



RETAIL BROKERAGE AGREEMENT

AGREEMENT, made this _____ day of _____, 20____, between DISTINGUISHED PROGRAMS INSURANCE BROKERAGE LLC, a New York limited liability company, having an office at 1180 Avenue of the Americas 16th fl. New York, NY 10036 (referred to herein as "DPIB"), and _____, having an office at _____, (referred to herein as "Broker").

WHEREAS, DPIB is an insurance broker engaged in the business of placing insurance risks with various insurance companies; and

WHEREAS, DPIB is able to place various types of insurance business with certain insurance carriers by virtue of its relationship with those carriers (referred to herein as "Markets"); and

WHEREAS, Broker desires to place insurance business with DPIB's Markets, and also desires the services, underwriting facilities, knowledge, and specialized skills of DPIB in connection with the placement of insurance for Broker's customers.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants set forth herein, the parties hereto, intending to be bound in contract, hereby agree as follows:

1. Scope of Agreement

- a. The relationship of the parties shall be that of independent contractors and nothing herein shall create the relationship of principal and agent either between the parties hereto or between DPIB and Broker's customers, or the relationship of employer and employee.
- b. Broker acknowledges and agrees that no binding authority is or shall be granted, delegated to, or conferred upon Broker by this Agreement.
- c. This Agreement shall apply to all business submitted by Broker to DPIB for placement by DPIB with its Markets, including insurance policies previously placed and in force as of the date hereof.
- d. Broker acknowledges that in submitting risks on behalf of insureds and prospective insureds to DPIB for placement of insurance, Broker shall be deemed to be acting as the representative of such insureds or prospective insureds and not of DPIB or of any insurance carrier.

2. No Additional Producers.

- a. All business submitted by Broker pursuant to this Agreement shall be direct business; business with respect to which Broker does not deal directly with

the insured or prospective insured (hereinafter either “insured” or “customer”) shall not be eligible and shall not be submitted to DPIB.

3. Placement Services.

- a. DPIB will use commercially reasonable efforts to obtain insurance from its Markets for risks on behalf of insureds or prospective insureds submitted to it by Broker; provided, however, that DPIB shall have no obligation to seek coverage with respect to those risks for which it believes coverage is unavailable, or with respect to which the financial incentive for such a placement would not be sufficient. Anything in this Agreement to the contrary notwithstanding, DPIB does not guarantee that it can or will obtain insurance for Broker's customers.

4. Electronic Platform

- a. Broker may be given access to DPIB’s secure website (“Website”) which generates both estimated but non-binding quotes and final quotes.
- b. Broker may submit insurance applications for its customer through the Website. The Broker shall submit only insurance applications that are true, complete, and accurate in all respects, as specifically communicated to the Broker by the customer applying for insurance. The Broker represents and warrants that it has (i) authority to submit insurance applications on behalf of each customer, and (ii) valid documentation to support the statements contained in the application. The Broker shall maintain originals or copies of any such materials in its files and provide such materials to DPIB upon request.
- c. Quotes Generated by use of Website:
 - i. Once the Broker submits an initial application, the Website will generate a premium estimate for the coverage. The premium estimate is not an offer to contract or a quotation for coverage, and cannot be accepted by the Broker or customer. The Broker shall clearly communicate to the customer the non-binding nature of the premium estimate.
 - ii. Once the Broker submits to DPIB a request to finalize the quote, if the application meets DPIB’s underwriting guidelines, the Website will generate a final quote. The Producer represents and warrants that it will provide its customer a true and accurate copy of the final quote as provided to it by use of Website.

5. Delivery of Policy Documentation

- a. A policy, renewal, or endorsement to a policy accepted by a customer is referred to in this Agreement as a “Policy”.
- b. The Broker agrees to accept delivery on behalf of its customer of all Policy and other policy- related documentation (the “Policy Documentation”). The Broker warrants that, where applicable, it has authority to accept electronic and other delivery of Policy Documentation on behalf of each customer.
- c. The Broker agrees to carefully review the Policy Documentation received from DPIB for accuracy and to determine, among other things, whether the Policy Documentation is (a) as requested; (b) consistent with all information provided by the Broker and the customer; (c) adequate and appropriate for the customers’ needs; and (d) consistent with other insurance issued to the customer for the policy period.
- d. The Broker agrees to promptly deliver the Policy Documentation to the

customer and to communicate any questions it or its customer may have regarding such Policy Documentation or the risks insured thereby or otherwise to DPIB.

6. Billings and Accounts.

- a. Broker shall accept DPIB's billings, which, at DPIB's sole discretion, may take the form of binders, invoices, direct bill, statements or similar documents (referred to herein as "Billings"). The balance due as shown on such Billings shall be paid by Broker by the due date stated therein.
- b. Broker unconditionally guarantees payment of all amounts shown on such Billings, including premium, commission, fees, and taxes (referred to herein as "Insurance Costs" on business subject to this Agreement including deposit, earned, extension and adjustable Insurance Costs, irrespective of whether Insurance Costs are collected by Broker. Without limiting the foregoing, Broker's guarantee of all Insurance Costs and obligations to make payment to DPIB is not contingent upon the issuance of a policy. Any credit extended on behalf of Broker or its customer, whether to customer, Broker or DPIB for the benefit of Brokers or Broker's customer shall be at the sole risk of Broker.
- c. Broker shall be solely responsible for the collection and payment of all Insurance Costs (including minimum earned Insurance Costs), counter-signature fees and resulting charges required by any state, or any other applicable fees and taxes; and Broker agrees to make full payment to DPIB under the terms and conditions established herein or at the time coverage is bound on any business.
- d. In the event of any disagreement between DPIB and Broker concerning the amount of any Insurance Costs due, Broker shall make payment of any disputed amount notwithstanding such disagreement. The parties will use their best commercially reasonable efforts and act in good faith to resolve such dispute after such payment is made.

7. Claims.

- a. For those policies requiring direct reporting of claims (claims that go directly from the Broker to the Market), Broker shall, upon receipt of verbal or written notice, immediately notify Market(s), in accordance with the policy, of all claims, suits, and notices of loss (collectively "Loss") arising under insurance placed by DPIB pursuant to this Agreement.
- b. For those policies requiring reporting of claims to DPIB, Broker shall, upon receipt of verbal or written notice, immediately notify DPIB, in accordance with the policy, of all claims, suits, and notices of loss (collectively "Loss") arising under insurance placed by DPIB pursuant to this Agreement.
- c. DPIB shall not be deemed to be an insurer and shall have no obligation, nor any liability whatsoever with respect to any loss, claim, damage or other injury incurred by any person in connection with the business subject to this Agreement.

8. Ownership of Expirations.

- a. Upon termination of this Agreement, provided the Broker is not in breach of any of its obligations pursuant to this Agreement, the records of the Broker and the use and control of expirations with respect to business written pursuant to this Agreement, shall be the exclusive property of the Broker.

9. Commissions and Fees.

- a. DPIB shall pay Broker a commission on each policy written and paid for under this agreement at a rate set forth in a separate addendum to this Agreement and signed by DPIB.
- b. DPIB is not and shall not be a party to any arrangement or agreement between Broker and any of its customers for the payment of a fee or other compensation to Broker. Any such agreement or arrangement shall be strictly between Broker and its customers and DPIB shall have no rights or obligations in connection therewith.

10. Cancellation of Insurance.

- a. Anything to the contrary in this Agreement notwithstanding, DPIB shall have the right, at its sole discretion, to cancel any binder, policy or contract of insurance on business placed pursuant to this Agreement in accordance with the cancellation provisions of such binder, policy or contract including, but not limited to, cancellation for non-payment of Insurance Costs. Broker shall not be entitled to a credit for any cancellation unless such credit has been granted to DPIB by its Market.
- b. Earned Insurance Costs shall be computed and charged on every insurance contract canceled after the inception date in accordance with the cancellation provisions of the contract and/or rules of the Market. In the event Broker fails to make timely payment of any amount required under this Agreement, DPIB shall have the right, in addition to any other remedy, to cancel policies for non-payment of Insurance Costs.

11. Representations and Warranties of Broker.

In order to induce DPIB to enter into this Agreement, Broker represents and warrants that:

- a. it holds all licenses and permits required by any applicable federal, state or local law or regulation in order to produce business in connection with this Agreement, and all such licenses will be maintained in full force and effect throughout the term of this Agreement; DPIB reserves the right to request the Broker to furnish copies of all such authorizations, and any renewals thereof, to DPIB.
- b. in placing business through DPIB pursuant to this Agreement, Broker shall remain in full compliance with:
 - i. all applicable federal, state, and local laws, rules, regulations, and requirements;
 - ii. excess and surplus lines laws; and
 - iii. the highest standards of the insurance industry;
- c. Broker represents that it understands the nature and characteristics of the insurance products offered through DPIB and it will provide information and guidance to its customers as necessary prior to purchase to ensure such customers understand the nature and limitations of the coverage provided by the products and any obligation to which such customers may be subject in connection with the insurance products.
- d. at all such times that this Agreement shall be in effect, Broker shall be covered by a policy of insurance broker's errors and omissions insurance with limits of liability not less than \$1 million per occurrence/\$3 million

aggregate; in the event such coverage is issued on a claims-made basis, Broker will purchase the maximum extended reporting period provided by the policy. DPIB reserves the right to request the Broker to furnish a copy of the policy declaration page at any time.

12. Advertising.

- a. Broker shall not publish, circulate or issue any advertisement, letter, circular, pamphlet or other publication or statement, written, or otherwise, referring to DPIB, or any of its insurance programs, without the prior written consent of DPIB.
- b. DPIB shall not publish, circulate or issue any advertisement, letter, circular, pamphlet or other publication or statement, written, or otherwise, referring to Broker, without the prior written consent of Broker.

13. Hold Harmless.

- a. Broker shall indemnify and forever hold harmless DPIB, and any successor corporation, and their officers and directors, against any and all liabilities, claims, causes action, losses, damages (including attorneys' fees) resulting from or attributable to any and all acts or omissions of the Broker, or any breach by Broker of any obligation arising under this Agreement.
- b. DPIB shall indemnify and defend Broker against liability, including cost of defense and settlements imposed upon him/her by law for damages sustained by policyholders and caused by acts or omissions of DPIB, provided the Broker has not primarily caused or contributed to such liability by his/her own acts or omission. The Broker agrees, as a condition of such indemnification, to notify DPIB promptly of any claim or suit against him/her and to allow DPIB to make such investigation, settlement or defense thereof as DPIB deems prudent.

14. Cancellation of Agreement.

- a. This Agreement may be canceled at any time by written notice of either party to the other. The respective rights and obligations of the parties pursuant to this Agreement with respect to business placed by DPIB shall not be affected by such cancellation.

15. No Assignment.

- a. This Agreement shall not be assigned by either of the parties, and their respective obligations hereunder shall not be delegated without the prior written consent of all parties hereto.

16. Entire Agreement.

- a. This Agreement contains the entire agreement between the parties hereto with respect to the transactions contemplated hereby and supersedes all previous written or oral negotiations, commitments and writings pertaining thereto. The captions in this Agreement are for convenience of reference only, do not form a part hereof and do not in any way modify, interpret or construe the intentions of the parties. This Agreement may be executed in counterparts, all of which shall constitute one and the same instrument.
- b. If any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions of this Agreement will not be affected thereby and

the parties will use all reasonable efforts to substitute one or more valid, legal and enforceable provisions which, insofar as practicable, implement the purposes and intents hereof. To the extent permitted by applicable law, each party waives any provision of law which renders any provision of this Agreement invalid, illegal or unenforceable in any respect.

17. Waiver.

- a. The failure of DPIB to insist in any one or more instances upon strict performance of any of the provisions of this Agreement, or to exercise any option herein contained, shall not be construed as a waiver or a relinquishment of such provisions, but the same shall continue and remain in full force and effect.

18. Choice of Law.

- a. This Agreement shall be governed by and construed according to the laws of the State of New York, without giving effect to its conflicts of laws principles.

19. Notices.

- a. All notices required or permitted hereunder shall be effective 5 business days after the mailing thereof, in a stamped or postage paid envelope addressed, or upon facsimile transmission,

If to DPIB, to:

James A. Tesoriero, Executive Vice President
Distinguished Programs Insurance Brokerage LLC
1180 Avenue of the Americas 16 fl. New York, NY 10036
Fax: 212-297-3132
jtesoriero@distinguished.com

If to the Broker, to:

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been signed in duplicate by the parties hereto and shall be effective as of the date first above written.

| | |
|---------|---|
| Broker: | Distinguished Programs Insurance Brokerage LLC |
| Signed: | Signed: |
| Name: | Name: |
| Title: | Title: |
| Date: | Date: |

ADDENDUM TO BROKERAGE AGREEMENT

ADDENDUM TO BROKERAGE AGREEMENT dated _____ between
 Distinguished Programs Insurance Brokerage LLC. (“DPIB”) and
 _____ (“Broker”).

1. Section 9, Commissions and Fees, of the Broker Agreement is amended by adding the following: DPIB will share its commission with the Broker on the following classes of business and in the following percentage(s):

| | |
|-------------------|--------------------------------------|
| Class of Business | Percentage Commission Due Broker |
| VARIOUS | As documented on individual accounts |

The foregoing percentage(s) shall be limited to commissions on business with respect to which the Broker played a role in the insurance transaction, either by producing the customer, assisting in the placement, or otherwise participating in the negotiation of the coverage. This addendum applies only to business submitted by Broker to DPIB pursuant to the Brokerage Agreement from and after the date of this addendum.

2. All other terms and conditions of the Broker Agreement remain unchanged.

| | |
|---------|---|
| Broker: | Distinguished Programs Insurance Brokerage LLC |
| Signed: | Signed: |
| Name: | Name: |
| Title: | Title: |
| Date: | Date: |