

XS SPECIALTY BROKERAGE AGREEMENT

Agreement between XS SPECIALTY, LLC and

_____ (referred
herein as Producer)

Whereas, Producer is desirous of placing contracts of insurance through companies represented by XS Specialty LLC (those companies referred herein as Insurer) and utilizing the underwriting facilities, knowledge, and services of XS Specialty LLC, and In consideration of XS Specialty LLC placing risks of Producer's clients (referred herein as Insured) from time to time with an Insurer or Insurers and for mutual promises and covenants set forth in this document it is agreed as follows:

AUTHORITY Producer is an agent for the applicant, and acts on behalf of the applicant for insurance, and is not acting as an agent, subagent or broker for XS Specialty LLC. 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 XS Specialty LLC and Producer. Producer is for all purposes an independent contractor.

XS Specialty LLC shall be the sole judge of whether to accept, reject, or submit to Insurer for acceptance any applications of insurance for risks submitted by Producer and shall incur no liability for failure to place any such risk. Producer shall have no authority to bind any Insurer for XS Specialty LLC, commit to or issue binders, policies, or other written evidence of insurance on behalf of XS Specialty LLC or to 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 modify terms of payment of any premium or deposit, or incur any liability for XS Specialty LLC.

RESPONSIBILITY Producer warrants and represents that Producer is properly licensed to transact business as an agent or broker in accordance with the insurance laws, rules and regulations of each state in which Producer transacts business. Producer will maintain such license or licenses in good standing for the duration of this agreement and will furnish proof of such licensing upon request by XS Specialty LLC. Producer will promptly notify XS Specialty LLC of any suspension, cancellation or disciplinary action in respect of its license(s).

SURPLUS LINES INSURANCE Producer shall not place an order with XS Specialty LLC for any excess or surplus lines insurance unless Producer shall have first complied with any applicable state laws requiring the Producer to attempt to procure such insurance from insurers authorized to do business in the State of residence of the proposed Insured. The party responsible for the payment of surplus lines taxes shall also be responsible for full compliance with all relevant surplus lines laws of the pertinent State, including but not limited to, the collection and payment of surplus lines taxes, filing of affidavits, and providing the appropriate statutory and/or regulatory disclosure legends on all documents. Producer shall comply with diligent search requirements as required by applicable state law.

PREMIUM AND ACCOUNTS Producer guarantees the full payment due XS Specialty LLC of all premiums including deposit, earned, extension and adjustable premiums, fees, plus applicable state and local taxes, less commission, on every insurance contract bound or written for Producer pursuant to this Agreement. *Producer shall be liable to XS Specialty LLC for the payment of all premiums, fees and taxes whether or not collected by the Producer.* XS Specialty LLC shall allow Producer, as commission, a percentage of the premium written at the rate agreed upon by XS Specialty LLC and Producer from time to time. XS Specialty LLC's billings may take the form of binders, invoices or statements. The net balance will be due and payable as indicated on such billings and may vary based upon the credit terms of the issuing company. The omission of any item(s) from a monthly statement or separate invoice shall not: (1) affect the Producer's responsibility to account for and pay all amounts due; (2) prejudice the rights of XS Specialty LLC to collect all amounts due from Producer; and (3)

extend the time within which Producer must make payment. *Producer's obligation to make payment to XS Specialty LLC is not contingent upon the issuance of a policy.* Any credit extended to the Insured or others shall be at the sole risk and responsibility of the Producer unless agreed to in writing by XS Specialty LLC.

FUNDS HELD IN TRUST Producer shall hold funds in a fiduciary account for business generated under this Agreement to the extent required by the insurance laws of each state in which Producer conducts business. Provided Producer is in compliance with all terms of this Agreement, Producer shall be entitled to any interest earned on said funds while so held by the Producer.

CLAIMS Unless agreed to in writing, XS Specialty LLC shall have no responsibility to provide notice of any claim to any insurer, such obligation being the sole responsibility of the INSURED and/or PRODUCER

ADJUSTABLE PREMIUMS Notwithstanding anything to the contrary herein set forth, in the situation where premiums for a policy or policies which have been issued cannot be fully determined in advance and where an adjustment or determination is made by an audit, retrospective rating or by interim reports are fully earned and due at the invoice date as evidenced by a XS Specialty LLC or insurance company invoice. Producer will make all reasonable efforts to collect amounts due. Producer will be relieved of responsibility for premium, so adjusted or determined, if Producer notifies XS Specialty LLC in writing within 20 days after said invoice date, stating that Producer has made diligent efforts and is unable to collect such premiums and, *provided the Insurer releases XS Specialty LLC of liability for such premium.* A copy of the Producer's invoice to the Insured, as well as copies of correspondence pertaining to the collection, must be sent with this notification. Failure to give XS Specialty LLC timely notice shall constitute Producer's acceptance of responsibility to pay such premiums. If commission applies to these adjustments, none will be allowed to Producer on premiums collected directly by XS or Insurer under this provision. This section may be modified by XS Specialty, LLC as to a specific coverage if to return the item or if the insurer requires a shorter return period than 45 days.

DIRECT COLLECTION If, after the expiration of sixty (60) days from the date liability was assumed by the insurance carrier, has not received payment due for the applicable coverage, XS Specialty LLC may, at its option, collect from the Insured the premium due. In the event XS Specialty LLC collects the premium or any part thereof from the Insured, Producer shall not be entitled to any commission on the premium so collected. Attempts by XS Specialty LLC to collect from the Insured shall not relieve Producer of liability to XS Specialty LLC except to the extent of amounts actually collected by XS Specialty LLC from the Insured, less the expense of such collection.

COLLECTION OF AMOUNTS In the event XS Specialty LLC shall have to bring any action or proceeding to enforce collection of any amount due under the terms of this agreement Producer agrees to pay all costs incident thereto, including reasonable attorney's fees and expenses, incurred by reason of such action or proceeding.

CANCELLATION OF INSURANCE XS Specialty LLC will not recognize flat cancellations unless: (1) written evidence of coverage prior to the inception date of the contract for insurance is provided; and (2) *such credit has been granted XS Specialty LLC by its Insurer.* Earned premium shall be computed and charged on every binder, policy or contract cancelled after the inception date in accordance with the cancellation provision of the applicable contract and/or rules of the Insurer. If Producer does not make timely payment of any sums due XS Specialty LLC, then XS Specialty LLC may, without limitation of other remedies, initiate with Insurer to cancel the binder, policy or contract for non-payment. If coverage is bound by XS Specialty LLC all additional fees charged by XS Specialty LLC for the entire policy term shall be fully earned upon binding. Producer hereby acknowledges that XS Specialty LLC, or its Insurers, is under no duty to reinstate a policy if the policy is cancelled. Producer shall not accept from Insured the late payment of premiums with prior knowledge, whether actual or constructive, that the policy for which the late premiums have been collected is cancelled.

UNEARNED COMMISSIONS Producer shall be liable to XS Specialty LLC and shall pay return commissions at the same rate as originally allowed to Producer for all return premium adjustments or cancellations, including return premium on cancellations ordered or made by the Insurer or Finance Company. Such return commission shall be paid to XS Specialty LLC by the due date indicated on the billing document. If a return premium becomes due under any contract of insurance and XS Specialty LLC has been issued a credit, or payment has been rendered, for such premium by XS Specialty LLC's Insurer; XS Specialty LLC will pay to Producer such return premium less the unearned portion of any commission previously retained by the Producer.

NOTICE OF EXPIRATION AND RENEWAL REQUESTS XS Specialty LLC shall be under no obligation to give Producer advance notice of expiration of any policies of insurance which Producer, from time to time, procures through XS Specialty LLC.

FINANCED PREMIUMS On all premiums which have been financed XS Specialty LLC will remit payment for any return premium, less unearned commission, directly to the Finance Company unless otherwise specified. The ultimate liability of XS Specialty LLC for payment to a Finance Company, Producer or Insured shall never exceed the amount of return premium less unearned commission developed. Producer agrees to hold XS Specialty LLC harmless from any responsibility for payment to Finance Company and further agrees that financing arrangements do not diminish the responsibility for the timely payment of premium by the Producer.

ADVERTISING Producer shall not cause any advertisement referring to or using the name of XS Specialty LLC or Insurer, or issue or cause to have issued any letter, circular, pamphlet, or other publication or statement so referring, without the express written consent of XS Specialty LLC. In the event XS Specialty LLC suffers a loss or expense arising out of any unauthorized advertisement, publication or statement of the Producer, the Producer shall be liable for and hereby agrees to indemnify XS Specialty LLC and hold XS Specialty LLC harmless from all resulting damages, fines, penalties and costs.

WAIVER OR DEFAULT Failure of XS Specialty LLC 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.

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 the Agreement shall be enforceable independently of any other provision unless expressed otherwise herein.

NO RESPONSIBILITY OR GUARANTEE Producer understands that XS Specialty LLC assumes no responsibility toward any policy with regard to the adequacy, amount or form of coverage and agrees to indemnify and hold XS Specialty LLC harmless from any claim asserted against XS Specialty LLC in following the instructions of the Producer. XS Specialty LLC is not an insurer and does not guarantee the financial condition of the Insurers with whom it may place risks. XS Specialty LLC shall have no liability for non-payment of claims due to the insolvency of an Insurer, or otherwise, under contracts of insurance placed by XS Specialty LLC.

PRIVACY POLICY Producer shall neither disclose nor use Nonpublic Personal Information (as that term and similar terms are defined in the Gramm-Leach-Briley Act, 15 U.S.C. Section 6801 et. seq. and the applicable state insurance laws and regulations enacted or adopted pursuant to the Gramm-Leach-Briley Act [individually and collectively, the "Act"]) that is received from or collected on behalf of XS Specialty LLC except as necessary to permit the Producer to perform its duties under this Agreement, or as otherwise permitted or authorized by the ACT. The Producer shall also implement and maintain appropriate administrative, technical and physical safeguards to protect the security, confidentiality and integrity of such Nonpublic Personal Information.

TERMINATION OF AGREEMENT This Agreement may be terminated immediately at any time by either party giving 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 with the provision XS Specialty LLC may, upon review, appoint the successor as a Producer, or (3) immediately, upon either party giving written notice to the other of termination because of fraud, insolvency, failure to pay balances, or willful or gross misconduct. All representations and obligations of the Producer herein shall survive the termination of this Agreement.

After the date of termination of this Agreement, the Producer shall complete the collection and accounting to XS Specialty LLC 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. Outstanding policies will be permitted to run to expiration.

ERRORS AND OMISSIONS COVERAGE Producer now has and shall maintain insurance agent's Errors and Omission coverage with a minimum policy limit of one million dollars (\$1,000,000) while this Agreement is in force and will furnish proof of such coverage upon request by XS Specialty LLC. Producer will provide XS Specialty LLC with prompt written notice of any change, cancellation or other termination of this Policy. Producer will provide XS Specialty LLC with a current copy of the policy declaration page. Producer will forward renewal documentation. Producer will forward renewal documentation within 30 days of expiration.

NO REBROKERING Producer shall not act as an underwriter or rebroker (double broker) for any application or policy underwritten pursuant to this Agreement without the express written consent of XS Specialty LLC.

MARKETING TERMS Upon execution of this Agreement, Producer hereby consents to XS Specialty LLC periodically communicating with Producer via faxes and emails for product and service updates and general announcements. These communications will cease upon the termination of this Agreement by either party or upon written notice from Producer to XS Specialty LLC to opt out of receiving such communications.

HOLD HARMLESS XS Specialty LLC and Producer shall indemnify, defend and save harmless each other from any loss, claim, liability, damage and expense (including attorney's fees and expenses of litigation) which each party may incur or suffer by reason of material inaccuracy of any representation or breach of any term, condition, or warranty contained in this Agreement.

ALTERNATIVE DISPUTE RESOLUTION THE PARTIES TO THIS AGREEMENT HEREBY EXPRESS THAT ALL DISPUTES, CONTROVERSIES OR CLAIMS OF ANY KIND AND NATURE BETWEEN THE PARTIES HERETO, ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT, ITS INTERPRETATION, PERFORMANCE OR BREACH, SHALL BE RESOLVED EXCLUSIVELY BY THE FOLLOWING DISPUTE RESOLUTION MECHANISMS:

1. Negotiation - The parties hereto shall first engage in a good faith effort to negotiate any such controversy or claim by communications between them. Said negotiations may be oral or written. To the extent they are oral, they must be confirmed in writing.
2. Mediation - Should the above-stated negotiations be unsuccessful, the parties shall engage in mediation pursuant to the American Arbitration Association Commercial Mediation Rules, or such other mediation rule as the parties may otherwise agree to choose.
3. Arbitration - Should the above-stated mediation be unsuccessful, the parties shall agree to arbitrate any such controversy or claim with the express understanding that this Agreement is affected by interstate commerce in that the goods and services which are the subject matter of this Agreement pass through interstate commerce. Said arbitration shall be conducted pursuant to the American Arbitration Association Commercial Arbitration Rules (the "Arbitration Rules") or such other arbitration rule as the parties may otherwise agree to choose.
4. Injunctive Relief - Notwithstanding anything to the contrary herein, XS Specialty LLC shall have

the right to apply at any time to a court of competent jurisdiction to enjoin any breach of this Agreement that would be deemed material and would result in immediate and irreparable injury to XS Specialty LLC, which is, not properly or completely compensable by damages in an action at law, and to recover all costs of such action, including reasonable attorney's fees. All of the rights and remedies of XS Specialty LLC hereunder shall be cumulative and not alternative.

THE PARTIES UNDERSTAND AND AGREE: (i) THAT EACH OF THEM IS WAIVING RIGHTS TO SEEK REMEDIES IN COURT, INCLUDING THE RIGHT TO A JURY TRIAL; (ii) THAT PREARBITRATION DISCOVERY IN ARBITRATION PROCEEDINGS IS GENERALLY MORE LIMITED THAN AND DIFFERENT FROM COURT PROCEEDINGS; AND (iii) THAT THE ARBITRATORS' AWARD IS NOT REQUIRED TO INCLUDE FACTUAL FINDINGS OR LEGAL REASONING, AND (iv) EITHER PARTY'S RIGHT OF APPEAL OR TO SEEK MODIFICATION OF RULINGS BY THE ARBITRATORS, IS STRICTLY LIMITED. THE VENUE FOR MEDIATION AND/OR ARBITRATION UNDER THIS PARAGRAPH SHALL BE IN THE CITY OF PORTLAND, STATE OF OREGON.

GOVERNING LAWS This Agreement shall be deemed to have been made and performed in Multnomah County, Oreon and shall be governed by, and construed and enforced in accordance with the laws of the State of Oregon. The rights, duties and obligations of the parties to this agreement to such extent they are not dealt with specifically or by necessary implication in this instrument shall be in accordance with the customs prevailing in the surplus lines and special risks insurance business in the state in which the Producer is domiciled.

ENTIRE AGREEMENT This Agreement constitutes the entire agreement between XS Specialty LLC and Producer and supersedes and replaces any previous agreements between XS Specialty LLC and Producer. No oral promises or representations shall be binding, nor shall this Agreement be modified, except by agreement in writing and executed by XS Specialty LLC. This Agreement shall apply to current policies already placed through XS Specialty LLC and in force at the date hereof and all future policies which may be placed by XS Specialty LLC for Producer.

EXECUTION AND ACCEPTANCE OF AGREEMENT Producer acknowledges that a breach of any of the terms, conditions, or provisions of this Agreement by the Producer may give rise to a cause of action by XS Specialty LLC against the Producer and/or may result in disciplinary action by XS Specialty LLC, including but not limited to, the termination of this Agreement, all in the sole discretion of XS Specialty LLC. Each individual who executes this Agreement in a representative capacity represents and warrants that he or she has the full right and power 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, an authorized officer must sign and indicate the title of such authorized officer. The parties hereto agree this Agreement shall not become effective until accepted by XS Specialty LLC.

PRODUCER: _____

WITNESS: _____

BY: _____ DATE: _____

TITLE: _____

(Must be Owner, Partner or Authorized Officer)

Agreement Accepted and Effected by XS Specialty LLC.

BY: _____ DATE: _____

TITLE: _____

Please complete, sign and return **ORIGINAL AGREEMENT** along with the following:
Copy of your **INSURANCE LICENSE issued by your state of residence**
Copy of your **E & O POLICY DEC PAGE**.

Please check one: Corporation Partnership Sole Proprietorship
Federal Tax I.D. Number: _____ (SS Number if Individual)
Surplus Lines License Number: _____ (If applicable)
REV 12/06