

## **PRODUCER AGREEMENT**

This Producer Agreement (“Agreement”) is made as of \_\_\_\_\_, by and between **Concord Specialty Risk, Inc.**, a New York corporation having offices at 9 E.40<sup>th</sup> Street, New York, New York (“Concord”) and \_\_\_\_\_, a \_\_\_\_\_ corporation, having offices at \_\_\_\_\_ (“Producer”).

### RECITALS

WHEREAS, Concord is a managing general underwriter and/or underwriting consultant for one or more insurance companies with respect to a number of specialty lines, including but not necessarily limited to: Representations & Warranties Insurance, Tax Insurance, Specific Litigation Insurance and Other Contingent Liability Insurance (collectively, “Transactional Risk Insurance”);

WHEREAS, Producer is licensed as a broker/producer and as a surplus lines broker and is engaged in soliciting and procuring Transactional Risk Insurance on behalf of its clients; and

WHEREAS, Producer desires to place Transactional Risk Insurance through Concord, and Concord desires to receive submissions for such insurance from Producer, in accordance with the terms set forth herein;

NOW, THEREFORE, the parties, intending to be legally bound, agree as follows:

### AGREEMENT

#### 1. Placement of Insurance

Producer may place submissions for Transactional Risk Insurance with Concord or, at the direction of Concord, directly to a carrier for whom Concord serves as an underwriting consultant (but not as a managing general underwriter) with respect to a particular risk.

The parties acknowledge that Concord is not an insurer and does not guarantee, represent, or warrant the financial condition or the ability to pay claims of the Insurers with whom it may place risks. Concord shall have no liability for non-payment of claims due to the insolvency of an Insurer, or otherwise, under contracts of insurance placed by Concord. The parties further acknowledge that Concord shall have no responsibility with respect to the adequacy, amount or form of coverage obtained through Concord.

#### 2. Commissions

Producer shall receive such compensation as agreed to by the parties on a case-by-case basis, as set forth in the premium quote, indication of interest letter or other writing issued by Concord (or the carrier for whom Concord serves as an underwriting consultant) for each such case.

### 3. Relationship Status

In submitting potential insurance placements to Concord (or to the carrier for whom it serves as an underwriting consultant), Producer is acting as agent for the applicant for insurance and is not acting as an agent, sub agent or broker for Concord or such carrier. Neither this Agreement nor the relationship of the parties creates any partnership, joint venture or employment relationship between Concord and Producer (or between any insurer and Producer). Producer is for all purposes an independent contractor.

### 4. No Authority

This Agreement does not authorize Producer, and Producer shall have no authority, to bind any insurer on behalf of Concord, commit to or issue binders, policies, or other written evidence of insurance, make, alter or vary any terms of coverage, waive or modify terms of payment of any premium or deposit or incur any liability for Concord or any insurer.

### 5. Errors and Omissions Coverage

Producer warrants and represents that it has and covenants that it shall maintain Errors and Omissions Insurance with a policy limit of no less than \$1,000,000 while this Agreement remains in effect and for four years following its termination. Producer will provide Concord with evidence of such Errors and Omissions Insurance (i.e., a copy of the policy and/or certificate of insurance). Producer will promptly notify Concord of any change, suspension, termination, or cancellation of its Errors and Omissions Insurance Policy(ies).

### 6. Premium Payments

With respect to risks for which Concord serves as a managing general underwriter, Producer guarantees the payment of premiums (net of commissions payable to Producer) to Concord of all on bound policies of insurance placed by Producer through Concord. Such premium payment (net of commissions payable to Producer) is due and shall be paid to Concord by Producer in accordance with payment terms established on a case by case basis by Concord with no right of offset or counterclaim against Concord.

Concord's billings may take the form of a conditional binder, confirmation of insurance, invoice, or statements of account. Producer shall be liable for and shall pay return commissions at the same rate as originally credited to Producer for all return premium adjustments or cancellations made at the option of Concord, the insured or otherwise. Producer assumes the credit risk of advancing premiums to Concord before collecting premiums from insured.

