



A Member of the Tokio Marine Group



## PHLY BOND EXPRESS PRODUCER AGREEMENT

**THIS BOND EXPRESS PRODUCER AGREEMENT** is entered into by

(hereinafter "Producer"); and Philadelphia Indemnity Insurance Company (the "Company"). The parties enter into this Agreement for good and valuable consideration, the receipt and sufficiency of which they acknowledge.

- 1. SCOPE AND AUTHORITY** – This Agreement solely applies to applications for surety bonds submitted by Producer via the Company's PHLY Bond Express (PBE) System. In no event shall the terms of this Agreement be deemed to supersede or replace any prior existing agreement between the parties regarding Producer's placement of non-PBE surety business and/or property and casualty business with Company. Upon execution of this Agreement, Producer shall be authorized to submit applications to Company for surety bonds on behalf of Producer's clients via the Company's PBE System. Producer acknowledges and agrees that it shall represent the bonded principal in all transactions conducted via the PBE System. By executing this Agreement Producer represents that it has obtained the necessary authority to submit applications for surety bonds on behalf of its clients. Producer shall have no authority to act on behalf of Company, express or implied, including but not limited to making decisions regarding any claims or the applicability of any coverage terms under any surety bond issued by Company, binding Company by any promise or agreement, incurring any debt, expense or liability in the Company's name or account, entering into any legal proceedings in connection with any matter pertaining to the Company's business, or waiving or altering any of the provisions of any surety bond issued by the Company. Nothing contained in this Agreement is intended to create or shall be construed to create the relationship of employer and employee, or partners or joint ventures between Company and Producer. Company shall have the absolute right to decline any application for surety bonds submitted by Producer via the PBE System and to cancel any surety bonds issued hereunder.
- 2. COMPENSATION** - Company will pay Producer commissions on premiums paid to Company at the rates set forth in any applicable Commission Schedule provided by Company to Producer.
- 3. PREMIUMS & ACCOUNTING** – Producer shall bear primary responsibility for collecting all premiums due to Company for surety bonds issued hereunder. Producer shall remit all such premiums within 45 days of the end of the month in which the bond was effective or renewed by Company, whether or not Producer has collected such premiums from the bonded principal. Where required by the Company, the initial premium shall be submitted with the bonded principal's completed and signed application. Except with respect to premiums billed by Company, Agent may retain commissions out of premiums collected at the rate indicated in Agent's current commission schedule.
- 4. UNDERWRITING & RECORDS** - Producer agrees to keep complete and accurate records of the business transacted pursuant to applicable insurance statutes. Producer will comply with all laws affecting or applicable to the conduct of the business that is the subject of this Agreement and maintain all necessary licenses.
- 5. INSURANCE** - The Producer is required to maintain in full force and effect errors and omissions coverage with minimum limits of \$100,000 for

each claim, and employee dishonesty coverage with limits of at least \$100,000.00 for each claim.

- 6. TERMINATION** – Either party may terminate this Agreement: (i) for convenience upon providing 90 days prior written notice; or (ii) for cause immediately upon providing written notice to the other party in the event any of the following should occur: (a) either party's license or authorization to engage in the insurance business is terminated or suspended by public authority; (b) either party or its parent becomes insolvent, institutes or acquiesces in the institution of any bankruptcy, financial reorganization, or liquidation proceeding or experiences a materially adverse change in its financial condition; (c) funds due Company from Producer are misdirected or misappropriated; (d) Producer exceeds any authority granted by Company under this Agreement or otherwise; (e) Producer, any of its directors, principals, or officers is: (i) the subject of an indictment or criminal investigation; (ii) formally charged, indicted or convicted on any fraudulent act or criminal conduct; or (iii) alleged by a regulatory agency in writing to have violated any regulatory authority to which Producer, its directors, principals or officers are subject, which Company in its reasonable and sole discretion determines adversely reflects on the integrity or trustworthiness of such entity or person; (f) upon either party giving written notice to the other in the event of abandonment, fraud, insolvency, or gross and willful misconduct on the part of such other party; or (g) if Producer fails to pay when due any money owed to Company under the terms of applicable billing procedures. To the extent this Agreement is terminated for cause, all authority granted hereunder shall immediately be revoked.
- 7. INDEMNIFICATION** - Producer shall indemnify and hold Company harmless against any claims, liabilities or costs (including attorney's fees and expenses) which Company may become obligated to pay as a result of: (i) any error or omission by Producer or its personnel in connection with the performance of its obligations hereunder; (ii) all fines, penalties, and related expenses incurred by Company as a result of Producer's violation of any law or regulation; (iii) a breach by Producer of its obligations under this Agreement; (iv) the Producer's infringement, misappropriation, or violation of any third party's intellectual property rights.
- 8. MISCELLANEOUS** - The validity, construction, interpretation and performance of this Agreement, and any alleged tort arising from or relating to the subject-matter hereof shall be governed by the laws of the Commonwealth of Pennsylvania. Neither party shall assign this Agreement without the express prior written consent of the other, such consent not to be unreasonably withheld. Provided, however, Company may assign this Agreement to any affiliate sharing common ownership, whether now existing or hereafter acquired. This Agreement constitutes the entire agreement between the parties and supersedes all prior and contemporaneous negotiations and agreements, oral or written with respect to the subject matter hereof. The failure of either party to enforce any provision hereof shall not be deemed a waiver of that provision. To the extent any provision of this Agreement is determined by a court of competent jurisdiction or other regulatory body to be illegal, invalid, or otherwise unenforceable, such provision shall be deemed struck from this Agreement without affecting the validity or enforceability of the remaining provisions hereof, or the Agreement as a whole. This Agreement may be executed in duplicate counterparts, each of which shall be deemed an original, but both of which when taken together shall constitute one and the same document.

Agency Name: (Print)  
Primary Agency Contact:

PHLY Producer Code:  
Phone: (     )     -    

### Annual Surety Production

L&P/Misc: \$                      Probate/Court: \$                      Other: \$                      Total: \$

Authorized Producer Signature: \_\_\_\_\_

Date:

PHLY Representative Name: