

# PRODUCER'S CONTRACT

THIS PRODUCER'S CONTRACT (this "Contract") is entered into effective as of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_, a \_\_\_\_\_ corporation, whose address is \_\_\_\_\_, (hereinafter called "Producer") and Vista Insurance Partners of Illinois, Inc. d.b.a. A. J. Renner & Associates, whose address is 6 West Hubbard Street, 4<sup>th</sup> Floor, Chicago, IL 60610-4606, (hereinafter called "Wholesale Broker").

In consideration for an agreement with Wholesale Broker to consider the placement of insurance risks submitted by Producer with insurers (hereinafter called the "Companies") whose facilities may be available to Wholesale Broker, for the payment of commission and other mutual obligations contained in this Contract, the parties agree as follows:

## 1. RELATIONSHIP BETWEEN WHOLESALE BROKER AND PRODUCER

1.1 Insofar as transactions under this Contract are concerned, Producer is an independent contractor and is not the employee of Wholesale Broker or any insurer with whom Wholesale Broker may place risks at the request of Producer. Wholesale Broker shall have no right of control over Producer as to time, means, or manner of Producer's conduct of the agency within the authority herein granted. Wholesale Broker may appoint other producers. Producer may represent other managing general agents and insurance companies.

1.2 Wholesale Broker shall be the sole judge whether it will place risks submitted by Producer and shall incur no liability for failure to place any risk.

1.3 Wholesale Broker is under no obligation to place the coverage and no coverage will be in effect until this risk is accepted by the insurer. The amount of premium, limits and conditions of coverage, division of commissions, and other terms will be determined separately for each such risk. All transactions shall be subject to the requirements of the applicable statutes, rules, and regulations of the state in which Producer is licensed as a resident agent, and Producer agrees to comply with all such statutes, rules, and regulations.

## 2. AUTHORITY AND DUTIES OF PRODUCER

2.1 Producer shall have full authority to collect, receive, and receipt for premiums on insurance submitted by Producer and accepted by Wholesale Broker.

2.2 Producer shall promptly forward to the Wholesale Broker all applications, and all other evidences of intent to insure or to modify existing insurance.

2.3 Unless expressly granted by addendum to this Contract, Producer has no authority hereunder to bind insurance risks, but only to submit applications for placement or attempted placement by Wholesale Broker.

2.4 Without the prior written consent of Wholesale Broker, Producer has no authority to receive any proceeds of premium finance agreements, notifications of premium financing, or requests for cancellation or reinstatement of premium finance agreements on behalf of Wholesale Broker or the Companies.

2.5 Without the prior written consent of Wholesale Broker, Producer has no authority to insert any advertisements concerning Wholesale Broker or any of the Companies represented by Wholesale Broker in any publication or issue any circular or paper referring to Wholesale Broker or the Companies.

### **3. COMPENSATION OF PRODUCER**

3.1 Producer shall be compensated out of premiums collected on insurance submitted by Producer and accepted by Wholesale Broker by commissions at rates agreed to in writing by Wholesale Broker and Producer with respect to each individual contract of insurance.

3.2 All special fees or charges or expense constants charged in addition to premiums upon contracts of insurance or upon endorsements are to be regarded as fully earned at the time of the inception of the insurance contract or endorsement. The obligation of Producer to pay such amounts to Wholesale Broker shall be the same as if they were premiums except that no commission will be allowed upon such amounts.

3.3 In the event Producer fails to pay any sum due Wholesale Broker by virtue of any policy or endorsement procured through Wholesale Broker under the terms of this Contract, Producer hereby assigns to Wholesale Broker as security, but not in payment therefor, all sums due or to become due Producer from the insured or insureds for whom such contract(s) of insurance or endorsement(s) was procured through Wholesale Broker, with full authority on the part of Wholesale Broker to demand and collect the same. On premiums so collected by Wholesale Broker, Producer shall be entitled to no commission.

### **4. PREMIUM ACCOUNTING**

4.1 Unless authorized in writing by Wholesale Broker to deduct commission, Producer shall be liable for and pay to Wholesale Broker all gross premiums due upon contracts of insurance, whether new or renewal or by endorsement, secured by Wholesale Broker in connection with risks submitted by Producer, and Wholesale Broker shall have the right but not the obligation to look to Producer rather than to the insured or insureds for the payment of such premiums.

4.2 As soon as Producer is furnished with evidence that a contract of insurance has been effected or that the endorsement of an existing contract of insurance has been procured by Wholesale Broker, Producer will promptly pay to Wholesale Broker the full amount of premium called for by such contract of insurance or endorsement. All premiums collected by Producer are trust funds and property of the Companies and Producer holds all such funds as a fiduciary.

4.3 If a return premium becomes due under any contract of insurance, Wholesale Broker will promptly credit Producer such return premium less the unearned portion of any commission previously paid to Producer. Producer shall be responsible for payment of return premiums to the insured in accordance with applicable law and regulations. In the event premium finance is involved, applicable regulations shall apply. Producer shall repay proportionally to Wholesale Broker commissions on return premiums at the same rate at which such commissions were originally retained by or paid to Producer.

