

AGENCY AGREEMENT

This Agency Agreement (the "Agreement") is entered into between DeCotis Insurance Associates, Inc., an insurance agency organized under the laws of the State of Rhode Island having its principal office at 245 Waterman Street, Suite 501, Providence, RI 02906 and DeCotis Insurance Associates of MA, LLC., an insurance agency organized under the laws of the State of Massachusetts having its principal office at 10 Forbes Road, Suite 270E, Braintree, MA 02184 (the "Agency") and the insurance producer identified immediately below (the "Producer"), effective as of the ____ day of _____, 20 ____.

PRODUCER

Producer Name: _____

Address: _____

City: _____ State: _____

Corporation

Partnership

Sole Proprietorship

WHEREAS, the Producer is properly licensed to transact business as an agent or broker in accordance with the insurance laws, rules and regulations of each state in which Producer transacts business. Producer will maintain licenses and furnish proof of such licensing with a copy of this signed Agreement. Producer will notify the Agency of any suspension, cancellation or disciplinary action of its license(s).

WHEREAS, the Producer desires to utilize the services of the Agency and place contracts of insurance through companies represented by the Agency for the Producer's clients; and

WHEREAS, the Agency agrees to extend such services and facilities to the Producer subject to the terms and conditions set forth below.

NOW THEREFORE, in consideration of the mutual promises and covenants herein set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

ARTICLE I AGENCY AUTHORITY

1.1 Authority. The Agency shall be authorized upon written request made by the Producer to obtain surplus lines insurance coverages for the Producer's clients subject to the terms and conditions specified herein.

- 1.2 Surplus Lines Broker Licensure.** As a condition to exercising the authority provided in Section 1.1, the Agency warrants that it is properly licensed to transact business as a broker of insurance policies in accordance with the insurance laws, rules and regulations in the state Producer is requesting coverage.
- 1.3 Term.** The Agency's authority as specified in Section 1.1 shall be effective as of the date specified above and shall remain in effect until terminated in accordance with Section 5 of this Agreement and provided that the parties hereto are not in breach of any obligations or covenants stated herein.
- 1.4 Right to Decline Business.** The Agency's authorization provided for herein shall not be construed to affirmatively require it to obtain insurance coverages for Producer's clients and Agency shall have the absolute right to accept, decline or reject any applications of insurance submitted by the Producer.
- 1.5 Requirement of Written Authorization.** The Agency is authorized to bind a risk for a Producer client only in such instances where the Producer has provided written authorization to do so to the Agency.
- 1.6 Agency Not Agent or Employee.** Producer acts on behalf of the Applicant for insurance. By rendering the services stated in Section 1.1, the Agency is not considered as an agency or employee of the Producer or of Producer's clients.

ARTICLE II COMMITMENTS OF THE PARTIES

2.1 Producer Commitments.

- (a) Submission of Surplus Accord Application and Supporting Documentation. As a condition to Agency's agreement to obtain surplus line insurance coverages for Producer's clients, Producer agrees to submit to Agency the Accord Applications and such other documentation or affidavits necessary to establish the eligibility of Producer's clients for surplus lines coverages.
- (b) Payment of Premiums. Payment of the premium shall be made to Agency based on either the terms & conditions provided on the quote or those terms specified on the Invoice from the Agency.
- (c) Return Commissions. In the event that such coverages are cancelled or modified (regardless of whether such cancellation or modification is instituted by the underwriting insurance company, the insured, a premium finance entity, or any other person), the Producer agrees to pay return commissions to the Agency on any return premiums at the same rate at which such return premiums are calculated. The obligations of the Producer to return commissions on cancelled or modified policies shall survive termination of this Agreement for any reason.

- (d) Agent for Insured. Producer agrees that it is the agent of each of its clients referred to the Agency and that Producer is responsible for ensuring that the applications for insurance submitted through Agency are complete and contain true accurate information in order to ensure the adequacy, amount, or form of insurance coverage is appropriate.

2.2 Agency Commitments.

- (a) Holding and Tendering of Premiums. Agency shall hold all premiums received from Producer for purposes of obtaining surplus lines coverages for the Producer's clients in a fiduciary capacity until such time as said funds are delivered to the insurer underwriting such coverages. The Agency agrees that such fiduciary funds shall not be used by the Agency for any other purpose whatsoever.
- (b) Commission. The Agency agrees to remit to the Producer a percentage of the commissions received from the underwriter on insurance policies bound or renewed through the Agency for the Producer's clients in accordance with the rate of commissions stipulated by the Agency.
- (c) Maintenance of Surplus Lines Broker Licensure. During the term of this Agreement, Agency agrees to maintain its licensure to transact business as a broker of surplus lines insurance policies in states as referred to in **Section 1.2 Surplus Lines Broker Licensure**.
- (d) Maintenance of Agency Status. Agency agrees to maintain its status as an appointed and authorized agent of the surplus lines insurers underwriting the insurance coverages for Producer's clients.
- (e) Forwarding of Policy. Agency shall forward to Producer any and all surplus lines insurance policies issued to Producer's clients that are received by the Agency.

ARTICLE III INDEMNIFICATION AND LIABILITY

- 3.1 **Producer Indemnity**. The Producer agrees to indemnify and hold the Agency harmless against any damages, losses, expenses, liabilities, penalties and other costs or expenses, including without limitation reasonable attorneys' fees, arising out of, relating to or resulting from any breach of this Agreement by the Producer, the Producer's negligence, wrongful acts or omissions, the adequacy, amount or form of any insurance coverage obtained by the Agency as a consequence of following the instructions of the Producer and agrees to pay for any costs and attorneys' fees incurred by the Agency to collect any sums due from the Producer to the Agency or to enforce the terms of this Agreement.
- 3.2 **Agency Indemnity**. This Agreement is entered into solely between the Agency and the Producer. As such, the Agency assumes no responsibility toward the Producer's clients or any sub producer with regard to the adequacy, amount or form of any insurance coverage bound through the Agency. The Agency agrees to indemnify and hold the

Producer harmless against any damages, losses, expenses, liabilities penalties and other costs or expenses, including without limitation, reasonable attorneys' fees, which result solely from the negligence or willful acts of the Agency.

- 3.3 Errors and Omission Coverages.** The Agency and Producer agree to maintain at all times during the term of this Agreement errors and omissions liability coverage with a minimum limit of \$1,000,000.

ARTICLE IV ARBITRATION

- 4.1 Disputes, Disagreements.** If any dispute or disagreement arises in connection with any interpretation of this Agreement, its performance or nonperformance, or the figures and calculations used, the parties will make every effort to settle the dispute in good faith. If the parties cannot agree to a settlement of the dispute or disagreement, then written forty-five (45) days after the dispute or disagreement arises, the matter in controversy will, upon written request of the Agent or the Producer, be settled by binding arbitration. Arbitration will be conducted at a location in Massachusetts or Rhode Island to be agreed upon and shall follow the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction.
- 4.2 Choosing Arbitrators.** The parties may agree to submit the dispute to one arbitrator; otherwise there shall be three, one named in writing by each party within ten (10) business days after notice of arbitration is served by either party upon the other, and a third arbitrator selected by these two arbitrators within fifteen (15) business days of their selection. If the arbitrators are unable to agree on a third arbitrator, then the third member will be chosen impartially by the American Arbitration Association.
- 4.3 Expenses of Arbitration.** If the dispute is submitted to one arbitrator, the parties will share the expenses of that arbitrator equally, as well as any other arbitration expenses. If the dispute is submitted to three arbitrators, each party will pay for the arbitrator of their selection, and both parties will share equally in the expenses of the third arbitrator and all other arbitration expenses. Attorneys' fees and witness fees are not arbitration expenses and must be paid by the party incurring them.
- 4.4 Decision of Arbitrators.** The written determination of the arbitrator(s) will be final and binding on all parties.

ARTICLE V TERMINATION

- 5.1 Automatic Termination.** This Agreement shall terminate automatically on the date any public authority revokes, cancels or declines to renew any license required for the Producer to transact business as a producer or Agency to transact business as a surplus lines broker or on the date on which there shall occur a merger or consolidation with

respect to the Agency or a sale or transfer of substantially all of the assets of the Agency or a majority of its issued and outstanding stock.

5.2 Immediate Termination. This Agreement shall terminate immediately upon either party giving written notice to the other in the event of a breach or abandonment of this Agreement, fraud, insolvency, or gross or willful misconduct on the part of the other party.

5.3 Termination with Notice. This Agreement may be terminated with or without cause, by either party at any time by the giving of ninety (90) days prior written notice to the other party.

ARTICLE VI OWNERSHIP OF EXPIRATIONS

6.1 Ownership. Subject to the provisions of Sections 6.2 and 6.3 below, the Producer shall be the owner of all expirations generated by the Producer pursuant to this Agreement.

6.2 Use of Information. The Producer hereby grants to the Agency the right to use any and all information, records or other data relating to the policies of insurance and policyholders represented by or associated therewith. Such use shall include the right to contract each insured directly for the purposes of obtaining underwriting information or any other information required by R.I. Gen. L. § 27-3-38 but shall not include any right to solicit insurance business from policyholders represented by the Producer.

6.3 Security Interest. If at the time of termination, or any time thereafter, the Producer has not properly accounted for and paid all premiums or other indebtedness to Agency for which the Producer is liable (including, but not limited to, any commission refunds), the Agency will have a security interest in the Producer's ownership interest of the expirations to secure the Producer's payment of all of its outstanding indebtedness to the Agency. In such event, the use and control of the Producer's expirations, including all rights, title, and interest in and to the records thereof are vested in the Agency as of the date of termination, and the Producer has the right to sell the expirations of the Producer and to apply the proceeds thereof in satisfaction of the Producer's indebtedness to the Agency.

ARTICLE VII MISCELLANEOUS

7.1 Entire Agreement. This Agreement, together with such amendments as may from time to time be executed in writing by the parties, constitutes the entire agreement between the parties with respect to the subject matter hereof.

7.2 Modifications and Amendments. This Agreement may be modified or amended only by an agreement in writing and signed by the parties hereto.

7.3 Notices. All notices, statements or requests provided for hereunder shall be in writing and shall be deemed to have been duly given when delivered by hand to an officer of the other party, sent by overnight courier or mailed by certified mail, return receipt requested. Such notice shall be deemed given when so delivered personally, or if send by overnight courier, one (1) business day after the date so sent, or if mailed by certified mail three (3) business days after the date of mailing. Notices shall be sent to the address of the addressee stated in this Agreement or to such other address as any addressee shall request by written notice.

If to Agency: Paul M. DeCotis
245 Waterman Street, Suite 501
Providence, RI 02906

With a copy to Jennifer R. Cervenka
Partridge SNOW & Hahn LLP
180 South Main Street
Providence, RI 02903

If to Producer: At the address set forth above.

7.4 Waivers. The failure of any party to insist upon strict performance of a covenant hereunder or of any obligation hereunder, irrespective of the length of time for which such failure continues, shall not be a waiver of such party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation hereunder, shall constitute a consent or waiver to or of any other breach or default in the performance of the same or any other obligation hereunder. No term or provision of the Agreement may be waived unless such waiver is in writing and signed by the party against whom such waiver is sought to be enforced.

7.5 Governing Law. This Agreement shall be governed and interpreted under the laws of the State of Rhode Island, without reference to principles of conflicts of laws thereof.

7.6 Severability. Any part, provision, representation or warranty of this Agreement which is prohibited or which is held to be void or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Agreement.

7.7 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

Producer: _____

By: _____

Title _____

Date: _____

Agreement Accepted and Effected by DeCotis Insurance Associates,

By: _____

Title _____

Date: _____

Please complete, sign and return Original Agreement along with the following:

- Copy of your **E&O Policy Declarations Page**
- Copy of your **Insurance Licenses issued by your state of residence and all states you do business in**
- This Completed **Agency Agreement**

CONFIDENTIAL BROKER PROFILE

General Information

Legal Name of Organization: _____

DBA (if applicable): _____

Mailing Address:

Street Address:

Telephone Number: _____

Fax Number: _____

Website: _____

Premium Volume: \$ _____

Commercial % _____ Personal % _____

If your agency accounting is conducted at an address other than the above mailing address please provide the proper accounting address below:

Errors & Omission Insurance *(Attach a copy of your current E&O Dec)*

Carrier: _____ Expiration Date: _____

Limit: _____ Deductible: _____

License Information *(Attach copies)*

State

License Number

State

License Number

Does your Agency hold a Surplus Lines License? _____

If Yes, License Number and State: _____ Expiration: _____

Agency Personnel

Title	Name	Direct Number	Email
CEO/President	_____	_____	_____
Manager	_____	_____	_____
Accounting	_____	_____	_____
Claims	_____	_____	_____
_____	_____	_____	_____

	Name	Direct Number	Email
Customer Service	_____	_____	_____
	_____	_____	_____
	_____	_____	_____
	_____	_____	_____

	Name	Direct Number	Email
Other	_____	_____	_____
	_____	_____	_____

Market Data

Wholesale Brokers/Premium Volume

Prepared By: _____ Date: _____