

PRODUCER-COMPANY AGREEMENT

Producer's Name:

Producer's Address:

This Producer-Company Agreement ("Agreement") is made and entered into by and between the Producer shown above ("Producer"), and Berkley Small Business Solutions on behalf of the company(ies) listed in Schedule A to this Agreement (each individually and collectively, the "Company"). This Agreement is effective as of the most recent Date Signed shown on the Signature Page ("Effective Date").

For the limited purpose of this Agreement and related schedules, exhibits and addenda hereto, each Company listed in Schedule A to this Agreement is a party to this Agreement only with respect to policies underwritten by Berkley Small Business Solutions on such Company's behalf.* Any liability of each Company listed in Schedule A to this Agreement is several and not joint, and this Agreement is respectively made with each such Company.

When used in this Agreement, the term "Producer" means the above-identified Producer and all officers, directors, managers, employees, and agents/brokers of Producer that are authorized, subject to the terms of this Agreement and applicable law, to solicit and procure insurance on behalf of Company.

In consideration of this Agreement's mutual covenants and agreements, Company and Producer agree to the following terms:

I. Authority and Responsibilities

- A.** Producer is authorized to solicit, receive, bind, execute, and transmit proposals to Company for insurance contracts and/or bonds, including endorsements and renewals ("collectively, policies") for which Company is duly licensed. Producer may only bind policies on behalf of Company to the extent that Company has provided express written authority for Producer to do so through a separately executed written agreement.
- B.** Producer is not authorized to, and shall not, collect, receive, and provide receipts for premiums, fees, and other moneys (collectively, "premiums"), unless Company has provided express written authority for Producer to do so through a separately executed written agreement.
- C.** Company reserves the right to reject, cancel or non-renew (subject to applicable laws and regulations) at any time, for any reason, any policies placed by Producer with Company. Company is not obligated to accept submissions for, or write, or continue to write any policy that no longer meets its underwriting guidelines.
- D.** Producer has no authority to admit liability on the part of Company in any manner or make any payments on behalf of Company, or to perform loss control services, inspection, or claims adjusting activities on behalf of Company unless Company has provided express written authority for Producer to do so through a separately executed written agreement.
- E.** Producer is responsible for obtaining and maintaining a valid license in each state for which policy applications will be submitted. Producer shall furnish proof of a valid license and Errors and Omissions coverage (as required in Section I.F. below) annually. Producer will keep Company informed of any Producer name, address or phone number change and any licensing or authority changes in personnel who are required to hold an insurance producer's license, or any termination of employment or disaffiliation of such personnel by or from Producer, as soon as practicable, but in any event no later than fifteen (15) business days.
- F.** Producer shall maintain, at all times during the term of this Agreement and during any applicable post-termination period, Errors and Omissions insurance with reasonable policy limits, but in no event shall such limits be less than \$5,000,000 (both per occurrence and in the aggregate) unless specifically approved by Company in writing, with an insurer rated A minus or better by AM Best Company.
- G.** The authority granted and responsibilities imposed under this Agreement are subject to all applicable legal requirements, including but not limited to federal and state laws, rules and regulations, and all applicable underwriting guidelines of Company in effect and provided to Producer. Producer shall at all times comply with all applicable legal requirements in connection with its provision of services under this Agreement.
- H.** Producer agrees to forward to Company written copies of any applications and policy binders within five (5) business days after execution or issuance, or sooner if required by Company guidelines. Producer will, as soon as commercially practicable, report all claims and turn over all legal process to Company's authorized representative. Producer shall voluntarily and reasonably assist Company in the investigation of all claims or fraudulent acts.

* Party status is further Conditioned upon, and applies only to the extent of, each respective company being duly licensed in the applicable jurisdiction and completion of regulatory filings.

- I. Unless mutually agreed otherwise by Company and Producer in a separate written agreement, Company will be solely responsible for: (a) issuing policy cancellations, renewals and non-renewals; (b) amending policy quotes and premium payment schedules; (c) extending premium due dates; and (d) direct billing, premium collection, and responding to inquiries related thereto.
- J. Producer shall be solely responsible for issuing and maintaining certificates of insurance and shall not forward copies of any certificate of insurance to Company unless requested. All certificates of insurance must be issued on forms specified or agreed to by Company. No certificate of insurance may extend or amend the policy. Producer shall not make any untrue or misleading representation or other statement, written or oral, to Company or any third party (including, but not limited to, any prospective insured) with respect to any policy or proposal related to any policy.
- K. Upon reasonable advance written notice, Company shall have the right to inspect records pertaining to affairs of Company's business at the location(s) of Producer during normal business hours.
- L. Producer shall act under this Agreement as an independent contractor. Nothing contained in this Agreement shall be construed as creating an employer/employee relationship or joint venture between Producer and Company. Producer exercises exclusive and independent control of Producer. This Agreement is non-exclusive both as to Producer and to Company.

II. Commissions

- A. Company agrees to pay Producer a commission on all policies produced by Producer and accepted by Company. Commissions shall be paid by Company to Producer at the rates set forth in the Commission Schedule in effect at the time the policy is bound. These commissions will serve as full compensation payable by Company for all services rendered by Producer to Company under this Agreement.
- B. The amount of commission payable by Company to Producer may be changed by Company. Company will give at least 30 calendar days written notice (unless more notice is required by applicable state law) of any decrease of these rates. Nothing contained in this Agreement shall prohibit the negotiation of special commission rates on individual policies by mutual written agreement between the parties to this Agreement, as permitted by applicable law.
- C. Whenever Company refunds premiums on policies for any reason or is unable to collect premiums, Producer shall refund the corresponding commission to Company at the same rate of commission as was paid on such policies, regardless of whether the refund or failure to collect occurs during or after the termination of this Agreement. Producer will refund any unearned commission on canceled policies and on reductions in premiums, including audit premiums, at the same rate at which the commissions were originally paid.
- D. Commissions on premiums shall be paid to Producer no later than 45 calendar days after the end of the month in which the policy is both processed by Company and coverage is effective. Such commissions will be offset by Company for any return commissions due from Producer. Company may, at any time, apply any commissions or other amounts it may owe Producer as an offset against any amounts due to Company by Producer.
- E. Upon termination of this Agreement, Producer shall be entitled to commission at the current rate for such period as may be required by law on those policies which must be continued. However, except to the extent prohibited by law, Producer will not be entitled to commissions on any Company policies or renewals issued after termination of this Agreement by Company for cause.

III. Billing

- A. Producer is responsible for the submission of completed applications and policy binders to Company in accordance with Section I. of the Agreement.
- B. Following cancellation or expiration of a policy, any unpaid premiums will be re-billed a minimum of one time. Producer waives the right to payment of commissions for such premiums not collected after the due date of the first re-billing.
- C. Producer and Company agree to comply with the following accounting procedures:
 - 1. Company will pay Producer the commission generated by applying the commission percentage as referenced in the Company provided, and hereby incorporated Company Commission Schedule. In the event of subsequent cancellation of a policy, the prorated portion of applicable commission will be deducted from future commission payments.
 - 2. Except where otherwise agreed by Company, if premium is inadvertently paid directly to or received by Producer then, upon Producer's recognition that such payment was made or received in error, Producer shall promptly return such premium payment, without reduction for commissions, and direct the paying party to remit payment directly to Company. All funds collected or held by Producer on behalf of Company will be held by Producer in a fiduciary trust capacity until returned or remitted to Company.
 - 3. Company will bill all renewal or adjustment premiums direct to the insured or to the insured's designee (other than Producer), including a designated lending institution holding premiums in escrow or reserve (if applicable).
 - 4. Company will clearly identify Producer by name when transmitting policies, endorsements, premiums and billing statements/notices.
 - 5. Producer agrees to pay any return commissions due Company within 60 calendar days from the close of the accounting month if the activity on Producer's account has been so minimal, during that period, that Company could not deduct these commissions from other commissions due Producer.

IV. Ownership of Expirations

- A. Except as otherwise allowed or required under this Agreement and applicable law, the use and control of expirations, as understood to mean any nonpublic individually identifiable customer information provided by Producer to Company and including expiration dates of policies covering such customers, shall be Producer's property.
- B. Company recognizes the independent ownership by Producer of the insurance business subject to this Agreement; however, in the event the Company cancels this Agreement by reason of a material regulatory violation by Producer, before or after termination, or Producer fails to pay money due to Company within 45 calendar days from termination of this Agreement, the use and control of expirations, and all right, title, and interest in and to those records thereof, shall be vested in Company to the extent necessary to set off any resulting financial detriment to Company.
- C. Company may, at its discretion, sell at private or public sale expirations and records in which it has become vested as a result of this Agreement. If sufficient money is not realized from this sale to fully discharge Producer's indebtedness to Company, Producer shall remain liable for the balance of the money owed to Company. Any amount realized by Company in excess of Producer's indebtedness, after the deduction of the expenses of the sale, shall be returned to Producer within 15 business days of the receipt of the proceeds of the sale.
- D. Nothing in this Section shall interfere with Company's obligation to renew policies in accordance with policy provisions or state regulations. Producer shall be entitled to receive commissions on such policies at the rate of commission indicated on the Commission Schedule then in effect, unless Company is furnished with a written designation of another Producer signed by the insured.

V. Indemnification

- A. Company shall defend, indemnify, and hold Producer harmless against claims or civil liability, including the reasonable cost of defense and settlements, imposed on Producer by law for damages caused by acts or omissions of Company, or breach of this Agreement by Company, provided Producer has not caused or contributed to such claim or liability by its own acts or omissions. Producer agrees to notify Company as soon as commercially practicable of any claim or suit which may potentially involve Company, and to allow Company to make such investigation, settlement or defense thereof as Company deems prudent, with counsel satisfactory to Company. If Company assumes the defense of such claim or suit, Company shall not be liable to Producer for any legal or other expenses subsequently incurred by Producer in connection with such claim or suit.
- B. Producer shall defend, indemnify, and hold Company harmless against claims or civil liability, including the reasonable cost of defense and settlements, imposed on Company by law for damages caused by acts or omissions of Producer, or breach of this Agreement by Company, provided Company has not caused or contributed to such liability by its own acts or omissions. Company agrees to notify Producer as soon as commercially practicable of any claim or suit which may potentially involve Producer, and to allow Producer to make such investigation, settlement or defense thereof as Company deems prudent, with counsel satisfactory to Producer. If Producer assumes the defense of such claim or suit, Producer shall not be liable to Company for any legal or other expenses subsequently incurred by Company in connection with such claim or suit.
- C. Company is not responsible for any acts or obligations incurred by Producer, other than those contained within or provided for by this Agreement.
- D. This Section is in addition to any other remedies the parties may have under applicable law.

VI. Sale of Producer

- A. Producer agrees to give at least 90 calendar days advance written notice of any substantial sale, change in ownership, dissolution, windup, transfer, merger or consolidation of Producer's business. In the event of any of the foregoing changes in ownership or structure of Producer, Company may at its sole discretion:
 - 1. Approve the assignment of this Agreement to the successor; or
 - 2. Execute a new Agreement with the successor; or
 - 3. Terminate this Agreement pursuant to Section VII. of this Agreement.
- B. If Company approves the assignment of this Agreement or executes a new Agreement with the successor, there shall be no interruption in service to policyholders upon the sale or transfer of Producer's business.

VII. Termination of Agreement

- A. If either party is delinquent in payment of monies due the other, the party to whom monies are owed shall provide the other with a cure period of 30 calendar days and, if such delinquency is not cured during that time period, the party to whom monies are owed may immediately suspend this Agreement.
- B. Subject to applicable law, this Agreement shall terminate:

1. Automatically, if any public authority cancels or declines to renew either party's license or certificate of authority; or
 2. Immediately upon notice by Company to Producer of Company's decision to not approve an assignment of this Agreement pursuant to Section VI.; or
 3. Immediately upon notice by either party to the other party in the event of nonpayment of monies due to the noticing party, provided that the nonpayment has not been fully cured within the period provided under Section VII.A. above; or
 4. Upon either party giving 10 calendar days written notice to the other in the event of abandonment, fraud, insolvency or gross and willful misconduct on the part of the other party; or
 5. Upon 10 calendar days written notice to Producer if Company determines, in its sole discretion, that Producer has engaged in conduct or activity of a criminal or dishonest nature, or in conduct or activity that may cause embarrassment to, or result in public condemnation of, Company's business or reputation; or
 6. Upon either party giving at least 90 calendar days (unless otherwise required by state law) written notice in advance of the desire to terminate this Agreement to the other without cause; or
 7. At any time by mutual agreement of Producer and Company.
- C. In the event of the termination of this Agreement:
1. Producer shall cease and desist from any activities intended to secure further insurance coverage under this Agreement, but shall continue to perform all duties contemplated under this Agreement necessary for the proper servicing of all the insurance policies in effect prior to termination of this Agreement until all such duties on the part of Producer shall have been fully satisfied.
 2. If the disposal of records and expirations vested to Company does not realize sufficient money to discharge in full Producer's debt to Company, Producer shall remain liable for the balance of such indebtedness. Fees and any other expenses incurred in the collection of premiums for these policies shall be added to the debt. Any amount realized in excess of the debt, less the expenses of disposing of such records and expirations, shall be returned to Producer. Company may retain all commissions, or any other funds, which are or may become payable to Producer, and apply them against Producer's indebtedness to Company.
 3. Company will notify policyholders of Company's intent not to renew policies written through Producer. This notice shall be forwarded directly to the policyholder at least 30 calendar days (or as otherwise required under applicable state law) prior to renewal or such other time as required by law. The notice to the policyholder shall make no reference to the reasons for the termination of the Agreement. Producer will concurrently be sent a copy of the notice sent to each policyholder.
 4. Where law or regulation prevents Company from non-renewing Producer's policies as a result of the termination of this Agreement, Company will renew said policies through Producer for such period of time as may be required by law, subject to the other provisions of this Agreement.
 5. Producer will not be entitled to commissions on policies that must be renewed after termination, except as may be required by law and then only for as long as required by law.
 6. Producer's binding authority for new policies is rescinded.
 7. All powers of attorney, policies, company seals, and other supplies, manuals, guidelines, other documents, data, information and forms provided to Producer by Company remain the property of Company and shall be immediately returned to Company on demand.
- D. If Producer is delinquent, in either accounting or payment of monies due to Company, or is otherwise in breach of a provision in this Agreement, Company may, by written notice to Producer, immediately suspend or terminate Producer's authority to: submit, issue, or bind any new or renewal policies, or to change any existing policy. This provision shall not apply to routine differences in accounting records of Producer and Company which are minor in amount and do not involve monies willfully withheld by Producer.

