

JSA PRODUCER AGREEMENT

This Producer Agreement (hereinafter, "Agreement") is entered into by and between Jackson Sumner and Associates, Inc. a North Carolina Corporation having its principal place of business in Boone, N.C. (hereinafter, "JSA") and _____ whose principal place of business is _____ (hereinafter, "PRODUCER").

WHEREAS, the PRODUCER holds valid and in force insurance license(s) issued by the State(s) in which it transacts business in all line(s) of business that will be covered by this Agreement;

WHEREAS, PRODUCER desires JSA to place risks of PRODUCER'S clients (hereinafter, the "INSURED") with and for acceptance by admitted and non-admitted insurance companies, as well as other risk-transfer facilities (collectively, "Insurers"); and

WHEREAS, JSA 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, JSA AND PRODUCER AGREE AS FOLLOWS:

1. DUTIES AND RESPONSIBILITIES.

- 1.1 INDEPENDENT CONTRACTOR.** PRODUCER is an Agent for the Insured. PRODUCER is not an agent, subagent, or broker for JSA. 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 JSA and PRODUCER.
- 1.2 LIMITATION OF RESPONSIBILITIES OF JSA.** JSA retains sole discretion to accept, reject, or submit to an Insurer for consideration any applications of insurance for risks submitted by PRODUCER and shall incur no liability to PRODUCER, the INSURED, or any other person for failure to place any such risks. JSA shall have no responsibility to any INSURED, sub-agent, solicitor, or sub-producer of PRODUCER with respect to the adequacy, amount, or form of coverage obtained through JSA. Without limiting the effect of Section 11, PRODUCER expressly agrees to indemnify and hold JSA harmless from any claim or liability asserted against JSA as a result of following the Producer's instructions.
- 1.3 NO BINDING OR REPRESENTATIONAL AUTHORITY.** PRODUCER shall have no authority to bind any Insurer for JSA, commit to or issue binders, certificates of insurance, policies, or other written evidence of insurance on behalf of JSA, 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 JSA or any Insurer.
- 1.4 ELECTRONIC COMMUNICATIONS.** PRODUCER agrees that electronic communications, including without limitation, any applications, authorizations, representations, or submissions, transmitted by PRODUCER to JSA via e-mail, internet, or any other digital or electronic means (collectively, "Electronic Communications"), are as valid and binding, with the same full legal force and effect, as any original manual or physical form of communication and may therefore be relied and acted upon in the normal course of business by JSA. Without limiting the foregoing, and only by way of example, JSA 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 JSA, with the same legal force and effect as completing and submitting a physical application.
- 1.5 RECORDS.** PRODUCER will keep complete 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 JSA for review upon request at any reasonable time during business hours.
- 1.6 SCOPE OF AGREEMENT.**
 - 1.6.1 AUTHORIZATION OF PRODUCER.** The authorization granted to PRODUCER as described in this agreement is limited to the office locations identified in this Agreement and in Addendum A hereto. JSA or one of 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 a part of this Agreement and shall be binding upon PRODUCER.

- 2. OWNERSHIP OF THE BUSINESS.** PRODUCER shall control all expirations and renewal of insurance placed under this Agreement; provided, however, in the event that PRODUCER fails to account for or to make payment of all amounts due to JSA or an Insurer, such expirations and renewals, including any future commissions relating thereto,

shall become the property of JSA for such use and disposal as JSA shall determine, in its discretion, in order to satisfy the financial obligations of PRODUCER to JSA and/or an Insurer. To the extent the disposition of the expirations and renewals are insufficient to satisfy the indebtedness owed by PRODUCER, PRODUCER shall remain liable for all remaining amounts owed plus any expenses incurred in disposing of such expirations and renewals as well as reasonable costs and attorney fees.

3. PAYMENT OF PREMIUM.

GUARANTEE OF PAYMENT. Except as set forth in Section 4, PRODUCER guarantees the full payment due JSA of all premiums, including but not limited to, deposit, minimum earned, extension and adjustable premiums, such as those determined under audits or retrospective penalties, fees, plus applicable state and local taxes, less applicable commission, on every insurance contract bound, written, or placed for PRODUCER. PRODUCER shall be liable to JSA for the payment of all premiums, fees and taxes whether or not actually collected by the PRODUCER. Any credit extended to INSURED shall be the sole risk and responsibility of PRODUCER, subject to policy terms and conditions. To the fullest extent allowed by law, all fees, including but not limited to, policy, inspection, and market fees shall belong to and shall be fully earned by JSA when coverage is bound. JSA's billings may take the form of binders, invoices, or statements. The net balance will be due and payable as indicated in such billings and may vary based upon the payment terms of the issuing company. If no date is specified, premiums are to be remitted no later than the 20th day following the effective date of such policy or contract. The omission of any item(s) from a monthly statement or separate invoice shall not; (1) affect PRODUCER's responsibility to account for and pay all amounts due; (2) prejudice the rights of JSA to collect all amounts due from PRODUCER; or (3) extend the time within which PRODUCER must make payment. JSA shall at all times have the right to offset against and recoup from any amounts owed to PRODUCER or any affiliate thereof under this Agreement with amounts owed by PRODUCER or any affiliate thereof to JSA or any affiliate thereof under this Agreement.

