

McSweeney Agency, LLC

Underwriting Managers & Brokers
131-A Gaither Drive
Mt. Laurel, NJ 08054
(856)722-5255

PRODUCER AGREEMENT

This AGREEMENT is made and entered into in Mt. Laurel, New Jersey this ___ day of _____, 20___, by and between McSweeney Agency (“Wholesaler”), it’s successors and assigns and _____, a _____ (“Producer”).
(type of entity & state of incorporation or county registered)

WITNESS

WHEREAS, Wholesaler and all its various subsidiaries represents insurance companies and other similar entities in the placement and writing of insurance and reinsurance generally; and

WHEREAS, Producer requires the services of wholesaler to place insurance for its clients commonly referred to as “Insureds”; and

WHEREAS, Wholesaler and Producer desire to enter into an Agreement, which includes a commission arrangement, and independent control by Producer of the insurance business placed through Wholesaler and an understanding of the rights and obligations of each;

NOW, THEREFORE, in consideration of these mutual agreements, the sufficiency of which is acknowledged, it is agreed as follows:

Section I. SCOPE OF AGREEMENT

This agreement governs the relationship between Wholesaler and Producer and is binding upon the parties and their respective heirs, successors and assigns. It is further understood that this agreement replaces any prior agreement between parties, constitutes the entire agreement of the parties, and may not be changed or modified unless in writing, signed by both parties.

SECTION II. PRODUCER’S STATUS AND DUTIES

- A. It is understood that the Producer is an independent agent and not an agent of the Wholesaler. Producer has no authority to bind the Wholesaler or any insurance company or underwriter represented by the Wholesaler.
- B. Producer shall maintain ownership of all business subject to this Agreement. Producer agrees to keep complete records and accounts of all transactions and will allow the Wholesaler to inspect and audit all such records and accounts.
- C. Producer acknowledges its duty to fully inform all clients of the terms, conditions, exclusions and limitations of any insurance placed through the Wholesaler. Producer further acknowledges its responsibility to request proper coverage for its clients, review all quotes, policies and binders for accuracy and keep the Producer’s clients fully informed.

SECTION III. PLACEMENT OF ORDERS

Producer shall follow all applicable state statues prior to placing any order for insurance or excess surplus lines insurance with the Wholesaler. Coverage may only be bound in writing; oral telephone communication is insufficient. Facsimile and electronic communications are acceptable if signed documents are forwarded to Wholesaler, as required within time frames requested and required. Receipt of cash with or without application for a policy will not constitute automatic binding of coverage for said policy.

SECTION IV. LICENSING

Producer warrants that it is properly licensed to sell insurance in its state of domicile and all other states in which Producer sells insurance, and agrees to act in compliance with all laws and regulations regarding placement of insurance with admitted and /or non-admitted insurance companies in each such state.

SECTION V. PREMIUM PAYMENT

Producer guarantees payment to the Wholesaler of all premiums, earned premiums, including fees and taxes, billed to producer, on or before the invoice date specified for all policies placed by the Producer, notwithstanding the ability of the producer to collect premiums from the insured and without regard to any financing agreement. If Producer does not pay the Wholesaler within time specified, Wholesaler is authorized to cancel any certificate or policies for which the wholesaler had not been paid and the Producer agrees to pay the earned premiums on such canceled documents.

SECTION VI. CANCELLATION

There shall be no flat cancellation of any insurance coverage bound and/or written at the request of the Producer under any circumstances, except as prescribed by state law. All coverage effected by the Wholesaler at the request of the Producer are submitted with the understanding that they are not subject to flat cancellation and will be canceled in accordance with the policy issued and the insurance carrier's procedures. In consideration of the commissions allowed to the Producer on all premiums, the Producer agrees to refund commissions on all returned premiums at the same rate at which such commission was originally paid.

SECTION VII. ACCOUNTING

Producer will pay in accordance with the terms provided by the Wholesaler on invoices provided to the Producer. The payment must be mailed in time to reach our Mt. Laurel, NJ office no later than the date indicated on each invoice or statement. When a discrepancy exists in accounting between Producer and Wholesaler, it shall be the Producers responsibility to notify the Wholesaler, in writing, within ten (10) days from receipt of the invoice, or within fifteen (15) days of the month end of the policy(ies) effective date, whichever shall occur earlier, of the amounts in variance with the Wholesaler's records. If no written notice is received by the Wholesaler within this period of time, the Wholesale's accounts will stand as correct and agreed to by Producer.

SECTION VIII. CLAIMS AND REPORTS OF LOSSES

Producer agrees to report, immediately upon receipt, any claim, loss or possible loss or possible claim, or loss it has knowledge of, in writing, to Wholesaler and to immediately report, in writing, any fact, occurrence, or incident that may result in a loss or claim, under any policy of insurance placed through the Wholesaler. Producer does not have the authority to adjust, handle investigate or provide coverage opinions regarding any claim, loss or occurrence.

SECTION IX. ADVERTISING

Producer may not, without express written consent of the Wholesaler, issue, print or circulate any letter pamphlet, advertisement, publication or statement, oral or written, referring in any way to the Wholesaler or representing any relationship of any kind between Producer, Wholesaler or any market represented by the Wholesaler. Producer specifically agrees to indemnify the Wholesaler for any loss, legal fees or other expense it may sustain from any unauthorized advertisement, publication or statement by the Producer.

SECTION X. INDEMNIFICATION

Producer shall indemnify and hold harmless Wholesaler from and against any and all claims, suits, actions, judgments, loss or expense, including legal fees which the Wholesaler may incur, directly or indirectly, as a result of any act, error or omission, or breach of this agreement, including any failure of the Producer and its agents, servants or employees to act.

If Producer is a corporation or limited liability company, its principals, by accepting and executing this agreement, personally guarantee the obligations, if any, that the Producer assumes under this Agreement.

SECTION XI. ERRORS AND OMISSIONS INSURANCE

Producer agrees to maintain, at all times this agreement is in effect, errors and omissions coverage for itself and its agents, solicitors, servants and employees in an amount not less than **\$1,000,000**. A copy of the policy declarations page or confirmation of coverage will be submitted annually to the Wholesaler. This agreement will terminate automatically in the event the Producer fails to provide the requested and required confirmation of coverage.

SECTION XII TERMINATION

This agreement may be terminated at any time, by either party, upon written notice mailed to the last known address of the other party. Termination of this agreement will not affect the provisions of sections 4,5,6,7,8,9,10,11 and 13 with regard to any policy of insurance placed through the Wholesaler during the term of this Agreement or any prior or subsequent agreement between the parties.

SECTION XIII. GOVERNING LAW

This Agreement shall be subject to and governed by the laws in the State of New Jersey. Venue for any suit by or against Producer and/or Wholesaler shall be proper only in the Burlington County, New Jersey Circuit Court or United States District Court for the District of New Jersey.

Severability - If any clause or provision hereof 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 of any other clause or provision, which shall remain in full force and effect. This Agreement shall be governed by the laws of the State of New Jersey. Each of the provisions of this Agreement shall be enforceable independently of any other provision of this Agreement and independent of any other claim or cause of action. In the event of any dispute arising under this Agreement, it is agreed between the parties that the laws of the State of New Jersey will govern the interpretation, validity and effect of this Agreement without regard to the place of execution or the place of performance thereof.

Executed on the ____ day of _____, 20 ____.

WITNESSED BY:

(sign)

(print name)

WITNESSED BY:

(sign)

(print name)

PRODUCER:

Agency Name: _____

By: _____

Title: _____

MCSWEENEY AGENCY & ITS SUCCESSORS

By: _____

Title: _____