

## BROKER'S AGREEMENT

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, by and between Transportation Risk Services, L.L.C., (its affiliates, successors, and assignees) (hereinafter "Transportation Risk Services, L.L.C.") and \_\_\_\_\_ (hereinafter "Broker").

### A. RECITALS

1. The Broker has requested that the underwriting facilities of Transportation Risk Services, L.L.C., be made available to the Broker and has agreed to comply with the underwriting and marketing practices of Transportation Risk Services, L.L.C.
2. Transportation Risk Services, L.L.C., is willing to exercise its best efforts to place such risks with insurance companies it represents in states where both the Broker and the insurance company are licensed and covering risks the company is authorized to insure.
3. This agreement is subject to any restrictions imposed by the laws of such states and subject also to the terms, conditions and limitations of this Brokers Agreement and any addenda thereto.

### B. AGREEMENTS

The parties agree as follows:

1. Placement of Risks
  - a. The Broker is authorized to solicit, receive and transmit to Transportation Risk Services, L.L.C., applications and proposals for the issuance of those classes and kinds of policies for which Transportation Risk Services, L.L.C., is authorized by its insurance carriers.
  - b. The Broker agrees at all times to provide Transportations Risk Services, L.L.C., with true and accurate information regarding each risk, including full disclosure of any material facts that might adversely affect a risk, to the best of the Broker's knowledge.
  - c. The Broker agrees to comply with any underwriting and marketing practices and/or guidelines of Transportation Risk Services, L.L.C.
  - d. Transportation Risk Services, L.L.C., agrees to exercise its best efforts to place, with one or more insurers that it represents, such risks as it is requested to place by the Broker.
  - e. Transportation Risk Services, L.L.C., retains sole and absolute discretion to determine which insurers the risk should be placed with and whether it desires to place such risk.

- f. The Broker agrees and understands that the placement of risks and coverage provided is based solely on the information indicated on any and all applications submitted by the Broker to Transportation Risk Services, L.L.C.
- g. The Broker agrees to properly inform the insured and/or applicant of the terms, conditions, and exclusions of the policy or policies obtained through Transportation Risk Services, L.L.C.
- h. The Broker agrees to comply with relevant laws and regulations.
- i. The Broker agrees to provide Transportation Risk Services, L.L.C., with a copy of his license and his FEIN at the time this document is executed. The execution of this document without receipt of those documents shall not constitute a waiver of the requirement that these documents be provided.

2. Capacity of Broker

- a. The Broker is not the agent of and has no authority to bind Transportation Risk Services, L.L.C., or any of its principals.
- b. The Broker agrees not to hold himself out as the agent of Transportation Risk Services, L.L.C., or hold himself out to have any powers with respect to the obligations of Transportation Risk Services, L.L.C., not expressly stated in writing and approved by Transportation Risk Services, L.L.C.
- c. The Broker shall not use the name of Transportation Risk Services, L.L.C., or any of the insurers it represents, in any advertisement, publication, circular, etc., without obtaining the advance written consent of Transportation Risk Services, L.L.C.
- d. The Broker shall not have authority to bind any coverage on new or renewal business or claims thereunder.
- e. It is understood and agreed that this Agreement shall not be construed to create the relationship of employer and employee between Transportation Risk Services, L.L.C., and the Broker, and it is also understood and agreed that the Broker is an independent contractor.
- f. The Broker agrees he does not have the power to waive or modify any term, provision, condition, exclusion, or any other part of any policy issued through Transportation Risk Services, L.L.C.
- g. The Broker shall have no powers, express or implied, except those expressly stated in this Agreement or in writing and approved by Transportation Risk Services, L.L.C.

