Insurance Producer Agreement

Section 1 - Producer's Authority

The Producer shall periodically submit risks to the Company for its consideration as authorized by the Company. These risks shall be located in states in which the Producer is duly licensed and authorized to operate.

The term “for its consideration” shall mean that (i) all such insurance proposals shall be considered for acceptance or rejection by the Company before coverage shall be effective, and (ii) the Producer specifically has no right to bind the Company, alter or cancel any coverage in the absence of specific authorization to do so.

Section 2 - Producer's Responsibilities

A. Once a proposal has been accepted and bound by the Company, the Producer shall have the authority and the responsibility to:

1. Collect, account for and pay to Company premiums, fees and other charges (hereinafter collectively referred to as “premiums”) for business placed with the Company, including premiums developed by credits or other adjustments, such premiums being held by the Producer in a fiduciary capacity with no right of offset or counter claim; and

2. Deposit premiums collected on behalf of the Company in accounts in a financial institution satisfactory to the Company, which financial institution is insured by the Federal Deposit Insurance Corporation or other insurance acceptable to the Company. If interest bearing accounts are allowed by law, Producer is authorized to collect and retain interest on all premiums held in such accounts.

3. The Producer may not change the financial institution in which the Company's premiums are deposited unless (a) the Producer gives the Company at least forty-five (45) days prior written notice of the change; (b) the new financial institution is insured by the Federal Deposit Insurance Corporation or other insurance acceptable to the Company; or (c) the Company gives the Producer its prior written approval to the change. The Company agrees that its approval shall not be unreasonably withheld. The premiums collected on behalf of the Company may be commingled with other insurance premiums received by the Producer on behalf of other insurance companies in the operation of its business, provided that (a) such commingling is permitted by law; (b) where the law sets forth certain prerequisites, said prerequisites are complied with; (c) the Company's premiums so commingled may be readily and reasonably ascertained at all times from the books and records of the Producer; and (d) the Company may have access during ordinary reasonable business hours to such books and records as they pertain to the Company's premiums.

4. Transmit to the Company, net of commissions, premiums collected on behalf of Company.

5. Receive and report promptly to the Company all known or reported claims, losses, or notices thereof, made pursuant to the terms of any binder, certificate of insurance, or insurance policy issued by or on behalf of the Company.

6. Report promptly to the Company all consumer complaints, all communications received from any Insurance Department or other regulatory agencies concerning business placed with the Company.

7. Issue and sign Certificates of Insurance, as approved by Company, without modifying or altering any
of the pre-printed language on the certificate, provided that a copy of each of the certificates signed and issued is promptly transmitted to the Company unless otherwise agreed to in writing. Any modification or alteration of the pre-printed language on the certificate will require the prior consent of the Company.

8. Comply with the laws and regulations applicable to its operation including, but not limited to, obtaining and maintaining appropriate licenses and keeping records of all transactions affecting business written on behalf of the Company.

9. Comply with all surplus lines regulations when submitting risks to a non-admitted company, collect and pay all applicable surplus lines taxes, surcharges and stamping fees and file affidavits with all appropriate governmental jurisdictions.

10. Report promptly to the Company all changes in address and relevant license information.

B. The Producer may not:

1. Adjust, compromise or settle claims or waive any insurance policy or other contract condition.

2. Without the Company's prior written consent, use the Company's or any affiliate's name or logo in any advertising or promotional material or presentation. In the event the Company is subjected to loss or expense arising out of or in conjunction with any unauthorized advertisement or promotional material or presentation by the Producer, the Producer will be liable for all resulting damages and costs.

3. Represent to any third party that it has any other authority not specifically granted under this Agreement.

Section 3 - Brokerage or Commission

A. The brokerage or commission (hereinafter “commission”) earned by the Producer shall be negotiate between the parties with regard to each insurance proposal accepted by the Company hereunder. The agreed-upon commission shall be confirmed by letter in writing from the Company to the Producer. All commission, fees and other charges must be fully disclosed to the insureds by the Producer if required by law.

B. In the event a policy surcharge, assessment or service fee is authorized by law and the Producer is able to collect such fees, the Producer agrees (i) to report the collection or collectability of such fees to the Company; and (ii) that commission is not calculated on such fees.

C. Such commission as is agreed upon shall be the maximum commission, and shall be deemed to include countersignature or sub-Producer commissions, the payment of which shall be the responsibility of the Producer.

D. The Producer agrees, either during the period that this Agreement is in effect or after its termination, to refund commissions, or other charges on policy cancellations or reductions at the same rate at which such commission, or other charges were originally retained or paid, including any commission paid to or netted from premiums.

E. The right of the Producer to receive commissions or other compensation hereunder shall at all times be subordinate to the right of the Company to offset or apply such commissions or other compensation against any indebtedness of the Producer to the Company.

Section 4 - Producer's Status

A. The Producer, and any sub-Producer of the Producer, is an independent contractor, not an employee
of the Company, having exclusive control over its time, the conduct of its operations and the selection of the companies with which it does business. Neither the term “Producer” nor anything contained in this Agreement shall be construed as creating an employer/employee relationship between the Company and the Producer or any sub-Producer.

B. The Business Unit Addendum(s) attached to this Agreement specifically define Producer as an agent or a broker. However, if one Business Unit Addendum defines Producer as an agent, then the Producer shall be defined as an agent for all Business Units and for all other purposes under this Agreement. Producers will be appointed, if required by law or insurance department regulation, in each state in which they are authorized to submit business to a Company. Authorization is determined by the attachment of a “Business Unit Addendum” to this Agreement or by other written agreement between the Producer and an XL business.

C. The Producer shall maintain a staff of competent and trained personnel and such supplies and equipment necessary to develop, produce and supervise the business covered by this Agreement.

D. The Producer shall be responsible for all its expenses unless otherwise agreed in writing by the Company. Such expenses shall include, but not be limited to, individual risk inspection and/or credit reports, rentals, transportation, facilities, clerk and employee hire, attorney's fees, postage, telephone, maps, permitted advertising, or personal local license fees.

Section 5 - Business Reports and Payments

Unless different arrangements are made between the parties, the Producer will prepare and forward to the Company statements of the amount of premiums, net of commissions, due to the Company for business accepted by Company from the Producer.

The Producer agrees to forward such statements and remit related premiums to the Company pursuant to the Addendum(s) to this Agreement.

Section 6 - Inspection and Audit

The Company, or its duly authorized representative, may at all reasonable times inspect and copy all records maintained by the Producer pertaining to this Agreement. Expenses for inspection of records will be borne by the Company. The right to inspect and copy records under this paragraph shall continue until all matters relating to the business produced under this Agreement shall have been concluded.

Section 7 - Mutual Indemnity and Release

A. The Producer hereby represents and warrants that (1) it maintains, and for the period of time that this Agreement is in effect will maintain, a policy of errors and omissions insurance with a reputable insurer acceptable to Company, duly licensed or authorized and doing business in the state where the Producer is licensed as a resident Producer, said insurer currently being rated not less than “A- ” by Best’s Key Rating Guide, and (2) such policy shall at all times hereunder contain policy limits of at least $1 million each claim or occurrence / $1 million aggregate that shall respond to claims that would be consistent with the business herein contemplated.

B. The Company may request that the Producer provide the Company with a bond, or other surety acceptable to the Company, guaranteeing the Producer's performance under this Agreement. In such case the Producer will comply with that request within forty-five (45) days after such a request is made by the Company. Such bond or other surety requested shall at all times hereunder be in terms and an amount satisfactory to the Company.

C. The Producer and its successors and assigns hereby agree to indemnify, defend and hold harmless the Company and any of its affiliates against all liability for losses, costs and expenses of whatsoever
kind, including the fees and disbursements of counsel, and against all said losses, costs and expenses, which the Company or its affiliates may incur (i) by reason of any breach and/or misuse of the limitations, authorizations, responsibilities, or instructions contained in this Agreement, (ii) in enforcing any covenants and conditions of this Agreement, or (iii) arising out of the willful or negligent acts or omissions of the Producer, its employees or its agents with respect to the business involved under this Agreement. The Producer agrees to pay or cause to be paid to the Company all sums or amounts of money that the Company and any of its affiliates shall pay or become liable to pay as charges or expenses of any nature or kind whatsoever, including fees of counsel, by reason of the failure of the Producer, its successors and assigns to comply with the terms of this Agreement, as soon as the Company or any of its affiliates shall have become liable therefore, whether or not the Company or any of its affiliates shall have actually paid such sums or any part thereof.

D. The Company and its successors and assigns hereby agree to indemnify, defend and hold harmless the Producer and any of its affiliates against all liability for losses, costs and expenses of whatsoever kind, including the fees and disbursements of counsel, and against all said losses, costs and expenses, which the Producer or its affiliates may incur (i) by reason of any breach and/or misuse of the limitations, authorizations, responsibilities, or instructions contained in this Agreement, (ii) in enforcing any covenants and conditions of this Agreement, or (iii) arising out of the willful or negligent acts or omissions of the Company, its employees or its agents with respect to the business involved under this Agreement. The Company agrees to pay or cause to be paid to the Producer all sums or amounts of money that the Producer and any of its affiliates shall pay or become liable to pay as charges or expenses of any nature or kind whatsoever, including fees of counsel, by reason of the failure of the Company, its successors and assigns to comply with the terms of this Agreement, as soon as the Producer or any of its affiliates shall have become liable therefore, whether or not the Producer or any of its affiliates shall have actually paid such sums or any part thereof.

Section 8 - Termination

A. This Agreement may be terminated:

1. By providing thirty (30) days prior written notice by either party to the other or the minimum period required by applicable state law, whichever is greater; or

2. Immediately, if any public authority cancels, suspends or declines to renew any license, qualification or certificate of authority of the Company or the Producer; or

3. Immediately in the event of fraud, insolvency, failure to remit balances in accordance with this Agreement, or willful misconduct, negligence or material breach of contract on the part of the other party, regardless of notice to the other party.

B. This Agreement shall not inure to the benefit of any successor in interest of the Producer, nor may any interest under this Agreement be assigned by the Producer without the prior written consent of the Company. Such consent shall not be unreasonably withheld. Assignments attempted without such consent are void.

Section 9 - Producer's Responsibility Following Termination

Upon termination of this Agreement, the Producer shall:

A. Continue to pay the Company in a timely fashion all sums due the Company pursuant to this Agreement until paid in full;

B. Unless otherwise instructed by the Company, continue to service all business produced by or through
the Producer in the same manner and to the same extent required prior to termination; and

C. Cease to submit or seek to renew business with the Company or extend the term of any existing business, except as may otherwise be required by law or regulation.

Section 10 - Cancellation of Insurance

Nothing in this Agreement shall be construed as limiting or restricting the right of the Company to cancel any binder, policy, contract or other evidence of insurance issued under this Agreement in accordance with the cancellation provisions of such binder, policy, contract or other evidence of insurance. No insurance contract may be returned to the Company by the Producer for flat cancellation, unless it is returned prior to the inception or effective date of the contract, subject to the terms and conditions of the policy. If a policy is cancelled prior to its natural expiration, Company agrees to remit to the Producer previously paid unearned net premiums that are owed to the policyholder. The Producer, in turn, will reimburse the gross unearned premium to the insured.

Section 11 - Ownership of Expirations

In the event of termination of this Agreement, the Producer having promptly accounted for and paid over all amounts for which it is liable, the Producer’s records pertaining to the business contemplated hereunder and its use and control of expirations shall remain the property of the Producer and be left in its undisputed possession; otherwise, all such records, use and control of expirations shall be vested in the Company.

Section 12 - Policyholder’s Designation

Should a conflict exist as to which party is authorized to represent an existing or prospective policyholder with respect to any insurance which is the subject of this Agreement, the policyholder’s signed written statement on its company letterhead, designating its representative shall control.

Section 13 - Notices

All notices, requests, demands, reports and other communications hereunder must be in writing and shall be deemed to have been given if delivered by hand or mailed by first class, registered or certified mail, return receipt requested, postage and fees prepaid and addressed as follows:

A. If to the Producer

   Name of Agency
   Address of Agency
   City, State, Zip

B. If to the Company (for general matters pertaining to this agreement and general producer matters):

   Name of Agency
   Address of Agency
   City, State, Zip

C. If to Company for specific business questions concerning binding authority, commissions and other substantive business concerns, refer to the contact person designated in the Business Unit Addendum for the particular business in question which is attached hereto.

D. Name and address change requests should be made in writing to the Company at the address indicated in 13 (B) above.

Section 14 - Modification and Enforcement of this Agreement
A. Neither this Agreement nor any amendments nor terms thereto may be changed, waived, or discharged except by written agreement between the Producer and the Company.

B. This Agreement will be construed and enforced in accordance with the laws of the State of New York.

C. In the event a court of competent jurisdiction modifies any provision of this Agreement, the remaining provisions of this Agreement shall remain in full force and effect and the modified provision shall be abided by the parties as so modified by the court. The invalidity or unenforceability of any term or provision, or any clause or portion thereof, of this Agreement in no way impairs or affects the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.

D. This Agreement embodies the entire Agreement and understanding between the parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof and no party hereto has made any representation, warranty or covenant in connection with the matters set forth herein except as expressly stated herein. All the terms of this Agreement shall be binding upon the successors and assigns of the parties hereto and shall inure to the benefit of and be enforceable by the parties hereto, their successors and assigns; provided however, that this Agreement may not be assigned by any party hereto without the prior written consent of the other, and any such assignment without such consent shall be void; and provided further that nothing in this Agreement shall prevent the Company from merging or consolidating with a corporation or having its assets sold or otherwise transferred to another entity. Failure to insist upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such terms, covenants or conditions, nor shall any waiver or relinquishment of any right hereunder at any one time or times be deemed a waiver or relinquishment of such right at any other time or times.

E. The headings of this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning thereof.

F. The Producer shall at all times obey such instructions as it may receive from time to time from the Company in accordance with this Agreement.

G. This Agreement supersedes all previous written and oral agreements and agreement amendments between Producer and Company.

Signatures:

For the Companies as Designated on Page 1 of this Agreement (“COMPANY”):

By ________________________________ (signature)
Printed Name ______________________________________________________________
Title ________________________________________________________________
Witness ________________________________ (signature)

For the PRODUCER:

Name of Agency ______________________________________________________________

By ________________________________ (signature)
Printed Name ______________________________________________________________
Title ________________________________________________________________
Witness ________________________________ (signature)
FEIN ________________________________________________________________