

PRODUCER AGREEMENT

This **PRODUCER AGREEMENT** (this "Agreement") is entered into as of the ____ day of ____, 20__ (the "Effective Date"), by and between Zurich Agency Services, Inc. ("ZAS") and _____ ("Producer").

WHEREAS, ZAS is a licensed property and casualty insurance agent/broker, and is in the business of placing contracts of insurance with various insurers; and

WHEREAS, Producer is a licensed property and casualty insurance agent/broker and may from time to time request ZAS to obtain property and casualty insurance coverage for clients of Producer.

NOW, THEREFORE, ZAS and Producer agree as follows:

1. Scope of Agreement. This Agreement shall govern the relationship between ZAS and Producer, with respect to all policies of insurance insuring clients of Producer heretofore or hereafter obtained by ZAS at the request of Producer. When placing business under this Agreement, Producer is acting as an agent for the clients of Producer only and not acting as an agent of ZAS. This Agreement is non-exclusive. Nothing contained herein shall be construed to require Producer to obtain insurance through ZAS or to require ZAS to accept orders for insurance from Producer.

2. Delegation of Authority. ZAS hereby delegates authority to the Producer to perform the duties set forth below and vests in the Producer authority to accomplish, effect and execute such duties upon the terms and conditions set forth in this Agreement. The Producer agrees to comply with all instructions of ZAS in accordance with the Producer's duties to ZAS and the applicable insurers under this Agreement.

3. Term. This Agreement shall be effective 12:01a.m. E.S.T, of the Effective Date and will continue until terminated pursuant to Section 12 of this Agreement.

4. Limitations on Producer's Authority. Producer has no authority to accept or bind risks on behalf of ZAS or any insurer represented by ZAS and is only entitled to submit insurance applications for clients of Producer for consideration. This Agreement grants no authority whatsoever by ZAS' insurers to Producer nor does it create any relationship between ZAS' insurers and Producer. Producer shall have no authority to (a) make, alter or discharge any contract, or bind ZAS to any promise or agreement; (b) incur any indebtedness, obligation or liability on behalf of ZAS; (c) waive or modify any terms, conditions or limitations of any policy; (d) adjust or settle any claim; (e) make any representation, offer any advice or consultation, or render opinions or information on behalf of ZAS; or (f) authorize any other producer or sub-producers for the purposes of this Agreement. Producer shall perform its obligations under this Agreement in full compliance with any and all laws, rules and regulations of all insurance regulatory authorities and any other laws applicable to Producer. Producer is prohibited from adding any fees or surcharges to a policy without the express prior written consent of ZAS, other than statutorily required fees, taxes and assessments. Producer agrees to comply with all rules, regulations, guidelines and directives of ZAS and its insurers, and it is understood and agreed that ZAS and its insurers may, in their discretion and upon notice to Producer, modify, amend and/or change such rules, regulations, guidelines and directives from time to time. Producer will not use the name or logo of ZAS or any insurers serving as markets for ZAS in any advertising or marketing materials without ZAS' prior approval. Producer shall be responsible for any violation of applicable law with respect to any advertisement or marketing material utilized by Producer, including but not limited to any impermissible

reference to the applicable insurer, ZAS, the reference of terms and rates of a policy, or any other violation of marketing laws.

5. Payment of Premium. Producer shall be obligated to collect and remit to ZAS all premiums, taxes and fees (if any) with respect to policies of insurance offered through ZAS by Producer. Unless otherwise agreed in writing, the entire premium, tax, and fee for each policy shall be due and payable subject to the payment terms indicated on ZAS' invoice. If any insured shall default in the payment of any premium, tax or fee as and when due, ZAS shall have the right, and is hereby authorized by Producer, to take all necessary action, including legal action, to collect the premium, tax and fee directly from the insured, but the taking of any such action by ZAS shall not relieve Producer of its obligation to pay such premium, tax and fee to ZAS. ZAS shall have the right, but not the duty, to issue or request that the applicable insurer issue advance notice of termination for non-payment of premium. Producer specifically agrees that any extensions of credit by Producer to its insured or to any other client is solely at its own risk, and Producer shall pay to ZAS all sums when due, whether or not it has collected such funds.

6. Fiduciary Responsibilities of Producer. Producer agrees that all monies collected while acting in the capacity of Producer for ZAS hereunder shall be held by the Producer in a fiduciary account in accordance with applicable insurance laws. The Producer shall use commercially reasonable efforts to serve ZAS faithfully, to promote all acts necessary for the proper conduct of the business and shall maintain a staff of competent and trained personnel, supplies and equipment for the purpose of performing the Producer's duties under this Agreement and the laws of the jurisdiction where policies are issued.

7. Commissions. ZAS shall pay to Producer commissions on premiums actually paid over to ZAS with respect to policies of insurance ordered through ZAS by Producer. ZAS shall deduct from each return premium a return commission calculated at the same rate as Producer's original commission thereon. If the insurer shall refund premiums under any policy or contract of insurance hereunder for any cause, the Producer shall immediately remit to ZAS the commission originally paid to the Producer on the amount of premiums refunded. If the commissions on return premiums, audits and cancellations exceed the commissions on new and renewal premiums during any month, Producer agrees to remit the net return commission balance to ZAS five (5) days after the end of the month. Audit premiums and retrospective adjustments shall be due from Producer when invoiced. Producer shall promptly report and pay to ZAS any additional or return premiums which may become due as a result of any adjustments. The Producer is required to pay out of its remuneration all commissions or fees owing to brokers, sub-producers or countersigning agents on insurance written through the Producer. ZAS shall not be liable for any such commissions or fees. In the event of any return premium situation, the Producer shall be solely responsible for the return of any such commissions or fees to ZAS. Moreover, commission rates after termination during any run-off period will be subject to adjustment by ZAS. The Producer's fees, commissions and any other moneys due the Producer shall be subject to offset by ZAS, or any of its affiliates, for any money due from the Producer to ZAS or to any of its affiliates. This provision shall not be affected by the insolvency of the Producer.

8. Terms and Conditions of Coverage. Producer acknowledges and agrees that the actual terms and conditions of coverage offered by or made available through ZAS on behalf of an insurer may differ materially from the terms and conditions of coverage requested by Producer. Producer shall be solely responsible for verification of such actual terms and conditions of coverage with the insured.

9. Licensing; Errors & Omissions Insurance. Producer represents and warrants to ZAS that Producer is licensed as a property and casualty or life and health insurance agent/broker in its state or jurisdiction of domicile and in each state or jurisdiction required in connection with the insurance placed

through this Agreement, and that Producer shall continue to be licensed throughout the term of this Agreement. All employees or independent contractors of Producer who engage in any activities on behalf of Producer in furtherance of Producer's duties set forth in this Agreement hold their appropriate insurance producer, broker, or producer licenses as may be required under applicable law. The Producer shall not make any representation to any applicant or insured regarding coverage under a policy which is not consistent with the actual terms and conditions of the policy. Producer further represents and warrants to ZAS that Producer maintains and shall continue to maintain in force during the term of this Agreement and for a period corresponding to any applicable statute of limitations after termination of this Agreement, insurance producers'/agents' errors and omissions insurance with limits of not less than \$1,000,000 each occurrence and a \$1,000,000 annual aggregate. A copy of the certificate of coverage related to such policy shall be provided by Producer to ZAS concurrently with the execution of this Agreement, and Producer shall provide ZAS with copies of any renewals of such coverage. Any such insurance shall be subject to the reasonable approval by ZAS, but any carrier rated "A" by A.M. Best shall in all events be deemed acceptable. Producer shall provide ZAS with evidence of current errors and omissions insurance upon request.

10. Cancellations of Insurance. Nothing contained herein shall be construed to limit or restrict any rights of cancellation of ZAS or any insurer contained in any binder, cover note, policy, contract of insurance, or by law including without limitation the right of the insurer, in its discretion, to cancel or rescind the policy for underwriting or any other reason. Cancellation or rescission of a policy by the insurer terminates the Producer's right to any future commissions related to such policy. Neither Producer nor any insured shall not be entitled to any flat cancellation unless returned to and received by ZAS prior to the effective date of the policy, subject to applicable filing requirements. Earned premiums shall be computed and charged on every policy cancelled after its effective date in accordance with the cancellation provisions of such policy. In the event of cancellation, Producer shall remain liable to ZAS for any earned premium, taxes and fees (if any) thereon, whether or not Producer has collected from the insured. Producer has no authority to cancel any policy issued hereunder.

11. Claims Cooperation; Communications. Producer shall cooperate fully with ZAS and the insurer to facilitate the investigation, adjustment, settlement and payment of any claim. Producer shall have no authority to administer claims other than to notify ZAS of their occurrence, which Producer undertakes to do immediately upon knowledge or notification of same. Producer shall report promptly to ZAS all consumer complaints, all communications received from any insurance department or other regulatory agencies concerning business placed with ZAS.

12. Suspension and Termination of Agreement.

(a) This Agreement will remain in effect unless suspended or terminated as provided below:

(1) This Agreement may be terminated without cause by either party by providing 30 days' written notice.

(2) ZAS may immediately terminate this Agreement or, in the alternative and in ZAS' sole and complete discretion, suspend the authority of the Producer, as well as ZAS' obligations to perform under this Agreement, effective upon written notice in any of the circumstances listed below:

(A) if any public authority cancels, suspends or declines to renew any license, qualification or certificate of authority of ZAS or the Producer;

(B) in the event of fraud, insolvency, failure to remit balances in accordance with this Agreement, or willful misconduct, negligence or material breach of contract on the part of the Producer;

(C) if the Producer's license is cancelled, suspended or nonrenewed in any state(s) or jurisdiction(s) in which it is required to be licensed for purposes of this Agreement. Producer agrees to notify ZAS within three (3) business days of any such occurrence. During the period of such suspension, Producer shall refer all existing clients of ZAS in the affected state(s) or jurisdiction(s) that are seeking coverage through the Producer for the type offered by ZAS directly to ZAS. ZAS shall not be required to pay commissions to Producer for insurance underwritten in the affected state(s) or jurisdiction(s) during the suspension period; or

(D) upon any cancellation, non-renewal or other lapse in coverage of Producer's errors and omissions insurance coverage upon the terms required hereunder. Producer agrees to notify ZAS within three (3) business days of any such occurrence.

(b) Upon termination of this Agreement, the Producer shall: (1) continue to pay ZAS in a timely fashion all sums due ZAS pursuant to this Agreement until paid in full; (2) unless otherwise instructed by ZAS, continue to service all business produced by or through this Agreement in the same manner and to the same extent required hereunder prior to termination; and (3) unless otherwise permitted by ZAS, cease to submit or seek to renew business with ZAS or extend the term of any existing business, except as may otherwise be required by law or regulation.

(c) Due to the special relationship the Producer has with ZAS as a result of this Agreement and due to the special duties the Producer performs under this Agreement, the Producer agrees to waive statutory termination requirements imposed on ZAS by various jurisdictions and regulatory entities, and shall abide by termination provisions stated herein, to the fullest extent permitted by applicable law.

13. Ownership of Expirations.

(a) Except as otherwise provided in this Section, policyholder lists, including expirations, and their use and control for solicitation of insurance written or bound by or through the Producer, shall be the sole and exclusive property of the Producer. Records of insurance, coverage bound, insurance policies and other related information of this Agreement are the property of ZAS and/or insurer.

(b) Upon termination of this Agreement, if the Producer has complied with all of its obligations herein, paid all amounts due to ZAS and continues to make timely accounting and payments, the Producer's use and control of the records of insureds, sub-producers and policyholder lists shall remain the property of the Producer and be left in the Producer's undisputed possession.

(c) If the Producer has not complied with all of its obligations herein and paid all amounts due under this Agreement, the use and control of the records of insureds, sub-producers and policyholder lists shall be vested in ZAS and/or Insurer. Failure to pay premium because of good faith differences in the accounting records of the Producer and ZAS will not be considered a failure to pay and will not vest title to the records in ZAS and/or Insurer if the Producer is using generally acceptable accounting procedures, provided that Producer provides a reasonable reconciliation of such difference at the time of payment.

(d) Upon the occurrence of any event which gives rise to the vesting of such records of insureds, sub-producers and policyholder lists in ZAS and/or the applicable insurer, ZAS may take possession of the Producer's records at no cost to ZAS. The Producer agrees upon request to gather such records together at the Producer's place of business and to allow ZAS access to such place of business. ZAS may service such accounts directly or dispose of them in any commercially reasonable manner. ZAS may collect directly from any policyholder that has not made payment to the Producer. If, in disposing of such accounts at its discretion, ZAS does not realize sufficient money to discharge in full the Producer's indebtedness to ZAS, the Producer shall remain liable for the balance of such indebtedness. If there is any money realized by ZAS in excess of the amount necessary to discharge, in full, the Producer's indebtedness to ZAS, such excess money shall be remitted to the Producer.

14. Indemnification.

(a) The Producer shall indemnify and hold harmless ZAS and its officers, directors, and employees, against any and all claims, demands, causes of action, proceedings by any regulatory or other governmental body, suits in law or equity, liability, losses, damages, costs or expenses, fees (including, without limitation, reasonable attorneys' fees), disbursements and court costs, that ZAS sustains or incurs as a result of or arising out of, in whole or in part, either directly or indirectly, (a) any negligent, reckless, or intentionally wrongful act, error or omission by Producer or any downstream agent, broker or producer concerning this Agreement and the performance by Producer of its obligations under this Agreement, and (b) any breach of this Agreement by the Producer including, but not limited to, the Producer's failure to comply with local, state, or federal laws, statutes, and regulations applicable to the Producer performing its obligations under this Agreement.

(b) ZAS shall indemnify and hold harmless Producer and its officers, directors, and employees, against any and all claims, demands, causes of action, proceedings by any regulatory or other governmental body, suits in law or equity, liability, losses, damages, costs or expenses, fees (including, without limitation, reasonable attorneys' fees), disbursements and court costs, that Producer sustains or incurs as a result of or arising out of, in whole or in part, either directly or indirectly, (a) any negligent, reckless, or intentionally wrongful act, error or omission by ZAS concerning this Agreement and the performance by ZAS of its obligations under this Agreement, and (b) any breach of this Agreement by ZAS including, but not limited to, ZAS' failure to comply with local, state, or federal laws, statutes, and regulations applicable to ZAS performing its obligations under this Agreement. Producer acknowledges that this provision does not provide it with any rights to indemnification from the applicable insurers which ZAS represents.

15. Confidentiality.

(a) "Confidential Information" shall mean all information of a proprietary or confidential nature, including, but not limited to, business operations and strategies, pricing, sourcing, personnel, financial information related to the parties, their respective affiliates, employees, officers, directors, sub-producers or other representatives, or information otherwise prohibited from transmission by contractual, legal or fiduciary obligations, including any information clearly marked as confidential, non-filed rate and class plans, rater actions, processing procedures, loss ratios by line, or producer lists. Confidential Information includes information in both oral and written form or contained in any other type of storage medium.

(b) All Confidential Information disclosed by a Party (the "Disclosing Party") to the other Party (the "Recipient") will be used by the Recipient solely for the purposes of this Agreement and such information will be kept confidential by Recipient and not disclosed to any person or entity, except that Recipient may disclose Disclosing Party's Confidential Information to those of Recipient's

representatives, employees, officers, directors, and consultants who (a) need to know such information for the purposes of this Agreement, and (b) agree to be bound by the terms of this Agreement. Recipient shall use all reasonable efforts to protect the confidentiality of Disclosing Party's Confidential Information. Recipient shall not disclose Confidential Information to any third party (including any individual, business entity or governmental agency) unless required to be disclosed pursuant to a requirement of a court or other governmental agency; provided, however, that Recipient will (a) provide Disclosing Party with prompt notice of such requirement prior to making such disclosure in order to provide Disclosing Party with an opportunity to seek a protective order or other appropriate remedy, (b) cooperate at Disclosing Party's expense in obtaining such order or other remedy and (c) disclose only that portion of Disclosing Party's Confidential Information required to be disclosed.

(c) Confidential Information does not include information which (a) was publicly known at the date of disclosure, (b) becomes public knowledge without default under this Agreement by Recipient, (c) Recipient can prove was in Recipient's possession prior to disclosure by Disclosing Party, (d) is lawfully acquired by Recipient from a third party not under an obligation of confidentiality with respect to such information, or (e) is independently developed by Recipient without use of or reference to any Confidential Information of Disclosing Party.

(d) The parties acknowledge and agree that the unauthorized disclosure of Confidential Information may cause irreparable harm to the other Party for which the other Party could not be adequately compensated by money damages; accordingly, in the event of any breach or threatened breach by such Party of the confidentiality restrictions in this Section 16, the other Party shall be entitled to seek equitable relief (including temporary or permanent injunctive relief). This remedy will be in addition to any other remedy available at law or equity.

(e) The parties agree that any policyholder, insured, claim and any other information subject to any applicable laws, regulations and industry standards relating to the privacy, confidentiality or security of non-public personal information ("Privacy Laws") requiring information to be confidential, including but not limited to, non-public personal, personal financial or personal health information about an individual, is confidential (collectively, "NPI"). NPI that is obtained in furtherance of this Agreement may only be used as necessary to effect, administer or enforce a policyholder transaction with ZAS, unless otherwise authorized by ZAS' privacy notice or required by applicable Privacy Laws. The Parties agree to maintain reasonable safeguards and other security measures designed to (i) ensure the security and confidentiality of NPI; (ii) protect against any anticipated threats or hazards to the security and integrity of NPI; and (iii) protect against any actual or suspected unauthorized processing, loss, use, disclosure or acquisition of or access to any NPI.

Specifically, the parties agree:

- (1) to access NPI to perform only those functions as are permitted to by law;
- (2) to protect the confidentiality of all NPI that is obtained from the other party and not disclose such information outside the respective organizations, except as permitted or required by applicable law;
- (3) to allow limited access to all NPI that is obtained from the other party to only those individuals who require such information in order to perform such functions as are permitted by law;
- (4) to immediately (generally within 48 hours) provide written notice to the other party of any suspected or actual unauthorized disclosure of NPI kept by such party that relates to any

party with an interest in or claiming an interest in an insurer policy or contract. Each party agrees to cooperate with the other party in the investigation and remediation of such matter;

- (5) that the content of any filings, communications, notices, press releases or reports related to any incident involving NPI obtained from the other party must be approved by the other party prior to any publication or communication thereof;
- (6) that the terms of this Section 15(e) shall not supersede or modify any other agreement that expressly governs access to and use of NPI signed by either party prior to the effective date hereof; and
- (7) that each party shall require its agents, representatives, sub-producers and employees to comply with the privacy provisions contained in this Section 15(e) and all applicable Privacy Laws.

16. No Third Party Beneficiaries. This Agreement is for the exclusive benefit of the parties hereto, and no third party, including, without limitation, any insured, is intended to be or shall be a beneficiary of any provision hereof.

17. Independent Contractor. Producer shall be an independent contractor for any and all purposes. Nothing in this Agreement shall be construed to constitute the parties to the Agreement as partners or joint venturers or create any employer/employee or agency relationship between the parties.

18. Assignment. This Agreement may not be assigned by Producer absent the express prior approval of ZAS. ZAS may assign any and all of its rights and obligations under this Agreement to any of its affiliates or successors in interest. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assignees.

19. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Kansas, without regard to the conflicts of laws principles thereof.

20. Notices. Whenever any party hereto desires or is required to give any notice, demand, or request with respect to this Agreement, each such communication shall be in writing and shall be effective only if it is delivered by personal service or mailed, United States registered or certified mail, return receipt requested, postage prepaid, or sent by prepaid overnight courier or confirmed telecopy or email, addressed as follows:

If to ZAS: Zurich Agency Services, Inc.
7045 College Blvd.
Overland Park, Kansas 66211

If to Producer: [PRODUCER NAME]
[ADDRESS]
[CITY], [STATE] [ZIP CODE]

21. Severability. The provisions of this Agreement are severable and the invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