## 7. Compliance with Laws

The Producer warrants and agrees that: (i) Producer will comply with all applicable laws and regulations governing the conduct of the business contemplated by this Agreement; (ii) Producer is properly licensed to transact business as an agent or broker in accordance with the provisions of the insurance laws of any state in which Producer transacts business; and, (iii) Producer will promptly notify Concord of any suspension, cancellation, or disciplinary action in respect of the agent or broker license(s) of Producer. Producer will provide Concord documentation evidencing its agent or broker licenses as requested by Concord.

Producer shall not place an order with Concord (or any insurer pursuant to this Agreement) for any excess or surplus lines insurance unless Producer shall have first complied with any applicable state laws requiring Producer to attempt to procure such insurance from insurers authorized to do business in the state of residence of the proposed insured. Producer shall be responsible for the payment of surplus lines taxes and for full compliance with all 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.

## 8. Advertising

Without the express prior permission of Concord, Producer shall not refer to or use the name, logo, or service marks of Concord, its affiliates or, with respect to Transactional Risk Insurance, any insurer represented by Concord in any advertisement or in any marketing materials (whether printed, published or electronic).

## 9. Term of Agreement

This Agreement will remain in force until terminated. This Agreement will automatically terminate if Producer's license as an insurance broker/producer or surplus lines broker is suspended or terminated. This Agreement may be terminated by either party giving seven days written notice to the other.

After the date of termination of this Agreement, the Producer shall complete the collection and accounting to Concord for all the premiums, commissions and other transactions unaccounted for on the date of termination or arising thereafter in respect of outstanding insurance, including, but not limited to, return premium and return commissions. Following the termination of this Agreement, Producer shall, at the request of Concord, or any insurer whose policy is affected, give notice of cancellation or non renewal of a policy if and as required by applicable laws.

## 10. Mutual Indemnification

Each party agrees to defend, indemnify and hold the other party (and its affiliates and its and their directors, officers, employees and agents) harmless from and against, and promptly reimburse it for, any and all loss, expense, judgment, stipulation, penalty, damage, deficiency, liability and obligation, including, without limitation, settlement costs, cost of investigation, prosecution or defense, costs and attorney's fees, arising out of or in any way connected with the breach or misrepresentation by a party of any of its representations, warranties, covenants, or agreements contained in this Agreement.

## 11. General Provisions

11.1 Notice. Any notices to be given hereunder by either party to the other must be in writing and by personal delivery or by fax or by mail, registered or certified, postage prepaid with return receipt requested.

11.2 Governing Law. This Agreement shall be governed by the laws of the State of New York and venue shall lie in New York City, N.Y.

11.3 No Assignment by Producer. This Agreement for services by Producer is personal; it cannot 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 Concord to any successor or affiliate.

11.4 Amendment. This Agreement may only be amended by the written consent of the parties.

11.5 Waiver. The terms hereof may be waived only by a written instrument signed by the party waiving compliance. No delay on the part of any party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof. No waiver on the part of any party hereto of any right, power or privilege hereunder, or any single or partial exercise of any such right, power or privilege, shall preclude any further exercise thereof or the exercise of any such right, power or privilege.

11.6 Conformance to Law. If any provision of this Agreement is in conflict with applicable law, such provision will be considered amended to the minimum extent necessary to comply with the law. The remaining provisions will not be affected.

11.7 Privacy of Information. In carrying out its duties and responsibilities under this Agreement, Producer shall comply with the privacy provisions of all applicable federal and state laws and regulations. This Section shall survive the termination of the Agreement.

11.8 Effective Date. This Agreement is effective as of April 1, 2008.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first written above.

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

By: \_\_\_\_\_  
Print Name/Title:

CONCORD SPECIALTY RISK, INC.

By: \_\_\_\_\_  
Print Name/Title: