



Producer Agreement

This Producer Agreement (this "Agreement") is made and entered into effective as of the day of _____, 2008 (the "Effective Date") by and between Mercator Risk Services, Inc., a Delaware corporation (the "Broker"), and the Producer indicated on the signature page of this Agreement (the "Producer").

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Broker and the Producer agree as follows:

1. Broker Representations, Warranties, Acknowledgements and Covenants.

The Broker represents and warrants that it is authorized to enter into this Agreement and become bound by the terms hereof.

2. Producer Representations, Warranties, Acknowledgements and Covenants.

2a. - The Producer represents and warrants that it is authorized to enter into this Agreement and become bound by the terms hereof.

2b. - (i) The Producer acknowledges and agrees that each of its affiliates, employees, agents and other representatives who provides services contemplated hereunder shall be bound, as the context so requires, by the terms of this Agreement, as if such person were a signatory hereto and a "Producer" hereunder.

(ii) The Producer covenants and agrees that it shall inform each of its affiliates, employees, agents and other representatives who provides services contemplated hereunder of the existence of this Agreement and that each shall be bound, as the context so requires, by the terms of this Agreement, as if such person were a signatory hereto and a "Producer" hereunder.

2c. - The Producer covenants and agrees that the Producer will not (a) take any action that would bind the Broker, or any insurance carrier transacting business with the Broker, without the prior written authorization of the Broker, or (b) place any advertisement in any publication, or issue or distribute any marketing or other materials, referring to the Broker or any insurance carrier transacting business with the Broker, without the prior written consent of the Broker.

2d. - The Producer shall, when submitting business to the Broker for quotation by carriers, provide complete, truthful, and accurate information, to the best of Producer's knowledge, concerning the proposed insured, including full details concerning the proposed insured's business, operations and claims history. The Producer shall promptly disclose to the Broker any material changes to the insured's business, operations or claims history. The Producer's duty to disclose changes in the insured's business, operations and claims history shall be ongoing from the date of the first submission to the Broker through the entire period that any coverage is in effect and shall be subject to Producer's knowledge of such changes.

2e - The Producer shall report to the insurance carrier as directed in writing and in accordance with Producer's agreement with such carrier, any notice of any claim, or of any incident that is likely to lead to a claim, under any insurance policy placed by the Broker. The Producer shall cooperate with the insurance carrier, adjusting firms and attorneys in the investigation, adjustment, settlement or payment of any claim, or any response thereto.

2f. - The Producers shall at all times comply with all federal and state laws and regulations, including without limitation, if applicable, the Gramm-Leach-Bliley Act and the Health Insurance Portability and Accountability Act.

Section 3. Insurance Licenses.

3a. - During the term of this Agreement and for a period corresponding to any applicable statute of limitations after the termination of this Agreement, the Producer hereby covenants and agrees that it shall at all times maintain all necessary insurance licenses, including without limitation, all individual, corporate or agency licenses, all applicable insurance agent, broker and producer licenses, all surplus lines licenses and all other applicable licenses, in all jurisdictions where the Producer conducts any insurance business with the Broker under this Agreement in order to at all times remain in compliance with all applicable federal, state or local law or regulation.

3b. - During the term of this Agreement and for a period corresponding to any applicable statute of limitations after the termination of this Agreement, the Broker shall at all times maintain all necessary insurance licenses, including without limitation all individual, corporate or agency licenses, and all surplus lines licenses in all jurisdictions where the Broker conducts any insurance business with the Producer under this Agreement.

Section 4. Errors and Omissions Insurance.

During the term of this Agreement and for a period corresponding to any applicable statute of limitations after termination of this Agreement, the Producer and Broker each hereby covenant and agrees that it shall maintain errors and omissions insurance for itself, its officers, employees, and agents with limits of not less than \$1 million per claim or occurrence and not less than \$1 million annually in the aggregate with a duly licensed carrier rated A- or higher. Each party shall furnish the other with a copy of the policy (including the declaration page) upon execution of this Agreement, and following each

renewal of such policy. Each party shall use its best efforts to cause the carrier to notify the other party of any termination, non-renewal or material change in the subject coverage.

Section 5. Terms and Conditions.