22. Record Retention.

- (a) The Producer shall keep separate, complete, and orderly underwriting files, records and accounts of all transactions pertaining to insurance written under this Agreement including, but not limited to permanent records and reports of all policies, applications, correspondences, as well as all accounting and financial documents of the business written or transacted under this Agreement. The Producer shall provide whatever underwriting files, records and reports reasonably requested by ZAS to monitor and evaluate the business written or transacted under this Agreement. The Producer shall maintain such records for a period of seven (7) years after termination of this Agreement, unless a longer period is required in accordance with applicable state record retention and regulatory requirements. ZAS has the right to inspect and audit Producer's accounts, books, records, and papers pertaining to Producer and its insurance operations pertaining to insurance written under this Agreement at ZAS' sole expense. ZAS may do this at any reasonable time and upon reasonable written notice to Producer.
- (b) Upon request by any state department of insurance, the Producer shall provide access to all of the Producer's books and records, which relate to the business of ZAS, and to all accounts, which relate to such business, to the requesting state department of insurance in a format requested and usable by said department.

23. Notice of Certain Events. Producer shall notify ZAS no later than thirty (30) days following any of the following occurrences: (1) a sale or transfer, or the issuance to a new equity holder, of 50% or more of the voting equity interests of Producer; or (2) a sale or transfer of substantially all of the assets of Producer to or the merger or consolidation of Producer with any person or entity.

24. Expenses.

(a) The Producer shall pay all expenses related to the performance of the Producer's duties under this Agreement, including but not limited to inspection fees, bureau reporting fees, rentals, transportation facilities, clerical expenses, sub-producers' commissions (except as otherwise agreed in writing between the Producer and ZAS), attorneys' fees, postage, advertising, or personal local license fees. The Producer shall not charge or commit ZAS and/or applicable insurer to any expense, agreement, payment, debt, or obligation unless the Producer receives prior written approval from ZAS.

(b) The Producer shall pay for all of its own data processing hardware and shall be responsible for any fees incurred for data processing software and technology acquired from third parties, including but not limited to, necessary line charges.

(c) The Producer shall reimburse ZAS and/or the applicable insurer for all expenses, fines and assessments resulting directly or indirectly from any action or omission for which the Producer is or was responsible or had obligation to perform. Any expenses incurred by ZAS for audits, market conduct examinations, and other investigations conducted by or at the direction of a regulatory agency, as it specifically relates to the business conducted under the authority of this Agreement, which audits establish material non-compliance with the terms of this Agreement by the Producer, shall be borne by the Producer. The Parties agree that such expenses include, without limitation, any actual, realized losses, charges, fines, or penalties incurred by ZAS arising out of any such audits, examinations, and investigations, which are levied by a regulatory agency.

25. Entire Agreement. This Agreement embodies the entire agreement and understanding between the parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof, and no party hereto has made any representation, warranty or covenant in connection with the matters set forth herein except as expressly stated herein. Neither this Agreement, nor any

amendments or terms thereto, may be changed, waived, or discharged except by written agreement between the Producer and ZAS.

26. Construction of Agreement. The titles and headings herein are for reference purposes only and shall not in any manner limit the construction of this Agreement which shall be considered as a whole. The words “include,” “includes” and “including” when used herein shall be deemed in each case to be followed by the words “without limitation.” Each Party to this Agreement expressly recognizes that it results from a negotiated process in which each Party was given the opportunity to consult with counsel and contributed to the drafting of this Agreement. Given this fact, no legal or other presumptions against the Party drafting this Agreement concerning its construction, interpretation or otherwise, shall accrue to the benefit of any party to this Agreement, and each Party expressly waives the right to assert such a presumption in any proceedings or disputes connected with, arising out of, or involving this Agreement.

27. Waiver. The failure of ZAS or the Producer to insist on strict compliance with this Agreement, or to exercise any right or remedy hereunder, shall not constitute a waiver of any rights contained herein, nor estop the Parties from thereafter demanding full and complete compliance therewith, nor prevent the Parties from exercising such remedy in the future.

28. Counterparts; Electronic Signature. This Agreement may be executed in one or more counterparts, including by electronic transmission.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first set forth above.

ZURICH AGENCY SERVICES, INC.:

By: _____
Name: Nathan Hixon
Title: Vice President

PRODUCER:

_____ ,

a _____

By: _____
Name: _____
Title: _____

Federal EIN: _____

- ☐ Sole Proprietor
☐ Partnership
☐ Corporation
☐ Other (describe): _____