

Producer Agreement

This PRODUCER AGREEMENT is made and entered into as of the ____ day of _____ 20__, by and between Preferred Concepts, LLC, Preferred Concepts, Inc., IRF Administrators, LLC, PCI Enterprises, Inc., New York Corporations having offices at 14 Wall Street, New York, New York 10005, hereinafter referred to as "PCI Group" shall refer to any business unit or entity that may be affiliated through common ownership and/or management by PCI Group and _____, and or the person(s) or entity (ies) possessing current Broker/Agent License Number(s) _____ in the State of _____, a copy of which is attached, hereinafter referred to as "Producer".

Section 1. Definitions. Where used in this Agreement, the following terms shall have the following meanings:

- (a) "Producer Business" shall mean insurance business produced or submitted by Producer for the Programs.
- (b) "Producer Registration Application" shall mean the Producer Registration Application attached as Exhibit A hereto, which is incorporated into this Agreement by this reference.
- (c) "Programs" shall mean the insurance programs developed and established by PCI Group.
- (d) "Purchasing Groups" shall mean the risk purchasing groups organized pursuant to the federal Liability Risk Retention Amendments of 1986, 15 U.S.C. § 3901 et. seq. organized by PCI Group. The Purchasing Groups shall be the master policyholders for all business placed hereunder.
- (e) "Website" shall mean the proprietary interactive Internet website owned by PCI Group at <http://www.ezumbrella.com> or such other web site which PCI Group may designate in the future in PCI Group's sole discretion.
- (f) "Material Changes" shall mean changes in operations or exposure of the insured that affect the exposure to loss or alter the rating base data utilized to calculate premium, including but not limited to the premium of the primary underlying policies.

Section 2. Obligations and Responsibilities of the Producer.

During the term of this Agreement the Producer shall:

- (a) Submit business to PCI Group for quotation. Producer and shall provide complete, truthful, and accurate information concerning the proposed insured, including full details concerning the proposed insured's business, operations and claims history.
- (b) Promptly disclose to PCI Group any material changes to the insured's business, operations and claims history known to Producer. The Producer's duty to disclose changes in the insured's business, operations and claims history shall be ongoing from the date of first submission to PCI Group through the entire period that any coverage is in effect.
- (c) Vigorously pursue each insured's compliance with loss control and risk management recommendations.
- (d) Report to PCI Group and/or the insurance carrier(s) as directed in policy of any notice of any claim, or of any incident that is likely to lead to a claim, under any insurance policy placed by PCI Group. The Producer shall cooperate with PCI Group, the insurance carrier(s), adjusting firms and attorneys in the investigation, adjustment, settlement or payment of any claim, or any response thereto.
- (e) Pay to PCI Group or its designee, by the due date specified, all premiums and deposits for policies and endorsements as billed by PCI Group, irrespective of whether Producer has collected such amounts.

Section 3. Obligations and Responsibilities of PCI Group.

(a) During the term of this Agreement, PCI Group shall:

(i) Prepare proposals for submission to insurance carriers as requested by the Producer and based solely on information provided by the Producer. PCI Group will not be responsible for the accuracy, quality or completeness of any information provided by Producer when requesting a quotation.

(ii) Prepare or obtain binders of coverage upon receipt of a firm order to bind coverage from Producer. Such order to bind coverage must be in writing to PCI Group. With respect to products that are Website based, orders by Producer must be submitted solely in accordance with the instructions that appear on the relevant pages of the Website. Unless otherwise expressly agreed to by PCI Group in writing, all binders issued by PCI Group shall be subject to and governed by the quotation or proposal for coverage given by PCI Group in response to the Producer's submission.

(iii) Cooperate with the Program insurance carrier(s) to facilitate issuance of policies, endorsements, audits and loss control recommendations, and coordinate the Program insurance carrier(s)' requests for information from the Producer and the Producer's responses to such requests.

(iv) Transmit claim reports and related documents received from the Producer and coordinate claim handling activity between the Program insurance carrier(s), the Producer and the insured.

(v) Pay to the Program insurance carrier(s) all premiums received from the Producer (less applicable commission).

(b) It is specifically understood and agreed that notwithstanding anything to the contrary herein set forth, this Agreement shall not be interpreted or construed to compel PCI Group to accept or place all or any of the Producer Business. PCI Group may, in its sole discretion, reject any or all of the Producer Business.

Section 4. Commissions and Premiums.

(a) Where applicable, the Producer shall retain a portion of the commission on the Producer Business (herein the "Producer Commissions") in accordance with then applicable scale of commissions, or as mutually agreed.

(b) The Producer shall be and shall remain liable to PCI Group for the payment of the net premium on the Producer Business within twenty-five (25) calendar days from the effective date of coverage, irrespective of whether such premium has been collected by the Producer. Any credit extended by the Producer to an insured or other person shall be solely at the Producer's risk and premiums on the Producer Business shall be due irrespective of whether they are collected by the Producer.

(c) The Producer acknowledges and agrees that the Producer Business is not subject to flat cancellation by the Producer. Any cancellation by Producer, other than cancellation for non-payment of premium by the insured will be canceled on a short rate basis unless otherwise specified. Any reduction in rating base exposure in excess of 50% shall be treated as a short-rate refund. The Producer shall refund Producer Commission to PCI Group on a proportionate basis on all Producer Business that is canceled and/or for which the premiums are reduced after inception date. Such refund shall be due within thirty (30) days after the Producer is given notice of such cancellation or reduction. If coverage is bound by the PCI Group all additional fees charged by PCI Group for the entire policy term shall be fully earned upon binding. Producer hereby acknowledges that PCI Group, or its Insurers, is under no duty to reinstate a policy if the policy is cancelled.

(d) Anything herein to the contrary notwithstanding, in the event the premium under any of the Producer Business cannot be fully determined at the inception of coverage, or is subject to adjustment after a specific time period, by audit or otherwise, the amount of such additional premium due shall be paid by the Producer to PCI Group within thirty (30) days after such additional amount shall have been determined and billed, whether collected from insured or not.

(e) In the event a financed premium is canceled and the premium is refunded to the applicable premium finance company, the Producer shall immediately refund any Producer Commission to PCI Group on a proportionate basis.

(f) Each party shall maintain the premiums it receives in a fiduciary capacity in accordance with applicable law.

(g) If, after the expiration of sixty (60) days from the date liability was assumed by the insurance carrier, PCI Group has not received payment due for the applicable coverage, PCI Group may, at its option, collect from the Insured the premium due. In the event PCI Group collects the premium or any part thereof from the Insured, Producer shall not be entitled to any commission on the premium so collected. Attempts by PCI Group to collect from the Insured shall not relieve Producer of liability to PCI Group except to the extent amounts actually collected by PCI Group from the Insured, less the expense of such collection.

(h) In the event PCI Group shall have to enforce collection of any amount due under the terms of this Agreement, Producer agrees to pay all costs incident thereto, including reasonable attorney's fees and expenses incurred by reason of such collection action.

Section 5. Binding/Settlement Authority.

(a) In no event, nor under any circumstances whatsoever shall this Agreement be interpreted or construed to permit the Producer to bind PCI Group or any Program insurance carrier(s). All binding authority shall vest and remain in PCI Group and the Program insurance carrier(s).

(b) All insurance applications must be received by PCI Group prior to the proposed effective date of coverage, and it shall be a condition to coverage that any and all documents or other information required by PCI Group must be attached to the application. Such applications may be submitted by way of the Website if PCI Group shall so specify on the Website.

(c) Nothing herein shall be construed as giving the Producer authority or permitting Producer to adjust, settle, compromise or pay any claim.

Section 6. Relationship of Parties.

The relationship of the parties shall be that of independent contractors and nothing herein shall create the relationship of principal and agent, or the relationship of employer and employee, or partners in a partnership, between the parties hereto. Neither party shall hold itself out as the agent or other representative of the other. The Producer shall be an independent contractor, and shall be free to exercise its own discretion and judgment with respect to the person, firms or corporations from which it will solicit business.

Section 7. The Producer's Representations and Warranties and Covenants.