VIII. Privacy and Data Security

- A. Producer agrees that all customer information and Company information disclosed by Company to Producer (collectively, "Confidential Information") shall remain confidential and shall not be disclosed by Producer to any individual, corporation, other business organization or governmental entity or authority, unless required by law, or in conformity with Company's Privacy Notice (available at <https://www.berkley.com/privacy>), which may be revised from time to time, or pursuant to the written approval of the Company.. The Agent agrees to protect Confidential Information with the same degree of care as it uses to protect its own confidential information, but in no event shall it use less than a commercially reasonable degree of care to protect Confidential Information.
- B. Producer agrees that Confidential Information is proprietary to, and a trade secret of, Company and that such Confidential Information shall be used only for the purpose of providing the services described under this Agreement. All such Confidential Information, including but not limited to Company documents, records, files, tapes, discs, manuals or other materials of any kind or description whatsoever supplied by Company, whether or not used by Producer, shall be considered to be the property of Company. Upon the expiration or termination of this

Agreement all such materials, whether originals or copies, shall be returned to Company or completely destroyed with certification thereof provided to Producer.

- C. Producer further agrees to implement and maintain appropriate policies and procedures to ensure that the security, confidentiality and integrity of any customer or other individual personal information that Company discloses or otherwise permits access to Producer is maintained in accordance with: (a) all applicable federal and state law, including but not limited to the Violent Crime Control and Law Enforcement Act of 1994, Title V of the Gramm Leach Bliley Act, the New York Cybersecurity Rule (23 NYCRR 500); (b) all applicable state regulations; (c) Company policies regarding privacy or data security of Company's customer information; and (d) the Data Processing Addendum attached to this Agreement as Exhibit A.
- D. The obligations contained in this Section VIII. shall extend to Producer's employees, agents, subcontractors, or other persons acting on the behalf of or who may have access to Confidential Information, and Producer shall inform said persons of their obligation to maintain the confidentiality of such Confidential Information.

IX. Electronic Interfacing, Licensing, and Data Access

- A. Company and producer may separately agree in writing to engage in electronic interfacing for the purpose of conducting any business contemplated by this agreement. However, nothing in this agreement shall be construed as requiring either party to consent or agree to electronically interface. For purposes of this Agreement, "electronic interfacing" and "electronically interface" mean the electronic connection of any of Producer's information processing systems, websites or portals with Company's information processing systems, websites or portals for purposes of electronic information or data exchange, transmission or processing by or between Company and Producer. Electronic interfacing also includes any access or exchange of data and information through cloud computing or similar technology.
- B. Company hereby grants to Producer, and Producer hereby accepts from Company, a non-exclusive, non-transferable, limited license to use such software programs and related documentation or information as Company may provide to Producer from time to time in connection with this Agreement. Producer agrees to use such software, documentation and other information only for its intended purposes and only in accordance with the terms and conditions specified in this Agreement, and in accordance with such instructions, guidelines or other directives as Company may issue to Producer from time to time. Any software provided to Producer will not be copied except as may be necessary for archival or multiple work station purposes. Producer agrees not to sell, transfer or otherwise grant any rights to others, in whole or in part, in or to the software programs, related documentation or other information, or the license hereby granted.
- C. Producer will have non-exclusive access to that portion of Company's data and information pertaining to policies written by Producer. Company shall provide Producer with such access codes, passwords or other methods of identification as Company may, from time to time, deem necessary for Producer to gain access to Company's data and information. Producer agrees that Producer will use access to Company's data and information only in accordance with the terms and conditions set forth in this Agreement and pursuant to the instructions, guidelines or other directives which may be issued by Company from time to time, including but not limited to any applicable Terms of Use, Privacy and Data Security Policies. Producer shall not access, or grant access to, use, or allow use, of Company's data and information, directly or indirectly, by any persons other than those of Producer's employees who have been designated by Producer, or for any purposes other than the exchange of information and processing of data related to policies written by Producer with Company. Producer agrees to undertake reasonable measures to protect the confidentiality of access codes, passwords or other methods of identification necessary for accessing Company's data and that such measures shall be equal to or greater than the measures taken to protect Producer's own confidential information.
- D. Both Company and Producer acknowledge and agree that each bears responsibility for instituting, monitoring and maintaining applicable data processing procedures and quality controls in order to ensure the accuracy, quality and timeliness of the data and information transmitted between the parties. Each party shall bear full responsibility for any data and information errors caused by its own negligence and any such negligent party shall indemnify the other party for any damages resulting from such errors in accordance with the indemnification provisions of this Agreement.
- E. **THE COMPANY MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE DESIGN, DOCUMENTATION, FUNCTIONS, USE, OPERATIONS, OR MAINTENANCE OF ITS INFORMATION PROCESSING SYSTEMS, WEBSITES OR PORTALS, AND ANY SOFTWARE OR HARDWARE PROVIDED OR RECOMMENDED BY IT, AND IT EXPRESSLY DISCLAIMS ANY SUCH WARRANTIES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- F. Except as specifically described in Section IX.D. above, Company shall not be liable, responsible or accountable for any errors or malfunctions of its information processing systems, websites or portals or any software or hardware provided or recommended by it. In no event shall Company be liable, responsible or accountable for any special, incidental, indirect, consequential or punitive damages, including, without limitation damages for loss of profits or business opportunities, even if Company has been advised of the possibility of such damages, in connection with Producer's access to and use of Company's information processing systems, websites or portals and any software or hardware provided by or recommended by Company, or electronic interface with Company, if applicable. Producer's sole and exclusive remedy with respect to such access to and use of Company's information processing systems, websites or portals, software or hardware provided by or recommended by Company, or electronic interfacing with Company, shall be limited to direct damages available under applicable law for breach of contract or negligence.

X. Advertising and Marketing

A. Advertising and related expenses

Any and all expenses incurred by Producer as a result of advertising or other promotional activity undertaken as part of performance of Producer's duties under this Agreement shall be fully borne by Producer unless otherwise agreed to in writing by Company prior to the incurring of such expenses.

B. Marketing Practices

Producer must market and advertise all products and services offered through Company in a manner that complies with all applicable laws and regulations; and must be approved by the company prior to publication or distribution.

C. Grant of License

Company grants Producer a limited and non-exclusive license to use all provided trademarks for the following uses: (1) development of print copy promotional marketing content and publications; (2) advertising and marketing activities through digital and online mediums; and (3) use in other industry standard marketing and advertising activities. At no time may Producer alter, edit, or otherwise display or use any trademark in a manner that causes distortion or alteration of the trademark. Nor may any trademark be sublicensed to any other third party, or used for purposes outside of the scope of this Agreement. Producer shall not use the intellectual property in a manner that causes confusion as to ownership of the intellectual property. All intellectual property, business intelligence, and marketing material provided under this Agreement shall at all times remain the sole property of Company. All advertising copy and related graphics must be submitted to Company for review and approval prior to use. Company reserves the right to issue new mandatory guidance concerning use of all intellectual property at any time without any prior notice.

XI. Miscellaneous Provisions

A. Term

This Agreement shall become effective on the Effective Date and continue in full force and effect until amended, terminated pursuant to the terms of this Agreement, or superseded.

B. Entire Agreement

This Agreement supersedes all previous agreements and contracts, written or oral, between Company and Producer concerning the subject matter hereof.

C. Amendments to Agreement

Except as otherwise provided in this Agreement, no term or provision of this Agreement shall be amended, changed or modified in any way without the written agreement of Company and Producer. Revisions to Company's Commission Schedule or changes in its underwriting guidelines, rules, and binding authority, if any, may be made by Company at any time and will not be considered amendments to this Agreement. Notice of any revisions to the Commission Schedule will be provided by Company to Producer in accordance with Section II.B. of this Agreement.

D. Expenses

Company shall not be responsible for any expenses incurred by Producer, on Producer's behalf, or on behalf of Company, unless specifically authorized by Company in writing prior to incurring the expense.

E. Notices

Any notice required or permitted under this Agreement shall be given in writing to the other party via certified mail, return receipt requested, postage prepaid, or via registered mail to the respective addresses set forth in this Agreement or such other address as either party notifies the other of in accordance with the terms of this provision, and delivery shall be deemed to have been given upon acceptance or refusal to accept such notice by the party to who the notice is sent.

F. Assignment

This Agreement shall not be assigned by Producer without the express written consent of Company.

G. Successors and Assigns

This Agreement shall not bind or inure to the benefit of any successor or assigns of Producer or any other person or entity that is not a party to this Agreement without the prior express written consent of Company.

H. Third-Party Beneficiaries

This Agreement is not intended, nor shall it be construed, to confer any rights or benefits to any person or entity that is not a party to this Agreement.

I. Designation of Producer of Record

If a conflict exists as to which Producer represents an existing or prospective policyholder with respect to any insurance matter subject to this Agreement, the policyholder's written statement designating their Producer of Record shall control. For any change in Producer of Record, Company shall decide the effective date for an unexpired policy: for example, as of the date specified or the next renewal date. The successor Producer shall then be responsible for the policy as of that date and entitled to any commissions payable on or after that date.

J. Publicity

Producer shall not broadcast, publish or distribute advertisements or other matter referring to Company or Company's contract of insurance without first securing Company's written consent.

K. *Applicability*

The provisions of this Agreement shall not apply to policies administered by underwriting associations, syndicates, pools, plans, or other non-voluntary programs.

L. *Governing Law & Venue*

This Agreement and the rights and obligations of the parties to this Agreement shall be governed by and constructed in accordance with the laws of the State of Delaware. If any provision of this Agreement conflicts with applicable law, that provision will be deemed to conform to such law. Any remaining provisions will continue in full force and effect.

M. *Authority to Contract*

Producer represents and warrants that the individual who signs this Agreement on behalf of Producer has the authority to both sign this Agreement on behalf of Producer and to bind Producer to the terms and conditions herein. Company represents and warrants that the individual who signs this Agreement on behalf of Company has the authority to both sign this Agreement on behalf of Company and to bind each Company as referenced herein to the terms and conditions of this Agreement.

N. *Severability/Non-Waiver*

The failure of either party to enforce one or more covenants, conditions, rights or privileges of this Agreement shall not be construed as waiving any such covenants, conditions, rights or privileges, and they shall continue and remain in full force and effect and any such waiver must be signed by the party entitled to enforcement for the waiver to be enforceable.

O. *Execution*

This Agreement may be executed in counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be an original but all of which together shall constitute one instrument and copies of signatures shall have the same effect as original signatures. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart signed by the party against whom enforcement is sought. Facsimile or electronic signatures (e.g., e-mail, PDF) shall constitute originals for all purposes hereunder.

[THIS SPACE INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGE FOLLOWS]

PRODUCER-COMPANY AGREEMENT SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates shown below:

PRODUCER:

Signature: _____

Date Signed: _____

Name: _____

Title: _____

Phone: _____

Email: _____

COMPANY:

**BERKLEY SMALL BUSINESS SOLUTIONS,
AN OPERATING UNIT OF BERKLEY INSURANCE COMPANY:**

Signature: _____

Date Signed: _____

Name: **Jeanne Fenster** _____

Title: **President** _____

Phone: **860-500-2636** _____

Email: **jfenster@berkleysmallbusiness.com** _____

SCHEDULE A LIST OF COMPANIES

- 1. Berkley Insurance Company**
- 2. Berkley Casualty Company**
- 3. Midwest Employers Casualty Company**
- 4. Berkley Regional Insurance Company**
- 5. Berkley National Insurance Company**
- 6. Tri-State Insurance of MN**
- 7. Riverport Insurance Company**
- 8. All other insurance companies on behalf of which Berkley Small Business Solutions is authorized to act**

Data Processing Addendum - Exhibit A

This Data Processing Addendum (“Exhibit”) is entered into pursuant to the [Agreement dated as of X] (as amended, the “Agreement”) by and between [Berkley contracting entity] for and on behalf of itself and its affiliates (“We,” “Us,” and “Our”) and

for and on behalf of itself and its affiliates (collectively, “You,” “Your”) dated as of the effective date of the Agreement, and forms a part of each and every agreement for the provisions of products or services between You and Us. This Exhibit governs any Processing of Company Data (including, without limitation, Personally Identifiable Information) (each as defined below) between You and Us during the term of the Agreement and after its expiration or termination. To the extent that any of the terms or conditions contained in this Exhibit contradict or conflict with any of the terms or conditions of the Agreement, it is expressly understood and agreed that the terms of this Exhibit shall take precedence and supersede the Agreement. Except as specifically provided herein, the Agreement shall remain in full force and effect and unmodified by this Exhibit. You agree that this Exhibit (i) shall automatically, without further action by You or Us, be incorporated into any existing agreement or contract between You and Us, (ii) may be incorporated into any future agreement or contract between You and Us, and (iii) as applicable, replaces in its entirety, any prior data processing addendum entered into between You and Us in connection with the Agreement or any other agreement. This Addendum may be executed and delivered in counterparts and delivered via facsimile or e-mail.

1. Definitions. The following definitions apply to this Exhibit:

- a. “AI System” means a machine-based system that can, for a given set of objectives, generate outputs such as predictions, recommendations, content (such as text, images, videos, or sounds), or other output influencing decisions made in real or virtual environments.
- b. “Applicable Data Protection Law” means all federal and state laws, statutes, codes, rules, and regulations currently in effect and as they become effective relating in any way to the privacy, confidentiality, or security of Personally Identifiable Information applicable to the Services.
- c. “CCPA” means the California Consumer Privacy Act of 2018, as amended by the California Privacy Rights Act of 2020 (Cal. Civ. Code §§ 1798.100 to 1798.199.95), the CCPA Regulations (Cal. Code Regs. tit. 11, §§ 7000 to 7102), and any related regulations promulgated by the California Attorney General or the California Privacy Protection Agency.
- d. “Company Data” includes all Personally Identifiable Information and other information that is not intentionally made generally available by Us to the public, whether aggregated or anonymized, including but not limited to, business operations, administrative, and financial data; intellectual property; employee data; and data regarding or relating to Our customers.
- e. “Data Subject” means the identified or identifiable person to whom the Personally Identifiable Information relates, as defined by Applicable Data Protection Law.
- f. “Data Subject Request” means a lawful request from a Data Subject seeking to exercise any Data Subject Right available to the Data Subject concerning their Personally Identifiable Information under Applicable Data Protection Law.
- g. “Data Subject Right” means any right granted to a Data Subject by Applicable Data Protection Law, including, without limitation and depending on jurisdiction and circumstance, the right of 1) access, 2) correction 3) deletion, 4) opt-out of targeted advertising, 5) opt-out of profiling with legal effect, 6) opt-out of sale of personal data, 7) opt-out of disclosure to nonaffiliates, 8) portability, 9) opt-in for Processing of sensitive personal data.
- h. “Event” means any act or attempt, successful or unsuccessful, to gain unauthorized access to, disrupt or misuse Company Data Processed in Your Information System. For the avoidance of doubt, an Event will include, without limitation, a ransomware attack, distributed denial-of-service attack, or any other similar incident whereby a third party obtains control over Your Information Systems or otherwise prevents You from providing Services to Us.
- i. “Information System(s)” means a computer system, including all hardware, software, networking, and peripheral equipment, including AI Systems, organized for the Processing of data.
- j. “Multi-Factor Authentication” means authentication through verification of at least two of the following types of authentication factors: (i) knowledge factors, such as a password; (ii) possession factors, such as a token or text message on a mobile phone; or (iii) inherence factors, such as a biometric characteristic.
- k. “Personally Identifiable Information” means all information that identifies or could reasonably be used alone or in combination to identify a specific individual; “nonpublic information” as that term is defined in the New York Cybersecurity Requirements for Financial Services Companies, 23 NYCRR 500; “nonpublic personal information” as defined in the Gramm-Leach Bliley Financial Modernization Act of

1999, 15 USC 6809; “primary account number,” “cardholder data”, and “authentication credentials” as those terms are defined in the Payment Card Industry Data Security Standards; “personal information” as defined in the CCPA; and any data elements enumerated by Applicable Data Protection Law including financial or customer account numbers, access codes, driver’s license numbers, and state or federal identification numbers such as passport, visa or state identity card numbers.

- i.** “Process” means any operation or set of operations performed upon data including its collection, retention, logging, generation, transformation, access, use, disclosure, analysis, transfer, or disposal.
- m.** “Risk-Based Authentication” means any risk-based system of authentication that detects anomalies or changes in the normal use patterns of a person and requires additional verification of the person’s identity when such deviations or changes are detected, such as through the use of challenge questions.
- n.** “Services” means the applicable services specified in the Agreement, any existing agreement into which this Exhibit is incorporated, or any subsequent agreement into which this Exhibit may be incorporated.
- o.** “Subcontractor” means any non-signatory third party appointed pursuant to a written contract to Process Company Data in connection with the Agreement that contains all terms necessary under Applicable Data Protection Law, and which is no less restrictive than this Exhibit.
- p.** For the purposes of this Exhibit, the terms “Business Relationship,” “Business Purpose,” “Commercial Purpose,” “Share/Sharing” and “Sale/Selling” shall have the meanings set forth in the CCPA.

2. Roles

- a.** We are the Controller or Business under Applicable Data Protection Law.
- b.** You are a Processor or Service Provider under Applicable Data Protection Law.

3. Data Privacy and Protection.

- a.** You agree that Your Processing of Company Data will comply with all Applicable Data Protection Laws.
- b.** Notwithstanding anything to the contrary herein, You are prohibited from
 - (1) Selling or Sharing Company Data,
 - (2) Processing Company Data outside the direct Business Relationship between You and Us,
 - (3) Processing Company Data for any Business Purpose, including any Commercial Purpose, other than for the specific purpose of performing the Services,
 - (4) Combining Company Data that You receive from, or on behalf of, Us with any other information You receive from or on behalf of another person or persons, including Personally Identifiable Information you collect directly from Your own interaction with a Data Subject.
 - (5) Processing Company Data for the benefit of anyone other than Us, including You or any third party, including, without limitation, in order to improve internal processes or products, aggregate information to create new data sets or products, or improve or augment Your service offerings.
- c.** You understand the restrictions set forth herein; and will comply with such restrictions for as long as You have access to Company Data.
- d.** With respect to Company Data, You will cooperate with Us in complying with Data Subject Requests submitted by Data Subjects to exercise a Data Subject Right. You will notify Us within five (5) days of receiving a Data Subject Request by emailing privacy@wrberkley.com and providing all relevant information concerning the request, including but not limited to the contact information of the requestor, the date and time the request was received, and the content of the request, and You will further comply with Our directions regarding the response to any Data Subject Request received by You or Us.
- e.** Without limiting Your obligations under Section 3 of this Exhibit, You shall implement administrative, physical, and technical safeguards to protect Company Data that are no less rigorous than accepted industry practices, and shall ensure that such safeguards comply with Applicable Data Protection Laws, as well as the terms and conditions of this Exhibit.
- f.** Upon termination of this Agreement, You shall delete, or enable Us to delete, Company Data Processed by You.