- h. It is further understood that coverage is not in force without written confirmation from Transportation Risk Services, L.L.C.
- i. The Broker is an independent contractor who will exercise his own judgment in the conduct of his business.
- j. This Broker's Agreement is not a contract for employment and nothing herein shall be construed to create the relationship of employment.
- k. Transportation Risk Services, L.L.C., shall not be responsible for expenses incurred by the Broker, such as rents, telephone, fees, or for any other expense whatsoever.
- l. The Broker shall pay all expenses whatsoever that he incurs in carrying out this Agreement.
- m. The Broker shall immediately report to the appropriate insurance carrier of any claims or losses of which the Broker becomes aware which may involve a policy issued hereunder and promptly after submitting the claim to the insurance carrier, advise Transportation Risk Services, LLC of the fact that a claim has been made.

### 3. Broker's Warranty

- a. Broker warrants that he is properly licensed for the classes of business and coverages of insurance to be placed by him through the facilities of Transportation Risk Services, L.L.C.
- b. Broker agrees to purchase and maintain in force as long as this Agreement is in effect an Insurance Agent's Errors and Omissions Policy with a minimum of a \$1,000,000 (one million dollar) limit and to provide Transportation Risk Services, L.L.C., with a copy of the declarations page of said policy. The cost of said policy is to be borne by the Broker.
- c. In the event that the Broker is a partnership or limited partnership, it is agreed and guaranteed by the undersigned individual, who is a partner or, in the case of a limited partnership, a general partner, that all conditions of the Agreement shall be binding upon all partners severally and jointly in the same manner as upon the Broker partnership.
- d. In the event that the Broker is a corporation, the undersigned agrees that he is an authorized representative of the corporation and he is signing both in his representational capacity duly authorized by the corporation and in his individual capacity in which he personally guarantees payment to Transportation Risk Services, L.L.C., of all premiums.

#### 4. Payment of Premium

- a. Broker agrees to pay Transportation Risk Services, L.L.C., required deposit premium within ten calendar days of inception date.
- b. The balance of all net premiums is due within thirty (30) days of the inception date, except for specifically negotiate risks that may require special deposit or credit terms and short-term fully earned premiums paid in advance.
- c. Broker specifically agrees that he will not furnish any binder of coverage until he has received payment in full of the premium therefore from his client, that any extension of credit by him to his client or to any other person is solely at his own risk, and he shall pay Transportation Risk Services, L.L.C., all premiums due Transportation Risk Services, L.L.C., when due, whether he has collected such premium or not.
- d. Broker agrees to collect from his client and pay to Transportation Risk Services, L.L.C., all additional premiums due as a result of audits or policy endorsements.
- e. Where there is additional premium as a result of an audit and company has agreed to accept for direct collection, Broker will not be responsible for collection of such premium.
- f. Furthermore, Broker recognizes that in agreeing to pay Transportation Risk Services, L.L.C., he does so as an original undertaking in his own part, and not as guarantor or surety of another's obligation.
- g. If any policy issued through Transportation Risk Services, L.L.C., is premium financed, Transportation Risk Services, L.L.C., will be listed as agent for company on premium financing agreement. Broker warrants that he acts with full authority of insured in financing such premium.

#### 5. Premium Held in Trust

All premiums received by Broker shall be held in trust by Broker as Trustee, until delivered to Transportation Risk Services, L.L.C., and the privilege of retaining commission out of such premiums, the keeping of an account with Broker or the books of Transportation Risk Services, L.L.C., as a creditor and debtor account, any alteration in compensation rates, any failure to enforce prompt remittance, or any compromise, settlement or declaration of balance due, shall not change nor be held to waive assertion of trust relationship.

#### 6. Books and Records

Transportation Risk Services, L.L.C., shall, at all reasonable times, have access to the Broker's accounting books and records with respect to the business placed hereunder.

7. Cancellation

This Agreement may be cancelled upon 30 days written notice by either party.

8. Notices

All notices to the parties pursuant to this Agreement shall be in writing and shall be deemed effective when given by personal delivery or by regular mail addressed to the party at his last known address.

