not limited to those of Texas REALTORS®, NAR, TREC, and TALCB, and will not engage in any conduct that would breach or otherwise violate the terms of this Agreement or any such laws, rules, or regulations.

(c) Host will ensure compliance with all applicable requirements of the Americans with Disabilities Act (ADA), including ensuring that the course venue, services, and communications are accessible to individuals with disabilities. Host shall provide physical access, reasonable accommodations, and auxiliary aids or services as reasonably requested by participants in compliance with ADA requirements.

(d) Host will further ensure that it and any instructors engaged by Host to teach Courses are properly licensed and/or certified to teach real estate education and/or appraiser courses, as required by applicable state law and/or licensing agencies, and that they remain licensed and/or certified at all times while offering or delivering such Courses in conjunction with the Association.

## 12. Confidentiality

12.1 Host shall maintain the confidentiality and security of all nonpublic personal information relating to course participants and shall not disclose any such information except as strictly necessary to perform the services contemplated by this Agreement. Host shall ensure compliance with all applicable privacy laws relating to the protection of sensitive personal information.

12.2 Host shall further maintain the confidentiality and security of all Course Materials, including but not limited to examination and assessment materials. Host must collect and retain all examination and assessment materials following the examination and review. Host may only provide examination and assessment materials to (i) participants who have completed the Course, in furtherance of administration of the course examination or assessment; or (ii) instructors or course proctors who are responsible for administration of the course examination or assessment and who have signed a separate confidentiality agreement.

## 13. Cancellation

- 13.1 If a Course is cancelled, Host must promptly remove the cancelled course from EdConnect.
- 13.2 Host understands and agrees that the Association, in its sole discretion, may assess a cancellation fee to include: (i) the damages or costs reasonably sustained by the Association as a result of the cancellation; and/or (ii) one hundred dollars (\$100) per Course cancelled. Host agrees to remit payment to the Association for any such fees assessed within three (3) days of Host's receipt of invoice. Failure to remit timely payment may result in suspension of Association Services under this Agreement until payment is received in full.

## 14. Limitation of Liability & Indemnification

- 14.1 To the fullest extent permitted by law, the Association, together with its officers, directors, employees, agents, representatives, successors, and assigns (collectively, the "**Association Parties**"), shall not be liable to Host or any third party for any claims, demands, losses, damages, liabilities, costs or expenses (unless specifically provided for herein), or causes of action of any kind or nature whatsoever arising out of, relating to, or in connection with this Agreement or the services provided by Host, any instructor, or any other individual or entity engaged by or on behalf of Host. This limitation of liability applies regardless of legal theory, whether in contract, tort, strict liability, breach of warranty, failure of essential purpose, or other cause of action, and even if the Association has been advised of the possibility of such damages. IN NO EVENT SHALL ANY ASSOCIATION PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, LOSS OF BUSINESS, OR LOSS OF GOODWILL.
- 14.2 Host agrees to indemnify, defend, and hold harmless the Association Parties from and against any and all claims, damages, losses, liabilities, costs, and expenses, including reasonable attorney's fees, arising out of or related to: (i) Host's performance or nonperformance of any services; (ii) Host's breach of any representations, warranties, or other terms set forth in this Agreement; (iii) Host's violation of applicable law or any other rules or regulations applicable to the performance of Host's services; or (iv) any negligent, reckless, or intentional acts or omissions by Host or any instructor or other individual or entity engaged by Host.

## 15. Termination

- 15.1 The Association, in its sole discretion, may terminate Host's engagement as a co-sponsor under this Agreement, at any time and for any reason or no reason, by delivering written notice of termination to Host. Unless otherwise specified in the notice, termination by the Association shall be effective immediately upon receipt by Host.

15.2 Host may terminate its engagement as a co-sponsor under this Agreement by providing the Association with not less than thirty (30) days' written notice. Host shall continue to comply fully with this Agreement and perform all co-sponsor obligations during the notice period unless otherwise instructed in writing by the Association.

## 16. General Provisions

16.1 Relationship: Host is engaged as an independent contractor and not as an agent, employee, joint venturer, representative, or partner of the Association. Host shall not represent, imply, or otherwise hold itself out as anything other than an independent contractor. Host has no authority to bind or obligate the Association in any manner unless otherwise expressly provided by this Agreement. Host is solely responsible for the payment of all federal, state, and local taxes, insurance premiums, benefits, and withholdings relating to compensation paid to Host by the Association.

16.2 Dispute Resolution. If a dispute arises out of or relating to this Agreement, the parties to this Agreement shall first attempt in good faith to resolve the matter through informal discussions. If the parties are unable to resolve the dispute informally within thirty (30) days of the initial notice, the parties agree to try and resolve the dispute through nonbinding mediation administered by a mutually agreed-upon mediator in Travis County, Texas. The parties to the mediation shall bear the costs of the mediation equally and each party shall bear its own attorney's fees and related expenses. Prior to instituting any legal action other than an action for injunctive relief or specific performance of this Agreement, the parties shall comply with the dispute resolution procedures set forth herein. EACH PARTY HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT.

16.3 Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. The parties agree that any legal proceeding arising out of or relating to this Agreement shall be conducted exclusively in Travis County, Texas.

16.4 Entire Agreement: This Agreement constitutes the entire understanding between the parties and supersedes all prior understandings and agreements, whether oral or written. The Association may amend or modify this Agreement from time to time as necessary to comply with applicable laws, rules, or regulations, or to reflect changes in Association or third-party policies and procedures. Any such amendment shall be effective upon delivery of written notice to Host. Host shall be deemed to have accepted the amendment(s) unless Host provides a written objection within ten (10) days of receipt of notice.

16.5 Waiver: No waiver of any provision of this Agreement shall be deemed or construed as a waiver of any other provision, nor shall any failure by either party to enforce any provision at any time be construed as a waiver of the right to enforce that provision thereafter.

- 16.6 Assignment: Except as otherwise expressly provided herein, the Host may not transfer or assign this Agreement, nor any of the rights, interests, or obligations hereunder, without written consent from the Association. Any assignment or transfer by Host in violation of this Agreement is void.
- 16.7 Severability: If any provision of this Agreement is determined to be illegal, invalid, or unenforceable by a court of competent jurisdiction, such provision shall be deemed severed from this Agreement, and the remaining provisions shall remain in full force and effect. The invalidity or unenforceability of any provision as to one party shall not affect its validity or enforceability as to any other party.
- 16.8 Survival: Provisions in this Agreement relating to confidentiality, limitation of liability, indemnification, intellectual property, dispute resolution, governing law, and notice survive termination of this Agreement.
- 16.9 Notice: All notices and other communications required or permitted to be given by either party to this Agreement must be delivered in writing to the party to whom the notice or communication is directed. For the Association, notice shall be delivered to Texas REALTORS®, Inc., Attn: General Counsel, 1115 San Jacinto Blvd., Suite 200, Austin, Texas 78701 or by email to: general.counsel@texasrealtors.com. For Host, notice shall be delivered to Host at the mailing and/or email address on record with the Association unless Host has provided the Association with an alternate mailing or address for such notices and communications. Any such notice or communication shall be deemed received three (3) days after the notice or communication is mailed or, if sent electronically, on the date sent by electronic mail, provided that no bounce-back, delivery failure, or similar notice of non-delivery is received by the sending party.

## 17. Acceptance of Terms

**Review these Terms and Conditions carefully. By clicking “I Agree” you acknowledge that you have read, understood, and agree to be bound by all terms, conditions, and obligations set forth in this Agreement. Such acceptance constitutes full agreement to comply with this Agreement in its entirety.**