- (ii) provide Us with the name and contact information for an employee who shall serve as Our primary contact and shall be available to assist Us with responding to the Event; (iii) provide Us, in writing, all details concerning the Event including material aspects of its nature, scope, and timing as We may reasonably request; (iv) reasonably cooperate with Us, Our regulators, and law enforcement; and (v) take and document any necessary remedial actions as may be required to prevent other or further Events.
- d. You agree to retain all information relating to any Event requiring notification to Us until We have consented in writing to its destruction.
 - e. You shall bear all of Our costs associated with any Event including, without limitation, the costs associated with remedial measures (including, without limitation, notice to affected individuals, credit monitoring services, identity restoration services, fraud insurance, the establishment of a call center to respond to inquiries and any forensic analysis required to determine the scope or remediate the damage of the Event). No limitation or exclusion in the Agreement shall limit Our rights to recover damages, losses or sanctions suffered by Us which arise out of or are related to an Event.
 - f. You agree that We will have sole control of any data security breach notification required under Applicable Data Protection Law for any Event involving or relating to Company Data.
7. Notice of Non-Compliance. Your failure to comply with any provisions of this Exhibit is a material breach of the Agreement. You shall promptly notify Us in writing if You become aware of any breach of this Exhibit or cannot comply with any obligations under this Exhibit including any obligation under Applicable Data Protection Law. In such event, You shall use reasonable efforts to remedy the situation; provided, however, notwithstanding any such remedial efforts, We may, in Our sole discretion and without further liability or penalty of any kind, take reasonable and appropriate steps to stop and remediate the unauthorized use of Company Data, including but not limited to taking action to suspend the Processing of Company Data, and terminate the Agreement, if doing so is necessary to comply with any Applicable Data Protection Laws or is required or requested by a regulator or other governmental body.

ADDENDUM

Designated Non-Resident Producer

This Addendum Number ("Addendum") is made by and between **Berkley Small Business Solutions, an operating unit of Berkley Insurance Company** (the "Company"), and

_____ (the "Producer"), and is hereby incorporated into and made a part of the Producer-Company Agreement between the parties (the "Agreement").

This Addendum is effective as of _____ (the "Effective Date").

WHEREAS, the parties intend for Producer and Company to fully comply with all applicable laws and regulations regarding the submission and acceptance of applications and proposals for insurance contracts, and the parties mutually understand and agree that Producer shall not submit, and Company shall not accept, any applications and proposals from or on behalf of any entities or individuals that are not appropriately licensed and appointed pursuant to applicable laws and regulations;

WHEREAS, Producer has identified _____ (NPN _____) as the licensed individual on whose behalf applications and proposals from Producer will be submitted for commercial insurance risks requiring non-resident producer licensing and/or appointment (the "Designated Non-Resident Producer"); and

WHEREAS, for the purposes of this Addendum, "commercial insurance risks requiring non-resident producer licensing and/or appointment" refers to any risk to be submitted to Company for an insurance contract to be issued in a jurisdiction in which the individual submitting such risk: (i) does not possess a valid resident license to operate as an insurance producer; or (ii) has not been duly appointed by Company where required by applicable law or regulation.

NOW, THEREFORE, the parties hereto agree as follows:

1. The Designated Non-Resident Producer currently has and will maintain valid non-resident producer licenses in the following jurisdictions:

2. The Designated Non-Resident Producer will be duly appointed by Company in all applicable jurisdictions in which Company will accept submissions from Producer for commercial insurance risks requiring non-resident producer licensing and/or appointment.

3. It is mutually understood and agreed that, as of the Effective Date and for the duration of this Addendum, all commercial insurance risks requiring non-resident producer licensing and/or appointment, and which are submitted by any employees or agents of Producer authorized to conduct business with Company, shall be deemed submitted to Company on behalf of the Designated Non-Resident Producer.

4. Producer shall notify Company as soon as commercially reasonable upon any changes in:
 - a. producer's employment of the Designated Non-Resident Producer; or
 - b. the Designated Non-Resident Producer's licensing status for one or more of the jurisdictions listed in Paragraph 1. above.

5. This Addendum shall remain in effect until:
 - a. duly amended, terminated pursuant to the terms of the Agreement, or superseded;
 - b. the Agreement is terminated;
 - c. the Designated Non-Resident Producer is either: (i) no longer employed by Producer; or (ii) no longer maintains valid non-resident producer licenses in one or more of the jurisdictions listed in Paragraph 1. above and for which they have been duly appointed by Company; or

ADDENDUM
Designated Non-Resident Producer

- d. ten (10) years from the Effective Date;
whichever occurs first.
- 6. Except with respect to the Agreement, this Addendum supersedes all prior agreements, contracts or addenda, written or oral, between Company and Producer, concerning designated non-resident producers or the submission of commercial insurance risks requiring non-resident producer licensing and/or appointment.
- 7. In the event of any conflict between the terms of the Agreement and this Addendum, this Addendum will control with respect to designated non-resident producers and the submission of commercial insurance risks requiring non-resident producer licensing and/or appointment.
- 8. Except as stated herein, the Agreement shall remain unchanged.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the dates shown below:

PRODUCER:

COMPANY:
BERKLEY SMALL BUSINESS SOLUTIONS,
AN OPERATING UNIT OF BERKLEY
INSURANCE COMPANY

Signature: _____

Signature: _____

Date: _____

Date: _____

Name: _____

Name: _____

Title: _____

Title: _____

ACKNOWLEDGED AND ACCEPTED BY DESIGNATED NON-RESIDENT PRODUCER:
[signature required below only if different from Producer signature above]

Signature: _____

Date: _____

Name: _____