

USI Insurance Services LLC Producer Agreement

This **PRODUCER AGREEMENT** (“Agreement”) is entered into by and between USI Insurance Services LLC (“USI”), and _____, having its principal place of business as (“PRODUCER”).

WHEREAS, PRODUCER desires USI to place risk(s) of PRODUCER’s clients (“INSURED”) with and for acceptance by admitted and non-admitted insurance companies, as well as other risk transfer facilities (“Insurers”); and

WHEREAS, USI and PRODUCER shall receive such compensation if any, as agreed to by the parties from time to time for such business;

NOW, THEREFORE, in consideration of such mutual covenants and promises, USI AND PRODUCER AGREE AS FOLLOWS:

- 1. INDEPENDENT CONTRACTOR.** PRODUCER is an agent for the INSURED and acts on behalf of the INSURED. PRODUCER is not an agent, subagent, or broker for USI. This agreement or the relationship between the parties and their officers and employees is not intended, and shall not be construed, to create a partnership, joint venture, or employment relationship between USI and PRODUCER. PRODUCER is for all purposes an independent contractor.
- 2. LIMITATIONS OF RESPONSIBILITIES OF USI.** USI retains sole discretion to accept, reject, or submit to Insurer for consideration any applications of insurance for risks submitted by PRODUCER and shall incur no liability to PRODUCER, the INSURED, or any other party for failure to place any such risk, except to the extent specific written recommendations are made by USI and acted upon by PRODUCER and INSURED or as may be otherwise expressly set forth in this Agreement. USI shall bear no responsibility to any INSURED, producer, sub-agent, solicitor, or sub-producer of PRODUCER, or any other party with respect to the adequacy, amount, or form of coverage obtained through USI. Without limiting the effect of Section 11, PRODUCER expressly agrees to indemnify and hold USI harmless from any claim or liability asserted against USI as a result of the following PRODUCER’s instructions.
- 3. NO BINDING OR REPRESENTATIONAL AUTHORITY.** PRODUCER shall have no authority to bind any Insurer for USI, commit to or issue binders, policies, or other written evidence or insurance on behalf of USI, or make representations not strictly in accordance with the provisions of the policies and contracts placed under the terms of this Agreement. PRODUCER shall not make, alter, or vary any terms of coverage or payment of any premium or deposit, or incur any liability for or on behalf of USI or any Insurer.

4. **ELECTRONIC COMMUNICATIONS.** PRODUCER agrees that electronic communications, including without limitations, any applications, authorizations, representations, or submissions, transmitted by PRODUCER to USI via e-mail, internet or any other digital or electronic means (collectively, “Electronic Communications”) are as valid and binding, with the same full legal normal course of business by USI. Without limiting the foregoing, and only by way of example, USI may make applications for insurance in an electronic format by Internet or by e-mail communication. PRODUCER agrees that the completion and submission of any such electronic applications by PRODUCER constitutes a valid agency application and submission to USI, with the same legal force and effect as completing and submitting a physical application.
5. **RECORDS.** PRODUCER will keep complete and accurate records and account for all transactions pertaining to insurance written under this Agreement as required by applicable federal, state or local laws, rules, and regulations and make these records available to USI for review and copying upon request at any reasonable time during business hours.
6. **AUTHORIZATION OF PRODUCER.** The authorization granted to PRODUCER, as described in this Agreement, is limited to the office locations identified in this Agreement or as identified in Addendum A hereto. USI or its affiliates shall have the right to amend or revise Addendum A at any time, in its sole discretion, by giving thirty (30) days advance written notice to PRODUCER. After the required notice has been given, the amended and revised Addendum A shall become part of this Agreement and shall be binding upon PRODUCER.
7. **COMPENSATION.** Compensation payable to PRODUCER by USI for specific programs and services that are governed by this Agreement is identified in Addendum B hereto. USI or its affiliates shall have the right to amend or revise Addendum B at any time, in its sole discretion, by giving thirty (30) days advance written notice to PRODUCER. After the required notice has been given, the amended and revised Addendum B shall become part of this Agreement and shall be binding upon PRODUCER.
8. **CLAIMS AGAINST USI.** PRODUCER shall notify USI promptly of any claims, suits, or demands against USI arising out of or related to business placed under this Agreement, or circumstances that might reasonably be expected to give rise to such claim or demand. PRODUCER further agrees to cooperate fully with USI, including without limitation, by making available for review and complying all records, documents, and information of any kind arising out of or related to such claim or the underlying account.
9. **ADVERTISING.** PRODUCER shall not use any advertisement referring to or using the name “USI, USI Insurance, USI Insurance Services, USI Insurance Services LLC,” or any derivative thereof or referring to any of their products or