DIRECT COLLECTION. To the extent owed premium has not been paid following the expiration or cancellation of any insurance contract covered by this Agreement (and except as otherwise addressed in Section 4), JSA reserves the right to collect such amounts directly from the INSURED. Any attempts by JSA to collect from INSURED will not relieve PRODUCER of liability to JSA except to the extent of amounts actually collected by JSA from INSURED, less the expense incurred by JSA for such collection.

COMMISSION. Subject to the terms of Section 4, PRODUCER shall earn, as commission, a percentage of the premium written at the rate agreed upon by JSA and PRODUCER, or such other lawful compensation as the parties may decide, if any, from time to time. JSA shall not be responsible for any costs or expenses of PRODUCER whatsoever, unless specifically authorized by JSA in advance in writing.

- 4. ADJUSTABLE PREMIUMS.** Notwithstanding anything to the contrary in this Agreement, where premium for one or more policies that have been issued cannot be fully determined in advance and where an adjustment or determination, after a specific time period, is made by audit, retrospective rating, or by interim reports, such premium is fully earned and due at the invoice date as evidenced by a JSA invoice, and the amount of such additional premium due shall be paid by PRODUCER to JSA by the date indicated. PRODUCER will make all reasonable efforts to collect amounts due. PRODUCER will be relieved of the responsibility for premium, so adjusted or determined, if PRODUCER notifies JSA in writing within thirty (30) days after such invoice date, stating that PRODUCER has made diligent efforts and is unable to collect such premiums. If commission applies to these adjustments, none will be allowed to PRODUCER on premium collected directly by JSA or Insurer under this provision. The requirements of this section may be modified by JSA as to a specific coverage if the Insurer does not permit JSA to return the item or if the Insurer requires a shorter return period than thirty (30) days.
- 5. FLAT CANCELLATIONS.** Once coverage under a contract has been bound, no flat cancellations by PRODUCER shall be permitted by JSA except to the extent permitted by the Insurer.
- 6. UNEARNED COMMISSIONS.** PRODUCER shall be liable to JSA and shall pay return commissions at the same rate as originally allowed to PRODUCER for all return premiums. Such return commission shall be paid to JSA by the due date indicated on the billing document. If a return premium becomes due under any contract of insurance and JSA has been issued a credit, or payment has been rendered, for such premium by the Insurer, JSA will pay to PRODUCER such return premium less the unearned portion of any commission previously retained by the PRODUCER. PRODUCER shall be responsible for paying the returned premium to the INSURED.
- 7. FINANCED PREMIUMS.** On all premiums that have been financed, JSA will remit payment for any return premium actually received by it, less applicable commission, directly to the finance company. The ultimate liability of JSA for payment to a finance company, PRODUCER, or INSURED shall never exceed the amount of return premium less applicable commission. PRODUCER agrees to hold JSA harmless from any responsibility for payment to the finance company and further agrees that financing arrangements do not diminish the responsibility for the timely payment of premium by the PRODUCER. Policy provisions prevail over premium financing contracts to the extent permitted by law. PRODUCER will be responsible for sending unearned commission to the Finance Company.

8. **CLAIMS AGAINST JSA.** PRODUCER shall notify JSA or the issuing Insurer promptly of any claims, suits or demand against JSA policies arising out of or related to business placed under this Agreement, or circumstances that might reasonably be expected to give rise to such claim, suit, or demand. PRODUCER further agrees to cooperate fully with JSA to facilitate the investigation and adjustment of any claim when and as requested by JSA or its Insurers, including without limitation by making available for review and copying 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 of JSA or any Insurer or referring to any of their products, or issue or cause to have issued any letter, circular, pamphlet, or other publication or statement so referring, without the express written consent of JSA.
10. **NOTICE OR EXPIRATION AND RENEWAL REQUESTS.** JSA shall be under no obligation to give PRODUCER advance notice of expiration of any policies of insurance placed for PRODUCER by JSA.
11. **INDEMNITY AND HOLD HARMLESS.** PRODUCER shall indemnify and hold JSA harmless from and against any claims, liabilities, obligations, judgments, settlements or costs of any kind whatsoever (including but not limited to attorney's fees and expenses) that JSA 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. JSA shall indemnify and hold PRODUCER harmless from and against any claims, liabilities, obligations, judgments, 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 or any third party caused directly or indirectly by any actual or alleged act, error, omission, misstatement, misleading statement, or breach of duty by JSA in the processing of any business placed and/or attempted to be placed by JSA 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 JSA, 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 & JSA has, and will maintain throughout the duration of this Agreement, 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.
 - 12.2 **LICENSING.** PRODUCER is properly licensed to sell and/or solicit 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 JSA. PRODUCER will promptly notify JSA of any suspension, revocation, or other disciplinary action taken, or any other 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 this business contemplated by this Agreement. PRODUCER also authorizes JSA to conduct credit and criminal background checks on a periodic basis so long as this Agreement remains in effect.
13. **APPLICATION TO CURRENT POLICIES IN FORCE.** The parties agree that this Agreement shall apply to current policies already placed or in force as of the Effective Date and all future policies that may be placed by JSA for PRODUCER, as well as amounts owed on any policies that were placed by JSA for any entity acquired by PRODUCER.
14. **WAIVER OR DEFAULT.** FAILURE of JSA to enforce any provision of this Agreement or to terminate it because of a breach hereof shall not be deemed to be a waiver of such provisions or of any breach committed by the PRODUCER.
15. **TERMINATION AND SURVIVAL.** This Agreement may be terminated by either party giving at least seven (7) 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 JSA 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 given written notice to the other of termination because 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, and all representations and obligations of PRODUCER herein shall survive the termination of this Agreement, including without limitation the obligations under Section II hereto. Furthermore, after the date of termination of this Agreement, PRODUCER shall complete the collection and account to JSA 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.

- 16. ALTERNATIVE DISPUTE RESOLUTION.** 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; (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 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, JSA may apply to a court of competent jurisdiction at any time to enjoin a material breach of this Agreement that would result in immediate and irreparable injury to JSA or its affiliates.
- 17. GOVERNING LAWS AND VENUE.** This agreement shall be deemed to have been made and performed in the county of JSA’s principal place of business, as indicated in this Agreement, or that of its affiliate, as indicated in an Addendum (hereinafter, in each case the “County”), and shall be governed by, and construed and enforced in accordance with, the laws of the state of JSA’s principal place of business, as indicated in this Agreement, or that of its affiliate, as indicated in any Addendum (hereinafter, in each case the “State”), without giving effect to any choice of law principles. The sole and exclusive venue for any suit of proceeding to enforce any provision of this Agreement shall be in the one or more County (ies) indicated in this Agreement or any Addenda. 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 surplus lines and special risks insurance business in the one or more State(s) set forth in this Agreement or any Addenda.
- 18. ATTORNEY’S FEES AND COSTS.** PRODUCER agrees to pay all costs and expenses incurred by JSA in any action or proceeding brought by JSA 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.
- 19. 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 that may be incurred by contract in the State.
- 20. NO ASSIGNMENT.** This Agreement for services by PRODUCER is personal and may not be transferred, assigned, pledged, made subject to a security interest, or otherwise disposed of by PRODUCER in whole or in part. This Agreement may be assigned by JSA to any of its affiliates.
- 21. ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between JSA and PRODUCER and supercedes and replaces any previous Producer Agreements between JSA and PRODUCER. No oral promises or representations shall be binding, nor shall this Agreement be modified, except by agreement in writing and executed by the President or Chief Executive Officer of JSA (or as otherwise provided in Section 1.5 hereof).
- 22. 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 this Agreement shall be enforceable independently of any other provision unless expressed otherwise herein.
- 23. EXECUTION AND ACCEPTANCE OF AGREEMENT.** Each individual who executes this Agreement in a representative capacity represents and warrants that he 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 JSA, as evidenced by the signature of its President or Chief Executive Officer below.

ACCEPTED AND AGREED:

PRODUCER: _____
(Name of Agency)

CORPORATION () LIMITED LIABILITY COMPANY () PARTNERSHIP () INDIVIDUAL ()

FED. TAX I.D. NO. _____ SS NO. (if individual): _____

SIGNED: _____ DATE: _____

BY: _____
(Print Name of Person Completing Agreement)

TITLE: _____



ACCEPTED, AGREED, AND EFFECTED by JSA, this _____ day of _____, _____ (the "Effective Date").

SIGNED: _____

Danielle S. Wade, President
Jackson Sumner & Associates, Inc