

PRODUCER AGREEMENT

This is an agreement between Apollo General Insurance Agency, Inc. ("**APOLLO**"), a licensed California Surplus Lines Broker, and the undersigned **Oklahoma** fire and casualty broker/agent ("**PRODUCER**") and is effective.

RECITALS

APOLLO has available certain insurance products (the "**PRODUCTS**"), underwritten by non-admitted and admitted insurers ("**INSURER**").

PRODUCER has insured clients and/or prospects for insurance for whom coverages for **PRODUCTS** may be desirable, and wishes to be able to submit applications to **APOLLO** for such coverages.

APOLLO is willing to receive applications and effect placement of coverages for qualified applicants.

AGREEMENTS

- I. **APOLLO** hereby grants authority to **PRODUCER** to (i) receive applications and/or information forms from would-be insured; (ii) receive and receipt for deposit premiums to be submitted with application and/or information forms as specified by **APOLLO** and (iii) retain from premiums received by **PRODUCER** an amount equal to the commissions payable to **PRODUCER** as set forth in Exhibit A which is attached hereto.
- II. **PRODUCER** shall:
 - a. Comply with all lawful instructions which may be issued from time to time by **APOLLO**;
 - b. Fully comply with all laws and regulations of the State of California applicable to **PRODUCER** and to the **PRODUCTS**, including, but not limited to: (i) at all times maintaining its **Oklahoma** insurance license; and (ii) completing and submitting with each application or information form a Diligent Search Report (SL-2 (12/92)), or equivalent, demonstrating diligent efforts to place coverage with admitted insurers and the results of those efforts in accordance with the requirements of **Oklahoma** law.
 - c. Indemnify and hold **APOLLO** and the insurer(s) harmless from any claim, loss, damage, expense, including without limitation, attorneys fees and court costs, by reason of any act or omission of **PRODUCER** which results in any noncompliance or non conformance with or violation of any law, regulation, or ruling relating to the business placed and or attempted to be placed with Apollo by **PRODUCER** as a fire and casualty broker-agent or by reason of any act or omission of **PRODUCER** which breaches or violates any agreement or relationship between **PRODUCER** and any other person, corporation, partnership, or other entity;
 - d. Maintain complete and accurate books and records of all transactions and correspondence related thereto, conducted by or through **PRODUCER**;
 - e. Remit to **APOLLO**, not later than 10 days after the effective date, all premium due **APOLLO**.
 - f. Remit with signed quotation acceptance, full payment of premium (net of **PRODUCER**'s commission as set forth in Exhibit A) or a 10% deposit if the risk is to be premium financed. Note: Premium Financing will be done only by Apollo.
 - g. Remit, as instructed by **APOLLO**, any return premiums arising out of changes, cancellations or terminations of coverage; **PRODUCER** shall be responsible for return of **PRODUCER**'s commissions on any return premium; **PRODUCER** shall not be required to remit return premium to the extent that **PRODUCER** no longer retains or has not received from **APOLLO** the latter's portion of the return premium owed; when the producer places a client in a deductible program written through Apollo, Apollo has the right to offset the return premiums against any unpaid deductibles on the part of the insured.
 - h. Report all loss claims to **APOLLO** in writing, as promptly as possible and, in any event, not later than the third business day after such claims are received by **PRODUCER**;
 - i. Maintain all premium funds in fiduciary trust accounts as trustee for **APOLLO** until delivered to **APOLLO** or its authorized representative, permitting withdrawal only for:
 - (1) Payment of net premiums to **APOLLO**;
 - (2) Payment of return premiums to policyholders, but only to the extent that the premiums as to which return is required are still part of the trust accounts so maintained;
 - (3) Payment of commissions to **PRODUCER**, but only to the extent that the premiums as to which commissions are payable have been fully paid;
 - j. Be responsible for collection of all premiums whether or not paid by the policyholder;
 - k. Maintain errors and omissions and fidelity insurance in such amounts and forms, and with such carriers as are acceptable to **APOLLO**; and
 - l. Provide **APOLLO** with a true and correct copy of the **PRODUCER**'s then current **Oklahoma** insurance license.
- III. **PRODUCER** shall not:

- a. Issue, or allow issuance of, any advertising or other communication relating to the **PRODUCTS** unless (a) the same is specifically approved in writing by **APOLLO** before it is released; and (b) the same prominently discloses that the **PRODUCTS** are written through the services of **APOLLO**;
- b. Engage in any direct negotiations, solicitations or other communications with the **INSURER** relating to the **PRODUCTS**, except through **APOLLO**;
- c. Hold itself out to the public or otherwise represent to any person or entity that it is acting with respect to the **PRODUCTS** on behalf of any person or entity other than **APOLLO**; specifically, **PRODUCER** shall not in any manner hold itself out to the public or otherwise represent that it is acting on behalf the **INSURER**: and
- d. Issue or deliver any communication, application, or other thing concerning the **PRODUCTS** which does not bear, prominently displayed on the face thereof and in at least 16-point bold-faced type, a cautionary legend in the form required by **Oklahoma** surplus lines insurance policy "are not subject to the protection of any guaranty association in the event of liquidation or receivership of the insurer".
Statutory References: Oklahoma Statutes Title 36, Sections 1101 through 1120.

