



TOKIO MARINE  
HCC

## HCC Specialty

### HCC SPECIALTY – NON-EXCLUSIVE PRODUCER AGREEMENT

This Agreement is entered into between **HCC SPECIALTY** (hereinafter referred to as “Company”), and \_\_\_\_\_ (hereinafter referred to as “Producer”), located at \_\_\_\_\_  
\_\_\_\_\_. The Company and the Producer are sometimes referred to herein collectively as the “parties”.

The Company hereby grants authority to the Producer to receive proposals and contracts of insurance covering risks from underwriting facilities available through the Company, subject however, to the laws of the state or states in which such Producer is authorized to write insurance business and to the terms and conditions hereinafter set forth.

In consideration of the mutual promises contained in this Agreement, it is agreed as follows:

1. For purposes of this Agreement, HCC Specialty, a division of HCC Insurance Holdings, Inc. means HCC Specialty Underwriters, Inc. and Professional Indemnity Agency, Inc..
2. This Agreement shall be effective as of \_\_\_\_\_ and shall continue in force and effect between the parties until terminated in accordance with the provisions of this Agreement.
3. The Producer has full power and authority to receive, **BUT MAY NOT ACCEPT OR BIND WITHOUT PRIOR AUTHORIZATION FROM THE COMPANY**, proposals for insurance covering such classes of risks as the Company may, from time to time, authorize to be insured; to collect and receive premiums on insurance business tendered by the Producer and accepted by the Company, and to retain out of premiums so collected, as full compensation on business so placed with the Company, commissions as may be agreed. Notwithstanding anything to the contrary contained herein, the Producer has no authority to bind coverage or commit the Company to any insurance policy, alter or discharge any insurance policy, extend the premium payment time, waive or extend the insurance policy’s provisions or conditions, nor any other authority to act on behalf of the Company. This Agreement shall not prevent the Producer from executing other or similar agreements with competitive insurance companies or compel the Company to accept all or any of the business offered to it by the Producer.
4. The Producer is an independent contractor with rights, duties and obligations of an independent contractor; and operations conducted by the Producer, except as provided herein, are not controlled in any manner by the Company. Nothing contained herein shall be construed to create the relationship of employer and employee between the Company and the Producer, nor master-servant, nor principal-agent.
5. The Producer acknowledges that they represent the insured and are not the agent of and have no authority to bind the Company, any of its principles or any insurer with which insurance coverage may be placed.
6. The Producer hereby agrees to be fully responsible for all premiums on insurance placed through the Company. The Company shall not be responsible for premiums advanced by the Producer. The Producer hereby further guarantees payment of all earned premiums on policies or binders placed through the Company to the extent such funds are collected by the Producer. No coverage may be cancelled flat after inception unless the Company agrees to same. Whenever a policy or binder is issued, premium shall be deemed to be earned, unless it is returned with evidence satisfactory to the Company that such policy or binder did not result in contractual or other liability on the part of the Company.  
  
The Company shall be entitled the costs of collection, including reasonable attorney’s fees incurred in an effort to collect unpaid premium (and taxes, if applicable) from the Producer, if premium was actually received by the Producer for payment to the Company.
7. The Producer agrees to return commission on all return premiums at the same rate such commission was originally retained.
8. Where applicable, the Producer agrees, that while this Agreement is in effect and for a period of twelve (12) months thereafter, the Producer shall not establish any production program designed to compete with the HCC Specialty Total Event™ and/or Total Instrument™ online systems or any other quote and bind system for which the Company has furnished software, Internet/website, programming or computer code.
9. The Company reserves the right to cancel any binder, policy or contract of insurance issued by the Company by direct notice to the insured or obligees, with a copy thereof to the Producer.
10. The Company shall invoice the Producer for each insurance risk. The Producer agrees to remit the initial premium and subsequently installment premiums and/or additional premiums (and taxes, if applicable), by the payment date indicated on each

premium invoice and as required by the original Policy and/or Endorsement(s). In the event premiums (and taxes, if applicable) are actually received by the Producer for payment to the Company, the Producer shall be liable to the Company for the full amount of all premium(s); less commissions, (and taxes, if applicable). Such premiums (and taxes, if applicable) shall be due to the Company from the date that liability is assumed by the insurer.

11. Any monies due the Producer may be applied at any time as an offset against any funds owed by the Producer to the Company. No payments shall be made where such payment would otherwise be in violation of applicable local, state or federal laws or other statutory provisions or Insurance Department rulings or regulations respecting commissions, fees or licensing requirements.
12. This Agreement supersedes all previous agreements, whether oral or written, between the Company and the Producer and may be terminated by either party at any time upon written notice to the other in accordance with Paragraph 13, subject however, to the discharge of all obligations incurred hereunder.
13. This Agreement may be terminated without cause by either party on thirty (30) days written notice to the other. This Agreement will also terminate: (a) automatically, if any public authority cancels or declines to renew the Producer's license or certificate of authority; (b) automatically, at the Company's option, on the effective date of the sale, transfer, or merge of the Producer's business with the provision that the Company may, upon review, appoint the successors as a the Producer; or (c) immediately, upon either party giving written notice to the other of termination because of fraud, insolvency, failure to pay balances, or willful or gross misconduct. All representations and obligations of the Producer herein will survive the termination of this Agreement.

After the date of termination of this Agreement, if the termination is without cause, then the Producer shall complete the collection and accounting to the Company for all premiums, commissions and other transactions unaccounted for on the date of termination or arising thereafter in respect of outstanding policies of insurance, including but not limited to, return premium and return commissions. Outstanding policies will be permitted to run to expiration.

14. Each party agrees to indemnify and hold each other harmless, including attorney fees and costs of investigation, and any defense incident thereto, for any acts, errors or omissions in the solicitation, processing and placement of insurance business under this Agreement, except to the extent that the party requesting indemnification caused or contributed to the loss. The party suffering the loss or damage shall promptly notify the other of any action relating to such loss or damage. The provisions of this Section 14 shall survive termination. The Producer understands that the Company assumes no responsibility for any policy with regard to the adequacy, amount or form of coverage and agrees to indemnify and hold the Company harmless for any claim asserted against the Company in following the instructions of the Producer.
15. The Producer warrants that its agents/brokers/producers are properly licensed to transact business as an agent, broker, producer or surplus/excess lines broker in accordance with the provisions of the insurance laws of any state in which the Producer transacts business. The Producer will maintain such license or licenses in good standing for the duration of this Agreement, will furnish proof of such licensing upon request by the Company and will promptly notify the Company of any suspension, cancellation or disciplinary action with respect to its license(s). The Producer further agrees that it will hold harmless, defend and indemnify the Company for any non-compliance with or breach of this provision.
16. The Producer shall hold premium funds in a fiduciary account for business generated under this Agreement to the extent required by the applicable law provided the Producer is in compliance with all terms of this Agreement and applicable law, the Producer may retain any interest earned on said premium funds while so held by the Producer.
17. During this Agreement, and for a period of three (3) years following termination for any reason, the Company shall have the right to audit and inspect the Producer's books and records concerning the business to which this Agreement applies. Such right of audit and inspection shall be during normal business hours upon reasonable notice to the Producer.
18. The Producer shall maintain agent's professional liability (Errors and Omission) insurance coverage with a minimum aggregate policy limit of \$1,000,000 while this Agreement is in force. A Certificate of Insurance or Declarations Page confirming coverage will be submitted annually to the Company. The Producer will provide the Company with prompt written notice of any material change, cancellation or other termination of this coverage.
19. The Producer shall not place any proposal for insurance with the Company for any excess or surplus lines insurance unless the Producer shall have first complied with any applicable state laws requiring the Producer to attempt to procure such insurance from insurers authorized to do business in the state of residence of the proposed insured. The party responsible for the payment of the surplus lines taxes shall be responsible for full compliance with all relevant surplus lines laws of the pertinent state, including, but not limited to the collection and payment of surplus lines taxes, filing of affidavits, and providing the appropriate statutory and/or regulatory disclosure legends on all documents.
20. The Producer is responsible for being familiar with the coverages, exclusions and conditions provided by policies sold by the Producer and administered by the Company.
21. Failure of the Company to enforce any provision of this Agreement or to terminate it because of a breach shall not be deemed to be a waiver of such provisions or of any breach committed by the Producer. No breach of any provision of this Agreement can be waived unless done so in writing, and executed by the waiving party. The waiver of any one breach shall not be deemed to be a waiver of any other breach of the same or any other provision of this Agreement.

22. The Producer agrees during the term of this Agreement and thereafter to hold in confidence and not to use for the Producer's own benefit, directly or indirectly, or for the benefit of any other person or entity except for the Company any confidential information or trade secrets, or reveal, report, publish, copy, duplicate, disclose, convey or transfer any of the confidential information or trade secrets to any person or entity, or otherwise utilize any of the confidential information or trade secrets for any purpose, except in the course of the Producer's representation of the Company under this Agreement. The Producer also agrees during the term of this Agreement to abide by the policies and procedures relating to confidential and proprietary information implemented and/or amended from time to time by the Company and its management.

Confidential information includes, but is not limited to, the following types of information; marketing concepts; techniques and plans; financial information pertaining to the Company; the Company's marketing techniques and business practices and procedures; names and lists of clients and customers of the Company and other information relating to such clients and customers or to customers leads or prospects; price lists and pricing policies; training manuals; sales information and practices; rate books; policyholder cards; applications; and computer programs and related documentation including the Total Event™ and Total Instrument™ online system, manuals and other materials.

23. The Producer shall notify the Company promptly of any claims, suits or notices of loss (or circumstances which might reasonably be expected to result in a claim, suit or notice of loss) it has knowledge of and shall cooperate fully with the Company to facilitate the investigation and adjustment of any claim when and as requested by the Company.

24. If any clause or provision of this Agreement shall be adjudged invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, it shall not affect the validity of any other clause or provision, which shall remain in full force and effect. Each of the provisions of the Agreement shall be enforceable independently of any other provision, unless expressed otherwise herein.

25. This Agreement is the entire agreement of the Parties pertaining to the subject matter of this Agreement and supersedes any and all prior oral discussions and/or written correspondence or agreements between the Parties with respect thereto. This Agreement may only be modified by a written agreement signed by persons duly authorized to sign agreements on behalf of the Parties. This Agreement shall apply to current policies already placed through the Company and in force at the date hereof and all future policies which may be placed by the Producer.

26. This Agreement and the obligations hereunder may not be assigned by the Producer or otherwise transferred, without the express written consent of the Company.

27. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Massachusetts, without regard to its conflict of laws rules.

28. By signing this Agreement, the Producer hereby acknowledges that this Agreement has been read by the Producer and understood by the Producer.

29. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which will constitute one and the same agreement. The parties agree that facsimile or electronic delivery of the executed document will constitute delivery of an original.

30. The Producer acknowledges that a breach of any of the terms, conditions or provisions of this Agreement by the Producer may give rise to a cause of action by the Company against the Producer and/or may result in disciplinary action by the Company, including but not limited to, the termination of this Agreement, all in the sole discretion of the Company.

**IN WITNESS WHEREFORE**, the parties hereto have signed this Agreement on the date and in the year first above written.

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_

**HCC SPECIALTY**

\_\_\_\_\_  
(Producer Company Name)

BY: \_\_\_\_\_  
(PRINT NAME)

BY: \_\_\_\_\_  
(PRINT NAME)

BY: \_\_\_\_\_  
(SIGNATURE)

BY: \_\_\_\_\_  
(SIGNATURE)

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

Federal Tax ID.: \_\_\_\_\_

Please check one: Wholesale Producer  Retail Producer

**Please complete; sign and return along with the following:**

(1) completed W-9 Tax Form; (2) copy of Home State Agency Insurance License; (3) copies (or list including States and license numbers) of all Non-Resident Insurance Licenses; and (4) copy of Agency's current E&O Declarations Page or Certificate of Insurance.



Please complete this Producer Questionnaire in its entirety.

Producer Number: \_\_\_\_\_ (Internal Use Only)

**General Information:**

<p>AGENCY NAME: _____</p> <p>PRIMARY ADDRESS: _____</p> <p>CITY: _____ STATE: _____ ZIP CODE: _____</p> <p>PHONE NUMBER: _____ FAX NUMBER: _____</p> <p>WEBSITE ADDRESS: _____ FEDERAL TAX ID #: _____</p> <p>NPN #: _____</p>
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**Agency Contact Information:**

<p>PRINCIPAL/CHIEF OPERATING OFFICER: _____</p> <p>PHONE NUMBER: _____ E-MAIL ADDRESS: _____</p> <p>CHIEF FINANCIAL OFFICER: _____</p> <p>PHONE NUMBER: _____ E-MAIL ADDRESS: _____</p> <p>MARKETING CONTACT PERSON: _____</p> <p>PHONE NUMBER: _____ E-MAIL ADDRESS: _____</p> <p>ACCOUNTING CONTACT PERSON: _____</p> <p>PHONE NUMBER: _____ E-MAIL ADDRESS: _____</p> <p>COMPLIANCE/LICENSING CONTACT PERSON: _____</p> <p>PHONE NUMBER: _____ E-MAIL ADDRESS: _____</p> <p>OFFICE MANAGER CONTACT PERSON: _____</p> <p>PHONE NUMBER: _____ E-MAIL ADDRESS: _____</p>
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**Agency Home State Licensing Information:**

<p>HOME STATE: _____ HOME STATE P&amp;C LICENSE NUMBER: _____</p> <p>HOME STATE SURPLUS LINES LICENSE NUMBER: _____</p>
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**Agency Insurance Information:**

<p>E&amp;O CARRIER: _____ (ATTACH COPY OF DECLARATIONS PAGE)</p> <p>FIDELITY CARRIER: _____ (ATTACH COPY OF CERTIFICATE OR BOND)</p>
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**Agency Type:**

<p>RETAILER: _____ OR WHOLESALER: _____</p>
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