In order PCI Group to induce to enter into this Agreement, the Producer represents and warrants that:

(a) Producer shall obtain and maintain in effect 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, and that all solicitations and submissions by the Producer hereunder shall be in compliance with all applicable laws and regulations. The Producer agrees that PCI Group may decline to bind any insurance, and/or that PCI Group shall have all right, title and interest in the Producer Commissions in the event acceptable evidence of relevant current licensing information is not on file with PCI Group. A copy of the Producer's current resident and non-resident License(s) shall be attached to the Producer Registration Application. Producer will promptly notify PCI Group of any suspension, cancellation or disciplinary action in respect of its license(s).

(b) During the term of this agreement, the Producer will maintain and keep in full force and effect, an errors and

omissions policy of insurance providing coverage of not less than one million (\$1,000,000.00) dollars. The Producer shall furnish PCI Group with a copy of the current policy (including the declaration page) and/or Certificate of Insurance upon execution of this Agreement, and following each renewal of such policy.

(c) The Producer shall notify an insured of the then-current privacy policy posted on the Website ("Privacy Policy"). The Producer shall promptly provide a copy of the Privacy Policy to an insured upon an insured's request. The Producer shall follow all instructions of the insured pursuant to the insured's rights under the Privacy Policy.

(d) Any and all information provided in connection with any application for insurance subject to this Agreement shall be true and complete. Producer further represents and warrants, to the best of their knowledge, such applications shall contain no material misrepresentations of any kind.

(e) No facts or circumstances that might reasonably be anticipated to affect a decision whether to accept an application for insurance shall be withheld from PCI Group prior to the effective date of insurance coverage.

(f) In the Producer's performance under all terms and conditions hereunder the Producer shall not violate any prior confidentiality agreement, employment contract or any other duty owed to any other person.

(g) The Producer shall not upload any virus or any other contaminant, or disabling devices including, but not limited to, codes, commands or instructions that may have the effect or be used to access, alter, delete, damage or disable the Website, other software, PCI Group information or other PCI Group property, other than in a manner in accordance with the Website's normal operations as specified by PCI Group.

(h) All information set forth in the attached Producer Registration Application is true and correct. The producer shall give PCI Group prompt notice of any change in such information; the Requestor identified in the Producer Registration Application is authorized to act on behalf of the Producer in connection with this Agreement.

(i) Producer shall not act as co-broker (double broker) for any application or policy underwritten pursuant to this Agreement.

Section 8. Advertising.

The Producer shall not publish, circulate or issue any advertisement, letter, circular, pamphlet or other publication or statement, written, oral, or by electronic mail ("E-Mail") or other electronic distribution of advertising, or otherwise, referring to the Programs, the Purchasing Groups, or PCI Group without the prior written consent of PCI Group.

Section 9. Producer Indemnification.

To the fullest extent permitted by law, the Producer shall indemnify and forever hold harmless PCI Group, and any successor corporation, and their officers and directors, against any and all liabilities, claims, causes of action, losses, damages (including attorneys' fees) resulting from or attributable to any and all acts or omissions of the Producer, or any breach by the Producer of any obligation arising under or term or condition of this Agreement.

Section 10. PCI Indemnification.

To the fullest extent permitted by law, the PCI Group shall indemnify and forever hold harmless Producer, and any successor corporation, and their officers and directors, against any and all liabilities, claims, causes of action, losses, damages (including attorneys' fees) to the extent the Producer has not contributed to or compounded such error, resulting from or attributable to any and all acts or omissions of the PCI Group, or any breach by the PCI Group of any obligation arising under or term or condition of this Agreement.

Section 11. Term, Termination of Agreement and Rights to Expirations.

(a) This Agreement shall continue as valid unless either party elects to terminate. This Agreement may be terminated at any time by either party, upon (30) days written notice to the other party, sent by Registered or Certified Mail, Return Receipt Requested. Such termination, however, shall in no event affect the respective rights or liabilities of either party occurring up to the date of termination.

(b) Upon any material breach of this Agreement, PCI Group shall have the option to immediately terminate the applicable insurance and/or this Agreement, and, additionally, PCI Group and the applicable insurance carrier may also deny any claim under the insurance policy in question.

(c) In the event of termination of the Agreement, the Producer having accounted for and paid all premiums for which it is liable, the Producer's records, customer lists and use or control of expirations shall remain the property of the Producer and shall be left in its undisputed possession; otherwise, the records, customer lists and use and control of expirations shall be vested exclusively in PCI Group.