IV. **APOLLO** shall:

- a. Immediately notify **PRODUCER** in the event **APOLLO** learns of any investigation, accusation, cease and desist or other proceeding pending or threatened against the **INSURER** which would in any way adversely effect its ability fully to perform its obligations under this Agreement, or the ability of the **INSURER** to meet its policy obligations in connection with **PRODUCTS**:
- b. Promptly and accurately cause to be effected policy issuances, changes and cancellations as requested by **PRODUCER**; and
- c. Print and supply, at its expense, such application, information and billing forms as may be reasonably required by **PRODUCER**. All such forms shall strictly comply with the requirement of California law, and shall have prominently printed on them the name of **APOLLO** as the transacting broker. Any unused forms on which **APOLLO's** name is printed or stamped shall, at termination of this Agreement, be either destroyed or turned over to **APOLLO** for destruction.

V. **General Provisions**

PRODUCER and **APOLLO** are independent contractors in their relationship with each other, and **APOLLO** shall not be responsible for any expenses whatsoever incurred by **PRODUCER**.

Either party may terminate this Agreement at any time upon not less than ten (10) days advance written notice to the other, with or without cause.

Either party may immediately terminate this Agreement by written notice to the other in any of the following events:

- (1) Material breach by the other party of any term or condition of this Agreement;
- (2) The commencement of any regulatory or judicial action or proceeding against or involving a party which, in the good faith judgment of the terminating party, would materially and adversely affect the licenses or the ability of either party to perform its obligations under this Agreement;
- (3) The enactment of any law or regulation which, in the good faith judgment of the terminating party, would materially and adversely affect the licenses or the ability of either party to perform its obligations under this agreement.

This Agreement shall terminate automatically in the event of (i) any lapse, revocation, suspension or non-renewal of any license held by either party which is required to enable it lawfully to perform any of its obligations hereunder; or (ii) in any event which is, or results in, termination of the **PRODUCTS** by the **INSURER**.

In any of the forgoing events, the parties shall co-operate fully to run off business and policies placed under this Agreement in as orderly a manner as is feasible under the circumstances.

In the event that there occurs any mass cancellation of policies issued through **APOLLO**, and such mass cancellation results from the **INSURER's** independent business election to discontinue the **PRODUCTS** or results from an order of a court or regulatory authority to do so, **PRODUCER's** responsibility for the return commission portion of any return premium owed for such cancellation shall be limited to the commission portion of premium funds which, at the time **APOLLO** notifies **PRODUCER** of such election or order, are not yet payable to **APOLLO** and are held in **PRODUCER's** fiduciary account, and **PRODUCER** shall have no liability for remittance of unearned commissions on unearned premiums which had theretofore been remitted to **APOLLO** on policies which are mass-cancelled.

The use and control of expirations and the records of **PRODUCER** pertaining thereto are and shall remain, as between **APOLLO** and **PRODUCER**, the property of **PRODUCER**; provided, however, that **PRODUCER** shall provide, at the request of **APOLLO**, true and complete copies thereof whenever, in the opinion of **APOLLO**, the same are reasonably necessary to provide policyholder or administrative services, or are requested or required by judicial or regulatory authorities. Records shall be kept for three (3) years.

If termination or suspension occurs, however, by reason of **PRODUCER's** being legally barred from continuing this Agreement (as, for example, by reason of loss or suspension of necessary licenses), use and control of expirations and records of **PRODUCER** pertaining thereto shall, for purposes of the **PRODUCTS** only, be vested in **APOLLO**.

The provisions of this Agreement are severable and are intended to comply fully with applicable laws and regulations of the State of California. In the event that any provision hereof is declared illegal or unenforceable, the offending provision shall be deemed deleted, or, if not inconsistent with the fundamental purposes of this Agreement, amended to comply with applicable law, and the remainder of this Agreement shall be effective and binding to the fullest extent permitted by law.

Failure of either party promptly to declare a default for breach of any terms or conditions of this Agreement shall not be construed as a waiver of any of said terms and conditions, and shall not prevent the non-defaulting party from thereafter demanding full and complete compliance, unless such party has executed a written waiver thereof. Written waiver by a party of any breach by the other shall not constitute a waiver of any subsequent breach, whether or not similar in nature.

All notices, requests, demands and other communications shall be in writing and shall be deemed to have been given: (a) on the date of service, if served personally or by facsimile transmission prior to the close of normal business hours on a normal business day; (b) at the opening of the next business day, if served personally or by facsimile transmission after the close of normal business hours on a normal business day; (c) on the date of receipt if served by mail, whether first class or express delivery service, but in any event not later than two (2) business days after being deposited by the sender.

In the event of any lawsuit or arbitration proceeding for breach of or to enforce any terms of the Agreement, the prevailing party in such proceeding shall be entitled to recover, in addition to any other recovery, its costs of suit or arbitration costs, and reasonable attorneys' fees.

Any dispute under this Agreement or arising out of it shall be decided under and pursuant to the laws of the State of California. Venue of any action or proceeding hereunder shall be in the State of California in Sonoma county or federal judicial district where **APOLLO** maintains its principal office.

Neither party may assign its rights or obligations hereunder without the prior written consent of the other party.

Subject to the limitations set forth in the preceding paragraph, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the **EFFECTIVE DATE**.

APOLLO GENERAL INSURANCE AGENCY, INC.
[APOLLO]

By: _____ Dated: _____

Title: _____

[PRODUCER]

By: _____ Dated: _____

Title: _____

*Producer will comply with all state laws regarding the disclosure of broker fees.

EXHIBIT A - COMMISSION SCHEDULE

_____ **Various** _____ %

_____ %

*Commission shall not be paid on any fees, stamping fees, or premium tax.