

## **PRODUCTION AGREEMENT**

THIS AGREEMENT, effective **Date** by and between Contractors Insurance Center c/o All United Insurance Agency Corp., a New York corporation here after referred to as "CIC") and **Broker Name** having its principal place of business at **Broker Address** (hereinafter referred to as "Producer").

### **WITNESSETH**

WHEREAS, it is the desire and intention of the parties that they enter into this Production Agreement for their mutual benefit upon the terms and conditions hereinafter sent forth, superceding any previous oral or written agreement or understanding between them.

NOW, THEREFORE, in consideration of the mutual promises, covenants and for good and valuable consideration, each party agrees with the other as follows:

### **REPRESENTATIONS AND WARRANTIES**

1. CIC and PRODUCER represent and warrant that they are insurance brokers in good standing, licensed by the insurance regulators in all states in which they conduct business including all states in which the parties intend this Agreement to apply.

2. CIC and PRODUCER will remain licensed to act under and pursuant to the insurance laws and regulations of all states in which they conduct their business including all states in which the parties intend this Agreement to apply and are licensed for all classes of insurance business and risk to be produced in accordance with the terms of this Agreement.

### **TERM**

3. This Agreement shall become effective **Date** and shall continue in force and effect from anniversary date to anniversary date unless and until terminated as provided in Section 17.

### **COMPENSATION**

4. CIC shall pay to PRODUCER a commission to be agreed upon on an individual risk basis for all accounts produced by PRODUCER and accepted by CIC. Each quotation given by CIC to PRODUCER shall set forth the applicable commission. On Agency Bill Accounts, PRODUCER receives its commission by taking the commission as a discount on the premium due CIC while it collects the full premium from its customer. On Direct Bill Accounts, CIC shall pay PRODUCER its commission when CIC is paid its commission from the carrier.

5. No commissions will be paid on audit premiums which are not paid by the insured's.

6. All expenses incurred by PRODUCER shall be the sole responsibility of PRODUCER.

### **BILLING AND REFUNDS**

7. On accounts billed by CIC ("Agency Bill Accounts"), premiums for accounts produced by PRODUCER and accepted by CIC are to be paid within 5 days from the effective date of the policy of insurance produced by the PRODUCER. PRODUCER is solely responsible for the payment of premiums to CIC whether or not. PRODUCER has been paid by sub-brokers and/or the insured's. PRODUCER shall deposit payments of premiums from sub-brokers and/or insured's into a segregated trust account which monies shall be disbursed solely as provided in

this Agreement. PRODUCER shall not finance any premium which is not financed by the insured.

8. On accounts billed by the carriers ("Direct Bill Accounts"), premiums are billed by the carriers and are paid directly to carriers.

9. On Agency Bill Accounts, it is the responsibility of PRODUCER to collect audit premiums on policies of insurance produced by PRODUCER before or after the date of policy expiration.

10. On both Agency Bill Accounts and Direct Bill Accounts, when CIC is obligated to refund a portion of a commission to the carrier, PRODUCER shall repay CIC for a proportionate refund of the commission paid to it when billed by CIC.

11. PRODUCER may not offset return premiums or commissions earned on one insured from the billing on another unless approved by CIC, which shall do so if (a) it has received the refund or commission from the carrier or (b) CIC decides, in its discretion, to permit such advance credit.

12. Flat cancellations for policies produced shall not be permitted unless PRODUCER secures the express written consent of CIC.

### **OBLIGATIONS**

13. PRODUCER agrees to indemnify and hold harmless CIC for any claim, loss or damage, including CIC attorney's fees, arising from any error, act or omission of PRODUCER related to PRODUCER'S performance under this Agreement or from a breach of this Agreement. CIC agrees to indemnify and hold harmless PRODUCER for any claim, loss or damage, including PRODUCER'S attorney's fees, arising from any error, act or omission of

PRODUCER related to CIC' performance under this Agreement or from a breach of this Agreement.

14. During the term of this Agreement, each party agrees to maintain errors and omissions insurance with limits of at least \$1 million/each occurrence or each claim. Each party shall provide the other party with proof of said insurance simultaneously with the signing of this Agreement and upon each renewal of said insurance.

15. All incidents, claims or otherwise which may be subject to indemnification pursuant to the terms and conditions of a policy of insurance issued pursuant to this Agreement must be immediately reported to CIC or the issuing carrier directly. PRODUCER agrees to cooperate with CIC regarding the investigation and adjustment of any claim. This provision shall succeed the termination date of this Agreement.

16. PRODUCER shall not at any time hold itself out as being the agent of CIC or having authority to bind any policy or contract of insurance procured through CIC.. Nothing in this agreement shall make the parties partners or shall make either party the agent of the other for any purpose. This is an independent contractor arrangement.

#### **TERMINATION**

17. (a) This Agreement may be terminated immediately upon notice from either party upon the happening of any of the following events:

(1) The revocation or suspension by any insurance regulator of the insurance brokerage license of the other party.

(2) Any act or conduct of other party which constitutes fraud or dishonesty or which amounts to gross negligence or willful misconduct by other party.

(3) Any material misrepresentation under this Agreement.

(4) The filing of a petition in bankruptcy or an assignment for the benefit of creditors, or the appointment of a receiver by the other party.

(5) Material breach by the other party of its obligations under this Agreement, including a material misrepresentation, which includes failure to pay any sum due within 10 days after it is due.

(b) This Agreement may be terminated without cause by either party at any time upon thirty (30) day's notice to the other party.

#### **ADVERTISING PROHIBITION**

18. It is understood and agreed that this Agreement is private between the parties hereto. PRODUCER may not and is prohibited from inserting any advertising respecting CIC and/or the issuing carrier in any publication and is prohibited from issuing any circular or paper referring to CIC and/or the issuing carrier without the expressed written consent of CIC..

#### **SURVIVAL OF REPRESENTATIONS, WARRANTIES, DUTIES AND OBLIGATIONS**

19. All representations, warranties, duties and obligations made by the parties hereto shall survive the termination of this Agreement.

#### **NOTICES**

20. The quotation and binding of insurance policies shall be done in accordance with industry standards by confirmed receipted email or fax. Any and all notices required to be given pursuant to the terms and conditions of this Agreement shall be in writing and shall be deemed duly given when hand delivered, upon delivery or refusal by a reputable overnight delivery service such as Federal Express or when sent by confirmed receipted fax, together with certified mail, return receipt requested.

#### **MISCELLANEOUS**

(a) Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach hereof by any party shall be settled by arbitration by reference to the "Commercial Arbitration Rules" of the American Arbitration Association in effect on the date of this Agreement except as varied below; provided however, that the parties are not submitting themselves to the jurisdiction of the American Arbitration Association. The situs of any such arbitration shall be Charlotte, NC. The arbitrator shall be a licensed insurance agent, with no less than ten (10) years experience. If the parties cannot agree upon an arbitrator within ten (10) days of a demand for arbitration, then either party may request the Assignment Judge of Charlotte, NC to appoint the arbitrator. The arbitrator shall render a single, written decision stating the reasons therefor, and shall render an award within three (3) months of the arbitrator's selection by the parties as arbitrator, and such award shall be final and binding upon both parties. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction in any state of the United States. The expense of arbitration shall initially be shared equally by the parties subject to reallocation by the arbitrator. Notwithstanding the foregoing, either party may apply to the State or federal courts in North Carolina for injunctive relief.

(b) If either party hereto shall institute an arbitration or an action in court to enforce any provision hereof, the prevailing party shall be entitled to recover from the losing party its court costs and reasonable attorneys' fees and expenses for the services rendered to the prevailing party in such action or proceeding, including appellate proceedings and bankruptcy proceedings. Such attorneys' fees and courts costs shall be in addition to any other costs to which such party shall be legally entitled.

(c) This Agreement contains the entire Agreement between the parties, and supersedes any prior or other Agreements, understandings or communications, written or oral.

(d) No modification of this Agreement shall be effective unless and then only to the extent expressed in a mutually executed Agreement. Any purported modification which is not so expressed in a mutually executed Agreement shall be void.

(e) The inapplicability or unenforceability of any provision of this Agreement shall not limit or impair the operation or validity of any other provision of this Agreement.

(f) This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Agreement.

(g) This Agreement shall be governed by the laws of the State of North Carolina

(h) This Agreement was drafted by CIC as a matter of convenience and shall not be construed for or against either party on that account.

(i) This Agreement is personal between the parties and may not be assigned, amended, altered, modified or changed in any way except with the prior written consent of both parties.

(j) This Agreement shall be binding upon and it shall ensure to the benefit of the parties thereto, their legal representatives and any permitted assigns.

IN WITNESS WHEREOF, the parties have duly executed this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 2014

Contractors Insurance Center c/o All United Insurance Agency Corp

By: \_\_\_\_\_ Date \_\_\_\_\_  
John M. Titolo  
President

(PRODUCER)

By: \_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Name Title

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