Section 12. Confidentiality.

The parties to this Agreement hereby represent and acknowledge to each other that in the course of the performance of the party's obligations they will each make available to the other party certain information pertaining to each party's business and operations, including, but not limited to, a secure identification password to the Website ("Information"). Each party hereby agrees that as a condition to being provided the Information, that neither party will use any Information except in connection with the performance of duties hereunder. Each party agrees not to disclose any Information to any one other than employees, officers and directors of such party, that have a need to know, and to cause all such persons to abide by this Agreement. The limits on use and disclosure will not apply to any Information which (a) at the time of disclosure is generally available to the public or (b) which becomes generally available other than through a breach of an obligation of confidentiality. Information shall not include any and all information regarding the insured, which shall be governed by the Terms of Use and Privacy Policy of the Website.

Section 13. Inspection of Records.

During the term of this Agreement, and for a period of three (3) years following termination for any reason, PCI Group shall have the right to audit and inspect 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 Producer. The costs of such audit and inspection, including the costs of making copies of relevant records, shall be borne by PCI Group.

Section 14. Miscellaneous.

(a) This Agreement shall not be assigned by the Producer without prior written consent and its obligations hereunder shall not be delegated without the prior written consent of all parties hereto.

(b) 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. This Agreement may not be varied, modified or amended except by a writing signed by the party against which this Agreement is sought to be enforced. Notwithstanding the foregoing, the Terms of Use and Privacy Policy of the Website (together, the "Website Terms") supplement the terms and conditions of this Agreement and are fully binding upon Producer. In the event of any conflict between the Website Terms and this Agreement, the Terms of Use of the Website shall govern.

(c) 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.

(d) The failure of either party 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.

(e) All notices required or permitted hereunder shall be effective upon the mailing thereof, in a stamped or postage paid envelope addressed, or by facsimile transmission, or by electronic mail as specified on the Website, unless PCI Group specifies a different and sole method of notice on the Website, if to PCI Group to:

14 Wall Street, 18th Floor New York, NY 10005, Attention: Stuart A. Farber, President

If to the Producer to:	Agency Name:	_____
	Attention:	_____
	Address:	_____

f) This Agreement, as well as any and all tort claims arising from this Agreement or arising from any of the proposals, negotiations, communications or understandings regarding this Agreement, shall be governed by and construed according to the laws of the State of New York, applicable to contracts wholly made and wholly performed in New York, without giving effect to its conflicts of laws principles. For purposes of any proceeding involving this Agreement and the obligations hereunder, the parties agree to the exclusive jurisdiction of the Courts of the State of New York and of the United States, having jurisdiction in the County of New York, State of New York, and agree not to raise, and waive, any objections or defenses based upon venue or *forum non conveniens*, except that PCI Group may seek temporary injunctive relief in any venue of its choosing.

(g) PCI Group shall not be responsible for the Producer's overhead or other operating expenses, including rent, transportation, facilities, clerk hire, solicitor's fees, postage, advertising, exchange, personal local license fees or any other expense whatsoever.

(h) All remedies available to either party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies. If the Producer breaches this Agreement, PCI Group shall be entitled, in addition to any other rights available at law or in equity, to immediate injunctive relief without any requirement to post a bond or other security. The Producer had a full and ample opportunity to consult legal counsel regarding this Agreement prior to signing, has freely, and voluntarily entered into this Agreement, and has read and understood each and every provision, including, but not limited to, Producer's rights, obligations, and applicable terms and conditions as set forth herein. Sections 1, 2(c), 2(d), 2(e), 2(f), 3(a)(iv), 3(a)(v), 3(b), 4, 5(c), 7, 9, 10, 11, 12, and 13 shall survive any termination or expiration of this Agreement.

THIS AGREEMENT MUST BE SIGNED BY AN OFFICER OF THE COMPANY

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.

PREFERRED CONCEPTS, LLC

By: _____

Print Name:

Date:

_____ **[PRODUCER]**

By: _____

Print Name:

Title:

Date:

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

1. Copy of your insurance license(s)
2. Copy of your E & O policy Declaration Page
3. Federal Tax I.D. number: _____