programs, or issue or cause to have issued any letter, circular, pamphlet, or other publication or statement so referring, without the written consent of USI.

10. **NOTICE OF EXPIRATION AND RENEWAL REQUEST.** USI shall be under no obligation to give PRODUCER advance notice of expiration of any policies of insurance placed for PRODUCER by USI.
11. **INDEMNITY AND HOLD HARMLESS.** PRODUCER shall indemnify and hold USI harmless for and against all claims, liabilities, obligations, judgments, settlements or costs of any kind whatsoever (including but not limited to attorney's fees and expenses) that USI may become obligated to pay to INSUREDS or any third party caused directly or indirectly by any actual or alleged act, error, omission, misstatement, misleading statement, breach of duty, or breach of this Agreement by PRODUCER. USI shall indemnify and hold PRODUCER harmless from and against any claims, liabilities, obligations, judgment, settlements or costs of any kind whatsoever (including but not limited to attorney's fees and expenses) that PRODUCER may become obligated to pay to INSUREDS caused directly by any act, error, omission, misstatement, misleading statement or breach of duty by USI in the processing of any business placed and/or attempted to be placed by USI for PRODUCER.
12. **REPRESENTATIONS AND WARRANTIES.** Understanding and agreeing that breach or noncompliance of any one or more term or condition hereof shall be deemed a material breach of this Agreement, entitling USI without limiting any other remedies that may be available, to terminate this Agreement immediately and without prior notice, PRODUCER now represents, warrants and covenants as follows:
 - 12.1 **INSURANCE.** PRODUCER has, and will maintain throughout the duration of this Agreement and for a period of two (2) years thereafter, an errors and omissions policy covering its activities and obligations under this Agreement, as well as those of its agents, solicitors, servants, employees, and anyone else acting as its representative, with limits of not less than \$1,000,000 per claim/\$5,000,000 aggregate. Such policy shall be placed with an Insurer whose A.M. Best Rating is equal to or higher than A- VI. PRODUCER shall provide USI not less than 30 days notice of cancellation, material modification or non-renewal of such policy. PRODUCER agrees to provided USI with proof of such coverage annually and at such other times as USI may reasonably request.
 - 12.2 **LICENSING.** PRODUCER is properly licensed to sell and/or solicit admitted and/or non-admitted insurance as contemplated by this Agreement in its state of domicile and in all other states in which PRODUCER transacts business. PRODUCER will maintain such license(s) in good standing for the duration of this Agreement and will furnish proof of such proper licensing upon request by USI. PRODUCER

will promptly notify USI of any suspension, revocation, or other disciplinary action taken, or any impairment, with respect to such license(s).

- 12.3 **COMPLIANCE.** PRODUCER represents, warrants, and covenants that it is in compliance, and will continue to comply, with all federal, state and local laws, rules and regulations applicable to the conduct of the business contemplated by this Agreement. PRODUCER also authorizes USI to conduct credit and criminal background checks and licensing inquiries on a periodic basis so long as the Agreement remains in effect.
13. **APPLICATION TO CURRENT POLICIES IN FORCE.** The parties agree that this Agreement shall apply to current policies placed or in force as of the Effective Date and all future policies that may be placed by USI for PRODUCER, as well as amounts owed on any policies that were placed by USI for any entity acquired by PRODUCER.
14. **WAIVER OR DEFAULT.** Failure of USI to enforce any provision of or to terminate this Agreement because of breach hereof shall not be deemed to be a waiver of such provisions or any breach committed by the PRODUCER.
15. **TERMINATION AND SURVIVAL.** This Agreement may be terminated by either party giving at least thirty (30) days' written notice to the other by certified mail, return receipt requested. 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, provided that USI may, upon review and in its sole discretion, appoint the successor as a PRODUCER; (3) automatically, upon the death or dissolution, as applicable, of PRODUCER; or (4) immediately, upon either party giving written notice to the other of termination because of breach of any provision hereof, fraud, insolvency, failure to pay balances, or willful or gross misconduct. Any termination will not affect the respective rights or liabilities of either party accruing up to the date of such termination. All representations and obligation of PRODUCER herein shall survive the termination of this Agreement, including without limitation the obligation under Section 11 hereto. Furthermore, immediately upon receipt of notice of termination of this Agreement, PRODUCER shall complete the collection of and accounting to USI 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 commission.
16. **OWNERSHIP OF EXPIRATIONS.**
- 16.1 Expirations shall be the sole and exclusive property of the PRODUCER except:

16.1.1 If the PRODUCER's authority is suspended for a reason involving compliance to regulations or laws as provided in this Agreement, the Expirations will vest in and become the sole and exclusive property of USI. Upon notice, PRODUCER shall have twenty (20) days to cure such non-compliance to regulations or laws.

16.1.2 If this Agreement is terminated by USI for a reason that involves (1) the bankruptcy, insolvency, or dissolution of a party hereto, or the institution of a similar proceeding by or against a party, (2) any suspension or revocation of PRODUCER's insurance license in any jurisdiction, as to all jurisdictions, (3) PRODUCER's failure to renew a necessary insurance license in a jurisdiction, as to that jurisdiction, or (4) PRODUCER's commission of a felony, fraud, willful misconduct or the misappropriation of funds, the Expirations will vest in and become the sole and exclusive property of USI. Upon notice, PRODUCER shall have twenty (20) days to cure such termination.

16.2 Upon the occurrence of any event which gives rise to the vesting of the ownership of Expirations in USI, USI may take immediate possession of all records relating to those Expirations and the PRODUCER shall upon request immediately gather such records together at the PRODUCER's principal place of business and allow USI access to take possession of those records. USI may service those Expirations directly or dispose of them in any commercially reasonable manner.

17. **ALTERNATIVE DISPUTE RESOLUTIONS.** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled exclusively by the following dispute resolution mechanisms: (1) first, by negotiation among the parties hereto, which may be oral or written. To the extent they are oral, they must be confirmed in writing; (2) if such negotiations are unsuccessful, by mediation pursuant to the American Arbitration Association ("AAA") Commercial Mediation Rules, or such other rules to which the parties may mutually consent, or (3) if such mediation is unsuccessful, by binding arbitration administered in accordance with the AAA Commercial Arbitration Rules, or such other rules as the parties may mutually agree, with judgment on any award rendered by such arbitrator(s) able to be entered and enforced in any court of competent jurisdiction. Each party shall be responsible for its own costs and expenses incurred in connection with these dispute resolution mechanisms. Notwithstanding anything to the contrary herein, and without prejudice to any other rights it may have, USI may apply at any time to a court of competent jurisdiction to enjoin a material breach of this Agreement that would result in immediate and irreparable injury to USI or its affiliates, and to recover all cost of such action, including reasonable attorney's fees. All of the rights and remedies of USI hereunder shall be cumulative and not alternatives.

18. **GOVERNING LAWS AND VENUE.** This Agreement shall be governed by, constructed and enforced in accordance with the laws of the state of Colorado, without giving effect to any choice of law principals. The sole and exclusive venue for any suit or proceeding to enforce any provision of this Agreement shall be in Denver County, Colorado. To the extent they are not dealt with specifically or by necessary implication in this Agreement, the rights, duties, and obligations of the parties shall be in accordance with the customs prevailing in the insurance business in Colorado.
19. **ATTORNEY'S FEES AND COSTS.** PRODUCER agrees to pay all costs and expenses incurred by USI in any action or proceeding brought by USI to recover sums due from PRODUCER, or otherwise enforce its rights, under the terms of this Agreement, including but not limited to, reasonable attorney's fees.
20. **INTEREST.** In any suit or proceeding to collect any amount claimed due under this Agreement, the prevailing party shall be entitled to receive interest on the amount owed computed from the date the obligation accrued at the lesser of ten percent (10%) per annum or the maximum lawful rate of interest per annum.
21. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between USI and PRODUCER and supersedes and replaces any prior Agreements between USI and PRODUCER. No oral promises or representations shall be binding, nor shall this Agreement be modified, except by agreement in writing.
22. **SUCCESSOR.** This Agreement for services shall be binding upon and shall inure to the benefit of PRODUCER and its successors and assigns.
23. **EXECUTION AND ACCEPTANCE OF AGREEMENT.** Each individual who executes this Agreement in a representative capacity represents and warrants that her or she has the full right, power and authority to execute this Agreement and to bind the entity or individuals on whose behalf he or she so signs. If the 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 or limited liability company, an authorized officer must sign and indicate the title of such authorized officer. PRODUCER acknowledges and agrees that this Agreement shall not become effective until finally accepted by an authorized officer of USI, as evidenced by the signature below.
24. **PERSONAL GUARANTY.** The individual signing on behalf of PRODUCER jointly and severally guarantees the faithful performance and payment of the obligations assumed by PRODUCER under this Agreement.
25. **FORCE MAJEURE.** Neither party shall have any liability for any failure or delay in performance of its obligations under this Agreement because of conditions beyond its control, including without limitation, acts of God, fires, floods, earthquakes, acts of war or terrorism, civil disturbances, sabotage,

governmental actions, power failures, computer/network viruses that are not preventable through generally available retail products, catastrophic hardware failures or attacks on a party's server.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement.

USI: USI Insurance Services LLC

/s/ _____

Vickie Maher
Chief Financial Officer

Date:

PRODUCER: Company Name:

/s/ _____

Print Name:

Print Title:

Date:

**USI Insurance Services LLC Producer Agreement
Addendum A: AUTHORIZATION OF PRODUCER**

A.1 The authorization granted to PRODUCER, as described in this Agreement, is limited to the office locations identified below:

PRODUCER (Company) Name:

Office Physical Address:

Office Mailing Address:

Point of Contact (Print): Name:

Title:

Phone:

Fax:

E-mail:

USI or its affiliates shall have the right to amend or revise Addendum A at any time, in its sole discretion, by giving thirty (30) days advance written notice to PRODUCER. After the required notice has been given, the amended and revised Addendum A shall become part of this Agreement and shall be binding upon PRODUCER.

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Addendum B: COMPENSATION

B.1 COMMISSIONS. For services provided by USI to PRODUCER in conjunction with the Property, Automobile, and Workers' Compensation Insurance program that USI exclusively provides for the Boy Scouts of America in conjunction with particular insurer(s), USI will pay PRODUCER a commission of nine percent (9%) for the Property and Automobile and three percent (3%) for the Workers Compensation. PRODUCER will be paid by USI only after but within 60 days of USI's receipt of moneys due and paid by cognizant insurers to USI or the Insured.

B.2 EXPENSES. The commissions payable under this Agreement shall be considered the full compensation on business PRODUCER places through USI. USI shall not be responsible for expenses PRODUCER incurs as an agent, including, but not limited to rent, transportation, clerical, solicitor's fees, postage, express, telephone, telegrams, advertising, exchange, underwriting or consumer reports ordered, license fees, electronic equipment, software, other costs of interfacing or communicating with USI electronically or for any other expense whatsoever.

B.3 BILLING AND COLLECTION. USI is responsible for the collection and accounting of all premiums on business placed that is governed by this Agreement. At its sole discretion, USI may opt to execute billings with the Insured(s) or have billings done on a "direct billed" basis by cognizant insurer(s). USI will communicate to PRODUCER the manner of billing selected and method for obtaining relevant accounting and billing information for the Insured(s).

B.4 RETURN COMMISSIONS. PRODUCER agrees to return promptly to USI commissions previously paid to PRODUCER by USI on premiums refunded under any policy for any reason whether the refund is made during the term of this Agreement or thereafter.

USI or its affiliates shall have the right to amend or revise Addendum B at any time, in its sole discretion, by giving thirty (30) days advance written notice to PRODUCER. After the required notice has been given, the amended and revised Addendum B shall become part of this Agreement and shall be binding upon PRODUCER.