4.4 Notwithstanding anything to the contrary herein set forth, in the situation where the premium for a policy which has been issued cannot be fully determined in advance, or where an adjustment or termination by audit or otherwise shall have been made, then, the amount of such additional premium due shall be paid by the Producer to Wholesale Broker by the due date indicated on the billing invoice. If premiums resulting from audits are, after diligent collection effort, determined by Producer to be uncollectible, such items may be returned to Wholesale Broker. If Wholesale Broker is allowed by contract to receive credit from the issuing Company and concurs that diligent effort has been made by the Producer, then Producer's account will be credited accordingly. Producer must furnish proof of reasonably diligent collection efforts, and return the audit as uncollectible or disputed within thirty (30) days of the date of billing, in order to be eligible for any such credit. Producer shall not be entitled to commission on any such premium subsequently collected.

4.5 Wholesale Broker must pre-approve any requests for flat cancellation, and will not recognize flat cancellations unless effected by surrender to Wholesale Broker of all copies of the policy prior to the inception date of the contract of insurance.

4.6 Unless otherwise instructed by Wholesale Broker, Producer agrees to pay to Wholesale Broker at Wholesale Broker's mailing address in Chicago, Illinois, Cook County all sums of money which may become payable to Wholesale Broker under this Contract. If otherwise instructed by Wholesale Broker, Producer shall remit all such payments to the alternative address provided by Wholesale Broker.

4.7 Wholesale Broker shall have the right to offset any amounts due Wholesale Broker from Producer against amounts due Producer by Wholesale Broker. In addition, Wholesale Broker may charge and Producer agrees to pay interest at the rate of 1.5% per month on all unpaid amounts, but in no event shall any amount charged exceed the rate of interest which may be lawfully charged.

4.8 If, after forty-five (45) days from the date liability was assumed by the insurance carrier with respect to a particular policy of insurance, Wholesale Broker has not received payment due for the applicable coverage, Wholesale Broker may, at its sole option, collect from the insured party the premium(s) due. In the event that Wholesale Broker collects such premium(s) or any part thereof from the insured party, Producer shall not be entitled to any commission on the premium(s) so collected. Attempts by Wholesale Broker to collect from the insured party shall not relieve Producer of liability to Wholesale Broker except to the extent of amounts actually collected by Wholesale Broker from the insured party, less the expense of such collection.

## **5. TERMINATION OR SUSPENSION**

5.1 This Contract shall continue in force until terminated by mutual agreement of the parties or immediately by one of the parties upon written notice of termination to the other.

5.2 In the event of fraud, abandonment, insolvency, gross or willful misconduct or breach of any of the conditions or provisions herein by Producer, Wholesale Broker may terminate this Contract immediately by providing written notice to Producer, which termination will be effective upon receipt. In the event of termination by reason of the conduct described above, any indebtedness of Producer to Wholesale Broker and all premiums in the hands of Producer or for the collection of which Producer is responsible, notwithstanding any provisions herein to the contrary, shall become immediately due Wholesale Broker.

5.3 This Contract shall terminate automatically, without notice, in the event of the cancellation, revocation, suspension or forfeiture of any license required by law for Producer's performance hereof or any act herein provided. The maintenance of such licensing in good standing shall be at all times the responsibility of Producer as an express condition to the continuation of this Contract. Producer shall immediately notify Wholesale Broker of the complete details of any cancellation, revocation, suspension or forfeiture of such licensing. Should Producer fail or refuse to furnish such notification, any compensation previously earned by Producer but not yet paid shall be retained by Wholesale Broker. The indemnity provisions of Section 7, together with all then existing rights to receive any payment under this Contract, shall survive any such termination.

5.4 In the event Wholesale Broker receives an insufficient funds check from Producer, this Contract shall be suspended, and until reinstated, Wholesale Broker will not accept any new or renewal applications from Producer until such time as the Producer makes the check good and pays an applicable charge, up to the maximum amount allowable, on all insufficient funds check(s) received by Wholesale Broker. During any period of suspension, any requests for endorsements of policies in force must be accompanied by a cashier's check, certified check, or cash for the gross premium due.

5.5 Wholesale Broker may, at its sole discretion, immediately terminate this Contract or suspend all or any part of the authority granted Producer hereunder if the Producer fails to maintain valid Errors and Omissions insurance with coverage limits satisfactory to Wholesale Broker.

5.6 This Contract shall terminate upon the occurrence of any of the events described in Section 8.1, if Wholesale Broker does not agree, in writing, to the change in operations. Failure of Producer to give the notice required under Section 8.1 shall effect the cancellation of this Contract, and entitles Wholesale Broker to recover from Producer all costs, expenses, judgments, and attorney's fees incurred as a result of Producer's failure to provide timely notice.