5a. – The Producer shall remit premiums on policies bound or written under the Agreement, whether new, renewal or by endorsement, to the Broker within the time specified on the Broker's invoice or, if an audit premium, within twenty (20) days of receipt of the audit endorsement, unless the Producer receives express written consent from the Broker of other payment terms.

5b. - Where applicable, the Producer shall retain a portion of the commission on the business of the Producer in accordance with the then applicable scale of commissions as provided by the broker, or as otherwise mutually agreed.

5c. - If any client or customer of the Producer shall default in the payment of any premium and/or tax if and when due, the Broker and its designees shall have the right, and hereby is authorized by the Producer, to take all necessary action, including legal action, to collect the premium and tax directly from such client or customer. Notwithstanding the foregoing, the Producer hereby acknowledges and agrees that the taking of any such action by the Broker shall not relieve the Producer of its obligation to pay such premium and tax to the Broker. In the event that the Broker collects the premium or any part thereof directly from the insured, Producer shall not be entitled to any commission on the premium so collected. Attempts by the Broker to collect outstanding premium or tax from the insured shall not relieve Producer of liability to the Broker except to the extent of amounts actually collected by the Broker from the insured, less the expense of such collection.

5d. - The Producer hereby agrees that any extension of credit by the Producer to any of its clients or customers is solely at its own risk, and the Producer shall pay to the Broker all sums due to the Broker when due, whether or not the Producer has collected such amounts from its clients, customers or others who owe funds to the Producer. Furthermore, the Producer recognizes that in agreeing to pay such amounts to the Broker, it does so unconditionally as an original undertaking on its own part and not as a guarantor or surety of another person's obligation.

5e. - In the event that (i) the Producer does not pay the Broker applicable premium and/or tax when due and (ii) as a result of such non-payment, the Broker incurs any damage, cost, fine, penalty, or expense, including without limitation collection expenses and reasonable attorneys' fees and disbursements (collectively, the "Damages"), the Producer will reimburse the Broker for any such Damages with respect to such unpaid premium or tax.

5f. - Nothing contained in this Agreement shall be construed to limit or restrict the right of the Broker, any insured party where it is authorized to do so under any applicable policy, or any insurance carrier to cancel, terminate, rescind or alter any binder, cover note, policy or contract of insurance, including without limitation the right of any insurance carrier, in its sole discretion, to cancel, terminate or rescind any policy placed

under this Agreement for underwriting reasons in accordance with applicable law and regulations. If a policy is cancelled, terminated or rescinded, the Producer shall not be entitled to any future commissions with respect to such policy, and the Producer shall promptly remit to the Broker any and all "return" or unearned commissions (calculated at the same rate or on the same basis upon which commissions were paid to the Producer with respect to the original binder, cover note, policy or contract of insurance). The Producer shall not be entitled to any commissions for a policy that is the subject of a "flat cancellation." If any binder, cover note, policy or contract of insurance is cancelled, terminated or rescinded, the Producer shall also be liable to the Broker for any earned premium and taxes thereon, whether or not such earned premium and taxes have been collected from the Producer's client or customer.

5g. - In the event a financed premium is canceled and the premium is refunded to the applicable premium finance company, the Producer shall immediately refund any Producer commission to the Broker on a proportionate basis.

5h. - The Broker reserves the right to offset or apply commission against any indebtedness of the Producer to the Broker. This right shall also apply against any liability incurred by the Broker by reason of negligence or unauthorized acts committed by the Producer.

5i. - All premiums are the property of the insurance carrier and shall be held by the Producer in a premium fund trust account and in a fiduciary capacity as trustee for the applicable insurance carrier, until delivered to the Broker or insurance carrier by the Producer.

Section 6. Disclosure.

The Producer hereby covenants and agrees that the Producer shall be solely responsible for preparing and providing to its clients, customers and prospects any and all disclosures necessary to comply with all applicable laws, statutes, ordinances, orders, codes, rules, regulations, contracts and relationships with respect to any insurance business placed by or through the Broker under this Agreement, including without limitation any required disclosures with respect to the commissions and fees paid or payable to the Producer in connection with such business. In accordance with Section 8 of this Agreement, the Producer shall indemnify and hold harmless the Broker and their respective affiliates, agents, officers, directors and representatives for and with respect to any and all claims, actions, liabilities, suits, investigations and expenses, including without limitation attorneys' fees and disbursements, in any manner arising or resulting from or in connection with any failure of the Producer to comply fully with this Section 6.

For each transaction closed under this agreement, Broker shall disclose to Producer the amount of its compensation for such transaction.

Section 7. Termination.

7a. - This Agreement may be terminated by either party for any reason by written notice to the other party stating when such termination is to be effective. Notwithstanding the foregoing, the provisions of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18

and 19 shall survive the termination of this Agreement.

7b. - If the respective parties determine that they no longer desire to be bound by this Agreement, such party who desires to terminate the agreement shall so notify the other, whereupon the parties shall no longer be bound by this Agreement.

7c. - In amplification and not in limitation of subsection 7a. above, termination of this Agreement in its entirety will not relieve the Producer's obligations to the Broker with respect to the payment of premium and taxes for insurance business placed by the Broker for the Producer prior the effective termination date.

7d. - Within thirty (30) days of the effective date of termination of this Agreement, unless otherwise stipulated at the option of the Broker, the Producer shall complete the collection and pay and account to the Broker for all premiums, contributions, commissions, and other transactions unaccounted for on the date of termination or arising thereafter with respect to outstanding insurance.

7e. - Following thirty (30) days of the effective date of termination of this Agreement, in the event that the Producer shall have accounted for and paid all premiums for which it is liable, the Producer's records, customer lists and use or control of expirations shall remain the property of the Producer and shall be left in its undisputed possession; otherwise, the records, customer lists and use and control of the expirations shall be vested exclusively in the Broker.

Section 8. Indemnification.

Each party shall indemnify and forever hold harmless the other party and its affiliates, agents, officers, directors, representatives, and successor corporations, resulting from or attributable to any and all acts or omissions of the respective parties or with respect to any and all claims, actions, liabilities, suits, investigations and expenses, including without limitation attorneys' fees and disbursements, in any manner arising or resulting from or in connection with any breach by such party (or any of its affiliates, agents, officers, directors, representatives, and successor corporations) of any provision of this Agreement, including without limitation any breach of any representation, warranty, covenant or agreement made by such party contained herein.

Section 9. No Binding Authority.

9a. - Nothing contained in this Agreement shall be construed to authorize or appoint the Producer as an agent for the Broker or any insurance carrier in any respect, and the Producer shall not have the authority to, and shall not, make any representations or agreements on behalf of the Broker or insurer or take any action that would impose upon the Broker or any insurance carrier any liability or obligation to any third party. The Producer shall have no authority to accept or bind risks on behalf of the Broker or any insurance carrier with which the Broker transacts business. Nothing herein shall be construed as giving the Producer the authority or permitting Producer to adjust, settle, compromise or pay any claim.

9b. - Neither party to this Agreement shall be responsible for any expenses of the other

party under this Agreement whatsoever.

Section 10. Future Communications.

The Broker and the Producer hereby acknowledge and agree that the Broker may communicate with the Producer from time to time via the e-mail address or the fax number provided by the Producer at the end of this Agreement.

Section 11. Relationship between the Parties.

The relationship between the Producer, on the one hand, and the Broker, on the other hand, under this Agreement is that of independent contracting parties whereby the Broker is acting as an independent contractor engaged in its business. Nothing contained in this Agreement shall be construed to create an employer-employee or master-servant relationship, a partnership or a joint venture between the Producer, on the one hand, and the Broker, on the other hand, nor shall this Agreement or the relationship between the parties be construed to impose any obligations or duties in addition to those expressly set forth herein.

Section 12. Entire Agreement; Amendment; No Obligation; No Assignment.

12a. - This Agreement constitutes the entire agreement with respect to the subject matter hereof and supersedes all prior agreements or understandings, whether written or oral, with regard to the subject matter hereof.

12b. - This Agreement may not be modified, altered or amended, except with the written consent of the parties hereto.

12c. - Execution of this Agreement does not obligate (a) the Producer to do business with the Broker, or (b) the Broker to do business with the Producer.

12d. - The Producer may not assign this Agreement or its rights hereunder without the prior written consent of the Broker.

12e. - This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

Section 13. Choice of Law; Construction.

13a. - This Agreement will be construed and interpreted in accordance with the internal laws of the state of New York, without giving effect to the conflict of laws principles thereof.

13b. - The headings contained in this Agreement are inserted for convenience only and shall not be considered in interpreting or construing any of the provisions contained in this Agreement. All definitional references herein to the singular shall include the plural as the context may require. Whenever the words "include," "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation."

13c. - If any provision of this Agreement or the application of any such provision to any person or circumstance shall be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof.

Section 14. No Joint Liability.

In the event that any third party alleges any joint obligations of the parties hereto, each respective party shall be severally liable solely for its own respective acts and omissions that create such liability and the parties in no event shall be jointly liable.

Section 15. Counterparts; Facsimile Signatures.

This Agreement may be executed in any number of counterparts, each of which, when executed, shall be deemed to be an original and all of which together will be deemed to be one and the same instrument binding upon all of the parties hereto notwithstanding the fact that both parties are not signatory to the original or, the same counterpart. For purposes of this Agreement, facsimile signatures shall be deemed originals.

Section 16. Confidentiality.

The parties to this Agreement hereby represent and acknowledge to each other that in the course of the performance of the party's obligations they may each make available to the other party certain information pertaining to each party's business and operations (the "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 its duties hereunder. Each party agrees not to disclose any Information to any one 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 an obligation of confidentiality.

Section 17. Limitation of Liability

IN LIMITATION OF ANY OTHER PROVISIONS OF THIS AGREEMENT, INCLUDING SECTION 8:

17a. THE BROKER SHALL NOT BE LIABLE TO ANY THE PRODUCER OR ANY OTHER PERSON OR ENTITY FOR ANY CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL OR INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR INTERRUPTION OF BUSINESS, UNDER ANY THEORY INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER CAUSE OF ACTION, EVEN IF THE BROKER HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD

HAVE FORESEEN SUCH DAMAGES.

17b. THE AGGREGATE LIABILITY OF THE BROKER UNDER THIS AGREEMENT SHALL NOT EXCEED THE TOTAL COMMISSIONS RECEIVED BY THE BROKER HEREUNDER, UNLESS SUCH DAMAGES ARISE OUT OF ADJUDICATED WILLFUL MISCONDUCT OR GROSS NEGLIGENCE.

Section 18. Inspection of Records.

During the term of this Agreement, and for a period of three (3) years following the termination thereof for any reason, the Broker shall have the right to audit and inspect Producer's books and records concerning the business to which this Agreement applies. Such right of audit and inspection shall be during normal business hours upon reasonable notice to Producer.

Section 19. No Third Party Beneficiary. The terms and provisions of this Agreement are intended solely for the benefit of each party hereto and their respective successors or permitted assigns, and it is not the intention of the parties to confer third-party beneficiary rights upon any other Person other than any Person entitled to indemnity hereunder.

Section 20. Affiliate Definition. The term “affiliate” means (A) any person controlling, controlled by or under common control with Producer, where “control” means the possession, directly or indirectly, of the power to direct the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise, and (B) in addition, if any of the foregoing persons is a partnership, any partner thereof, and if such person is a limited liability company, any member thereof.

This agreement is executed as of the Effective Date.

Broker:

Mercator Risk Services, Inc.
1185 Avenue of the Americas, 36th Floor
New York, NY 10036

Producer:

By: _____

By: _____

(Name)

(Name)

(Title)

(Title)

(Date)

(Date)

IMPORTANT NOTE

If the Producer is doing business as an individual, he or she must personally sign this Agreement in his or her own name and not in his or her name or capacity as an Agent. If the Producer is a partnership, this Agreement must be executed by the firm and by each member thereof in his or her individual capacity. If the Producer is a corporation, an authorized corporate officer must execute this Agreement.

PRODUCER INFORMATION

Full Name of Agency:

Fictitious or Assumed Name (If Any):

Primary Contact Person:

Federal Tax I.D. Number:

Mailing Address:

Street:

Suite/Floor:

City:

State:

Zip:

Main Phone Number: () -

Fax Number: () -

Email Address:

KEY ACCOUNTING CONTACT(S)

Primary Contact Person:

Secondary Contact Person (if available):

Mailing Address:

Street:

Suite/Floor:

City:

State:

Zip:

Main Phone Number: () -

Fax Number: () -

Email Address:
