



broker in accordance with the insurance laws, rules and regulations of each state in which Producer transacts business. Producer will maintain such license or licenses in good standing for the duration of this Agreement and will furnish proof of such licensing upon execution of this Agreement and upon request by General Agent. Producer will promptly notify General Agent of any suspension, cancellation or disciplinary action with respect to its license(s).

(b) *Errors & Omissions Coverage.* Producer now has and shall maintain agent's professional liability (Errors and Omission) insurance coverage with a minimum aggregate policy limit of one million dollars (\$1,000,000) while this Agreement is in force and will furnish proof of such coverage upon execution of this Agreement and upon request by General Agent. Producer will provide General Agent with prompt written notice of any material change, cancellation or other termination of this coverage.

(c) *Insurance Applications.* Any and all information provided in connection with any application for insurance subject to this Agreement shall be true and complete.

### **3. Commissions and Premiums.**

(a) *Commissions.* General Agent shall allow Producer, as commission, a percentage of the premium written at a rate agreed upon in writing by General Agent and Producer from time to time.

(b) *Premium.* Producer guarantees the full payment due General Agent of all premiums including deposit, earned, extension and adjustable premiums, fees, plus applicable state and local taxes, less commission, on every insurance contract bound or written for Producer pursuant to this Agreement, whether or not collected by the Producer. *Producer's obligation to make payment to General Agent is not contingent upon the issuance of the policy.* Any credit extended to the Insured or others shall be at the sole risk and responsibility of the Producer unless otherwise agreed in writing by General Agent. In the event General Agent shall have to bring any action or proceeding to enforce collection of any amount due under the terms of this Agreement, Producer agrees to pay all costs incident thereto, including reasonable attorney's fees, incurred by reason of such action or proceeding.

(c) *Adjustable Premiums.* Notwithstanding anything to the contrary herein set forth, in situations where premiums for a policy or policies which have been issued cannot be fully determined in advance and where an adjustment or determination is made by an audit, retrospective rating or by interim reports, such amounts are fully earned at the invoice date as evidenced by a General Agent or Insurer invoice.

(d) *Refunds of Premiums & Premium Tax.* In the event of cancellation or modification of an insurance contract for whatever reason that results in an obligation to refund all or part of the premium and/or premium tax, General Agent's sole obligation shall be to remit the required premium or premium tax directly to Producer rather than to Insured, or to any other person or entity. Notwithstanding the foregoing, no amount of premium tax shall be returnable until recovered by General Agent and the amount to be returned shall in no event exceed the amount recovered.

(e) *Unearned Commissions.* Producer shall be liable to General Agent and shall pay return commission at the same rate as originally allowed to Producer for all return premium adjustments or cancellations, including return premium on cancellations ordered or made by the Insurer. Such return commission shall be paid to General Agent by the due date communicated by General Agent. If a return premium becomes due under any contract of insurance and General Agent has been issued a credit, or payment has been rendered, for such premium by General Agent's Insurer, General Agent will pay to

Producer such return premium less the unearned portion of any commission previously retained by the Producer.

**4. Premium Funds Held In Trust.** Producer shall hold premium funds in a fiduciary account for business generated under this Agreement to the extent required by the applicable law of each state in which Producer conducts business. Provided Producer is in compliance with all terms of this Agreement and applicable law, Producer may retain any interest earned on said premium funds while so held by the Producer.

**5. Claims.** Producer shall notify the appropriate Insurer of any claims, suits or notices of loss (or circumstances which might reasonably be expected to result in a claim, suit or notice of loss) and shall cooperate fully with the Insurer to facilitate the investigation and adjustment of any claim when and as requested by the Insurer.

**6. Cancellation of Insurance.** Notwithstanding anything to the contrary in this Agreement, but subject to applicable legal requirements and insurance contract provisions, General Agent shall have the right to cancel any binder, policy or contract of insurance issued. Earned premium shall be computed and charged on every binder, policy or contract cancelled after the inception date in accordance with the cancellation provision of the applicable contract and/or rules of the Insurer. If Producer does not make timely payment of any sums due General Agent, then General Agent may, without limitation of other remedies, initiate with Insurer to cancel the binder, policy or contract for non-payment. If coverage is bound by General Agent, all additional fees charged by General Agent for the entire policy term shall be fully earned upon binding. Producer hereby acknowledges that General Agent and its Insurers are under no duty to reinstate a policy if the policy is cancelled. Producer shall not accept from any Insured the late payment of premiums with prior knowledge, whether actual or constructive, that the policy for which the late premiums have been collected has been cancelled.

**7. Advertising.** Producer shall not cause any advertisement referring to or using the name of General Agent or Insurer, or issue or cause to have issued any letter, circular, pamphlet, or other publication or statement so referring, without the express written consent of General Agent or Insured, as applicable. In the event General Agent suffers a loss or expense arising out of any unauthorized advertisement, publication or statement of the Producer, the Producer shall be liable for and hereby agrees to indemnify General Agent and hold General Agent harmless from all resulting damages, fines, penalties and costs.

**8. Confidentiality.** The parties to this Agreement hereby represent and acknowledge to each other that in the course of the performance of their respective obligations, they will each make available to the other party certain information pertaining to each party's business and operations ("Information"). Each party hereby agrees that as a condition to being provided the Information, that neither party will use any Information except in connection with the performance of duties hereunder. Each party agrees not to disclose any Information to anyone other than employees, officers and directors of such party, that have a need to know, and to cause all such persons to abide by this Agreement. The limits on use and disclosure will not apply to any Information which (a) at the time of disclosure is generally available to the public or (b) which becomes generally available other than through a breach of this obligation of confidentiality.

**9. Ownership of Accounts.** The Producer's records and use and control of expiration information shall remain the property of Producer. If this agreement is voluntarily terminated, General Agent shall not solicit property & casualty insurance from the Producer's insureds or disclose to any party any information regarding property & casualty insurance of the Producer's insureds unless compelled to do so by judicial or administrative order. If any of the following occur, the Producer's records shall become the property of General Agency:

Should Producer be unable to renew policies written through General Agent due to loss of license,

administrative action or other reason, except for termination of this contract, General Agent shall have the right to renew policies in its name until such time as Producer regains the ability to transact insurance in that state. Commissions shall not be paid to Producer for transactions written by General Agent. If Producer regains the ability to transact insurance, General Agent shall reinstate the Producer as Broker of Record on all accounts in that state, including those renewed by General Agent, except that no commission shall be owed to Producer for cases previously renewed by General Agent. Producer shall have all the protections afforded in this contract for those accounts that are reinstated.

**10. Termination of Agreement.** This Agreement may be terminated at any time by either party by giving sixty (60) days prior written notice to the other by certified mail. This Agreement will also terminate: (1) automatically, if any public authority cancels or declines to renew the Producer's license or certificate of authority; (2) automatically, on the effective date of the sale, transfer, or merger of Producer's business with the provision General Agent may, upon review, appoint the successors as a Producer; (3) immediately, upon General Agent giving written notice to Producer of termination because of a material breach of this Agreement; or (4) immediately, upon General Agent giving written notice to Producer of termination because of fraud, insolvency, failure to pay balances, or willful or gross misconduct. All representations and obligations of the Producer herein shall survive the termination of this Agreement.

After the date of termination of this Agreement, Producer shall complete the collection and accounting to General Agent for all premiums, commissions and other transactions unaccounted for on the date of termination or arising thereafter in respect of outstanding policies of insurance, including but not limited to, return premium and return commissions. Outstanding policies will be permitted to run to expiration.

**11. Indemnification and Hold Harmless.** The party providing indemnification ("Indemnifying Party") shall indemnify, defend and save the party seeking indemnification ("Indemnified Party") harmless from any loss, claim, liability, damage and expense (including attorney's fees and expenses of litigation or regulatory proceedings) which Indemnified Party may incur or suffer by reason of any breach of the terms, conditions, representations or warranties in this Agreement including, but not limited to, any certificate or evidence of insurance issued or communicated by Indemnifying Party or any material inaccuracy or misrepresentation of any term, condition or other representation by Indemnifying Party, or any sub-producer or sub-broker of Indemnifying Party. General Agent is not an insurer and does not guarantee the financial condition of the Insurer with whom it may place risks. General Agent shall have no liability for non-payment of claims due to the insolvency of an Insurer, or otherwise, under contracts of insurance placed by General Agent.

**12. Miscellaneous.**

(a) *Waiver of Default.* Failure of General Agent to enforce any provision of this Agreement or to terminate it because of a breach shall not be deemed to be a waiver of such provisions or of any breach committed by the Producer. No breach of any provision of this Agreement can be waived unless done so in writing and executed by the waiving party. The waiver of any one breach shall not be deemed to be a waiver of any other breach of the same or any other provision of this Agreement.

(b) *Severability.* If any clause or provision of this Agreement shall be adjudged invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity or any other clause or provision, which shall remain in full force and effect. Each of the provisions of the Agreement shall be enforceable independently of any other provision, unless expressed otherwise herein.

(c) *Assignment.* This Agreement and the obligations hereunder may not be assigned by Producer without the prior written consent of General Agent.

(d) *Governing Law.* This Agreement shall governed by, and construed and enforced in accordance with the laws of the state of New Jersey. The parties agree that should there be litigation to enforce any provision of this Agreement the venue shall be in the County of Berlington, state of New Jersey.

(e) *Entire Agreement.* This Agreement constitutes the entire agreement between General Agent and Producer and supersedes and replaces any previous agreements between General Agent and Producer. No oral promises or representations shall be binding, nor shall this Agreement be modified, except by agreement in writing and executed by General Agent. This Agreement shall apply to current policies already placed through General Agent and in force at the date hereof and all future policies which may be placed by General Agent for Producer.

**13. Execution and Acceptance of Agreement.** Producer acknowledges that a breach of any of the terms, conditions, or provisions of this Agreement by the Producer may give rise to a cause of action by General Agent against the Producer and/or may result in disciplinary action by General Agent, including but not limited to, the termination of this Agreement, all in the sole discretion of General Agent. Each individual who executes this Agreement in a representative capacity represents and warrants that he or she has the full right and power to execute this Agreement and to bind the entity or individuals on whose behalf he or she so signs. If this Producer is an individual, the individual must sign; if the Producer is a partnership, one of the partners must sign; if the Producer is a corporation, an authorized officer must sign and indicate the title of such authorized officer. The parties hereto agree this Agreement shall not become effective until accepted by General Agent.

Producer:

By: \_\_\_\_\_

Title: \_\_\_\_\_  
(Must be Owner, Partner or Authorized Officer)

Date: \_\_\_\_\_

Agreement Accepted and Effected by General Agent.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