## **6. CANCELLATION, EXPIRATION, & NON-RENEWAL**

6.1 Producer shall be responsible for notifying his insureds of expiration or offer to renew their policies prior to the expiration date of coverage in accordance with applicable law(s) and regulations on all business placed through Wholesale Broker, and Producer shall defend, indemnify, and hold harmless Wholesale Broker for any non-renewal or lapse in renewal of any policy placed through Wholesale Broker.

## **7. INDEMNIFICATIONS**

7.1 Producer agrees to indemnify and hold Wholesale Broker harmless from any and all expenses, claims, causes of actions (contractual or otherwise), complaints, suits, or other proceedings arising out of Producer's performance or failure to perform its obligations under this Contract, including without limitation all attorney's fees, costs, fines, and penalties, but only to the extent Producer would be liable under common law. Producer further agrees to maintain Errors and Omissions insurance coverage as set forth in paragraph 5.5 hereof.

7.2 Wholesale Broker agrees to indemnify and hold Producer harmless from any and all expenses, claims, causes of actions (contractual or otherwise), complaints, suits, or other proceedings arising out of Wholesale Broker's performance or failure to perform its obligations under this Contract, including without limitation all attorney's fees, costs, fines, and penalties, but only to the extent the Wholesale Broker would be liable under common law.

## **8. PRODUCER SALE OR TRANSFER**

8.1 Producer shall give Wholesale Broker thirty (30) days prior written notice of any of the following changes to the operations of Producer's agency:

- a. If Producer is an individual and enters into a partnership to act as an insurance agency with one or more persons.
- b. If Producer is an individual and incorporates Producer's insurance agency.
- c. If Producer is a corporation and transfers, sells, merges, or consolidates any part of Producer's insurance agency or insurance business with any other entity.
- d. If Producer otherwise sells or transfers its insurance business to a third-party.

8.2 As set forth more fully in Section 5.6, this Contract shall terminate upon the occurrence of any of the events described in Section 8.1 if Wholesale Broker does not agree, in writing, to the change in operations.

8.3 Producer shall provide indemnity agreements in a form acceptable to Wholesale Broker signed by all new shareholders and/or partners as a condition precedent to the acceptance by Wholesale Broker of such new parties to this Contract.

8.4 Wholesale Broker in its sole discretion may require each such new shareholder, partner, or owner to enter into a new Producer's contract, in which event this Contract shall terminate.

## **9. OWNERSHIP OF EXPIRATIONS**

9.1 Subject to the provisions of paragraph 10.1 below, Producer and Wholesale Broker expressly recognize Producer's independent ownership of the policy expirations covered by this Contract and Producer shall retain ownership of these expirations during and after the termination of the Contract unless this Contract is terminated by Wholesale Broker for failure of Producer to comply with the terms of remittance.

## **10. MISCELLANEOUS**

10.1 Producer shall include policy numbers on all correspondence to Wholesale Broker.

10.2 In the event Wholesale Broker shall institute any lawsuit to enforce the obligations assumed by Producer in this Contract or defend any lawsuit brought against Wholesale Broker arising from this Contract, if prevailing, Wholesale Broker is entitled to recover from Producer all costs, expenses, judgments, and attorney's fees incurred by Wholesale Broker in connection with any lawsuit.

10.3 This Contract shall be construed in accordance with the laws of the State of Illinois, and exclusive venue for the enforcement thereof shall lie in Cook County, Illinois. If Producer is a non-resident of the State of Illinois, Producer recognizes that it is contracting herein with a resident of the State of Illinois, and designates the Secretary of the State of Illinois as his, its, or their true and lawful agent upon whom service of process may be made in connection with any suit brought by Wholesale Broker to enforce the terms of this Contract.

10.4 Producer shall promptly report to Wholesale Broker all claims involving contracts of insurance placed by Wholesale Broker hereunder, but Producer shall not assign the adjustment of claims, such assignments being the right of Wholesale Broker or the insuring company. Producer must, immediately upon receipt, report and forward to Wholesale Broker all claims, losses, and related documents.

10.5 All policy forms or other supplies furnished to Producer by Wholesale Broker shall remain the property of Wholesale Broker and shall be returned to it or its representative promptly upon demand.

10.6 Producer shall keep true and complete records and amounts of all transactions with policyholders and with Wholesale Broker. Such records shall be available for inspection by Wholesale Broker or its duly authorized representatives during normal business hours.

10.7 The rights, duties, and obligations of the parties to this Contract, to the extent they are not dealt with specifically or by necessary implication herein, shall be in accordance with the customs and usages prevailing in the surplus lines and special risks insurance business in the State of Illinois.

10.8 Any and all notices given pursuant to this Contract shall be deemed given when deposited with the United States Postal Service, Certified Mail, Return Receipt Requested, to the other party(ies) at the mailing address set forth in the introductory section of this Contract.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_  
Producer

\_\_\_\_\_  
Print Name - Title

By: \_\_\_\_\_  
Tracy A. Boss – Vice President / Chief Operating Officer  
Vista Insurance Partners of Illinois, Inc.  
d.b.a. A. J. Renner & Associates