9. Dispute Resolution

- a. The parties shall negotiate in good faith to resolve any controversy, dispute or disagreement arising out of or relating to this Broker's Agreement or the breach of this Broker's Agreement. Any dispute, controversy or claim (including, without limitation, tort claims, requests for provisional remedies or other interim relief, and issues as to arbitrability of any matter) arising out of this Broker's Agreement, or the breach thereof, that cannot be settled through negotiation shall be settled (a) first, by the parties trying in good faith to settle the dispute by mediation under the Commercial Mediation Rules of the American Arbitration Association ("AAA") (such mediation session to be held in Chicago, Illinois, and to commence within 15 days of the appointment of the mediator by the AAA), and (b) if the controversy, claim or dispute cannot be settled by mediation, then by arbitration administered by the AAA under its Commercial Arbitration Rules (such arbitration to be held in Chicago, Illinois before a single arbitrator and to commence within 15 days of the appointment of the arbitrator by the AAA), and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.
- b. In the event suit is brought to enforce or interpret any part of this Agreement, the prevailing party shall be entitled to recover as an element of his costs of suit, all reasonable attorney's fees to be fixed by the court.

10. Assignment and Succession

This agreement shall not inure to the benefit of any successor in interest of the Broker, nor may any interest under this Agreement be assigned by the Broker, without the prior written consent of Transportation Risk Services, L.L.C.

11. Ownership of Expirations

- a. The use and control of expirations, including those on any direct-bill business and the Broker's record, thereof, shall remain in the undisputed possession and ownership of the Broker.

## 12. Indemnification

- a. Broker agrees to be solely and exclusively responsible for any and all claims, demands, actions or causes of action against it arising out of or relating to any actual or alleged error or omission on his part.
- b. Broker shall indemnify and hold Transportation Risk Services, L.L.C., harmless with respect to any and all claims, demands, actions or causes of action against Transportation Risk Services, L.L.C., arising out of or relating to any actual or alleged error or omission on the part of the Broker.
- c. Broker agrees to promptly notify Transportation Risk Services, L.L.C., and Transportation Risk Services, L.L.C., agrees to promptly notify the Broker of any claim, demand, action or cause of action in which either party or any of the underwriting companies of Transportation Risk Services, L.L.C., is named.
- d. Broker agrees that in the event Broker or any of Broker's agents, sub-agents, or affiliate companies or representatives are named in litigation arising out of related to the performance on Broker's part of the terms and provisions of this Agreement, neither Transportation Risk Services, L.L.C., or any of its underwriting companies shall be obligated to defend, indemnify or hold Broker harmless from any and all such claims.
- e. Nothing herein shall preclude Transportation Risk Services, L.L.C., at its option from undertaking Broker's defense though any such undertaking on the part of Transportation Risk Services, L.L.C., shall be deemed as accommodation and not a contractual obligation.
- f. The Broker shall cooperate fully with Transportation Risk Services, L.L.C., with respect to any actual or potential claims, demands, suits, actions, or causes of action against Transportation Risk Services, L.L.C.

## 13. General Provisions

- a. This Agreement shall be construed under the laws of the State of Illinois.
- b. This Agreement represents the entire agreement between the parties and supersedes all previous agreements or understandings, whether oral or written.
- c. If any provision of this Agreement is held to be unenforceable in whole or in part, the remainder of that provision and of the Agreement will be severable and will be enforced.
- d. The waiver by one party of any breach of this Agreement by the other party shall not be deemed a waiver of any subsequent or other breach.

BY: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Type or Print Broker's Name

\_\_\_\_\_  
Broker's Title

Broker's FEIN: \_\_\_\_\_

\_\_\_\_\_  
Agency Name

DATED: \_\_\_\_\_

\_\_\_\_\_  
Signature

Transportation Risk Services LLC  
\_\_\_\_\_  
Type or Print Name

President & CEO  
\_\_\_\_\_  
Title

DATED: \_\_\_\_\_