

# **PRODUCER CONTRACTS**

# **Nexus Insurance Group**

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# PRODUCER AGREEMENT

THIS MATERIAL IS INTENDED FOR INFORMATIONAL PURPOSES ONLY AND IS NOT INTENDED TO BE LEGAL ADVICE OR TO BE TAKEN VERBATIM.

You should consult your attorney for an actual contract which will suit your individual needs.

THIS AGREEMENT made on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between Nexus Insurance Group, as agency principal, on behalf of (hereinafter referred to as Agency) an insurance agency organized under the laws of Florida and located at West Palm Beach FL and \_\_\_\_\_ (hereinafter referred to as Producer) residing at \_\_\_\_\_ who is an independent producer licensed to do business within the State of \_\_\_\_\_.

WHEREAS Agency desires to employ Producer and Producer desires to be employed by Agency, the parties do hereby agree and covenant for mutual consideration exchanged as follows:

## **1. Term of Agreement:**

A. The Agency shall employ the Producer as a full-time employee or Independent Contractor based upon the terms and conditions to be hereinafter specified; this agreement to commence on the \_\_\_\_\_ day of 20\_\_\_\_\_

B. The Agency and Producer hereby agree that this contract shall continue and be in effect until \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, unless revoked earlier as herein provided.

C. Notwithstanding any other agreement or any other provision of this agreement, this agreement (a) may be terminated by agency at any time by providing the producer party with One days advance written notice; (b) will terminate automatically without notice upon the violation by Producer of any law, rule, regulation or order, pertaining to insurance or criminal matters, of this State or any of its political subdivisions or the State Department of Insurance; (c) will terminate upon the death of Producer; (d) will terminate upon the occurrence of Producer no longer maintaining a license as an insurance producer.

## **2. Duties of Producer:**

A. Agency and Producer hereby agree that Producer will at all times maintain a valid \_\_\_\_\_ [state] license as an insurance producer and will conform his/her conduct to the laws, rules, regulations and orders of this State applicable to insurance producers.

B. Producer hereby agrees that he/she will, during the course of this agreement, at all times work exclusively for Agency and will solicit, procure, effectuate and negotiate insurance business only on behalf of Agency.

C. Agency and Producer agree that Producer's primary duties will consist of the solicitation, negotiation, placement and procurement of insurance business for which he/she is licensed and authorized in this State to solicit, negotiate or place on behalf of Agency and will give whatever assistance is legally permissible on behalf of the customers of the Agency in such matters. Further, it is agreed that Producer has authority only to solicit, procure and negotiate policies of insurance on behalf of Agency and that Producer has no authority to bind Agency to any contract unless such authority has been given to Producer in writing by Agency; that Producer will be liable and hold Agency harmless from any claim or damages which result from the Producer's signing of any unauthorized contract.

D. Producer hereby agrees that at times Producer will handle certain monies belonging to the Agency and/or the clients of the Agency; that at all times Producer will be held accountable for such monies and will only use such monies as directed by the principal and in accordance with the laws of this State; that in the event that Producer misappropriates, misuses or otherwise does not follow the direction of the principal in the use of such monies that Producer will indemnify and hold harmless the Agency for an accounting of such monies to any person, firm, entity or corporation.

### 3. Ownership of Business:

A. **It is expressly agreed between Producer and Agency that all business negotiated, procured, solicited or renewed by Producer during the term of this contract is the sole property of the Agency and producer split base on commission split.**

B. It is hereby expressly agreed between Agency and Producer that the production of Agency's insurance business depends in large part upon the solicitation of business and renewal of existing business; that as between Agency and Producer, information concerning a particular client or prospective client which has been contacted by Agency or Producer, including but not limited to, the names of customers, the policy renewal and expiration dates, amounts of coverage for particular customers of Agency are considered to be trade secrets and it is expressly recognized by both parties that the cultivation of such information represents a significant investment of time, energy and money by Agency;

THEREFORE, it is expressly agreed that Producer will not, directly or indirectly, by himself or in connection with another, compete with the business of Agency either during the term of this contract or any subsequent renewal for a period of two (2) years after termination of this contract for whatever reason within a ten (10) mile radius of producer's original/main areas of conducting business. It is agreed between Agency and Producer that violation of this clause would lead to significant detriment on the part of Agency, which detriment is not easily calculated in terms of damages;

THEREFORE, Agency and Producer agree that in the event of violation of this clause by Producer, Producer will pay to Agency the liquidated damage sum of up to \$50,000 which amount represents the undeterminable but likely damages which will result from any violation of this covenant.

**4. Compensation to Producer from Agency:**

As full compensation for the services of Producer on behalf of Agency in any matter relating to the production, procurement, solicitation, negotiation or any other action concerning the business of the Agency, Agency agrees to compensate Producer as follows:

[See Addendum: Intake Form]

**5. Law to be applied:**

It is hereby agreed between Agency and Producer that to the extent permitted by law, the law to be applied to this contract is the law of the State of Florida.

**6. Severability:**

It is agreed between Producer and Agency that if any part of this agreement should be found by a court or other tribunal to be ineffective, void or a nullity that such court or tribunal will, to the extent permitted by law, give the remainder of this agreement full force and effect, taking into consideration the intent such part which was found to be ineffective, void or null.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date and year above written for the purposes set forth in this contract:

\_\_\_\_\_  
Producer Print Name

\_\_\_\_\_  
Agency Mgr Name

\_\_\_\_\_  
Producer Signature

\_\_\_\_\_  
Agency Mgr Signature

## ADDITIONAL CLAUSES

These are clauses which may be added to the main contract. Included are samples of different ways to structure compensation. You may find that alternative structures are more appropriate for your Agency.

### **Compensation Concepts:**

A set commission of \_\_\_\_\_% on all "New Business" brought into the Agency by the efforts of the Producer and a set commission of \_\_\_\_\_% for any "Renewal" of existing business which was originally brought into the Agency as New Business by the Producer. Commission percentage is to be based upon the "Net Annual Commissions" actually received by the Agency on any business produced by the Producer whether new or renewal business. "New Business" is hereby defined to be insurance sold to a person, organization or other legal entity which is not at that time a customer of the Agency or, insurance sold to a person organization or other legal entity of another type of insurance than the customer already has in existence with the Agency. Where the insurance placed by Producer replaces an existing policy and involves a cancellation of such existing policy of the customer of the Agency, the commission to be paid to the Producer shall be based upon the excess of the premium of the replacing policy for the full term over the premium for the same term for the replaced policy.

Consolidations of existing coverages, lines or policies into new combinations or packages shall not be considered to be New Business. "Net Annual Commissions" is defined to be the gross annual commissions, less any return commissions---the premium for which has been paid in full, without regard to any contingent, bonus or profit-sharing commissions.

#### 1. Producer is to be paid commissions only, as follows:

A set commission of \_\_\_\_\_% on all "New Business" brought into the Agency by the efforts of the Producer and a set commission of \_\_\_\_\_% for any "Renewal" of existing business which was originally brought into the Agency as New Business by the Producer. Commissions

Percentage is to be based upon the "Net Annual Commissions" actually received by the Agency on any business produced by the Producer whether new or renewal business. "New Business" is hereby defined to be insurance sold to a person, organization or other legal entity which is not at that time a customer of the Agency or, insurance sold to a person, organization or other legal entity of another type of insurance than the customer already has in existence with the Agency. Where the insurance placed by Producer replaces an existing policy and involves a cancellation of such existing policy of the customer of the Agency, the commission to be paid to the Producer shall be based upon the excess of the premium of the replacing policy for the full term over the premium for the same term for the replaced policy. Consolidations of existing coverages, lines or policies into new combinations or packages shall not be considered to be New Business. "Net Annual Commissions" is defined to be the gross annual commissions, less any return commissions---the premium for which has been paid in full, without regard to any contingent, bonus or profit-sharing commissions.

A. For all life insurance produced by the producer, the Producer will be paid a commission of \_\_\_\_% of the net commissions actually received by the Agency on any such life insurance produced by the efforts of the Producer.

B. A set commission of \_\_\_\_\_% on all "New Business" not otherwise describe in paragraphs A or B above, brought into the Agency by the efforts of the Producer and a set commission of \_\_\_\_\_% for any "Renewal" of existing business which was originally brought into the Agency as New Business by the Producer not describe in paragraphs A or B above. Commission percentage is to be based upon the "Net Annual Commissions" actually received by the Agency on any business produced by the Producer whether new or renewal business. "New Business" is hereby defined to be insurance sold to a person, organization or other legal entity which is not at that time a customer of the Agency or, insurance sold to a person organization or other legal entity of another type of insurance than the customer already has in existence with

**Covenant not to compete samples:**

1. "The employee shall not, during the term of this Agreement and for a period of two (2) years following the termination of his employment, directly or indirectly (i) engage, own, participate in, or become employed by any person or business, or for himself, which solicits, procures or brokers health, life, accident, property and/or casualty insurance within a twenty (20) mile radius from employer's principal place of business (ii) solicit or broker any present or future client of the employer."

2. "Employee agrees that he will not, within a period of two (2) years following the date of the voluntary or involuntary termination of his employment with Employer, either directly or indirectly, by and for himself, or as the agent of another, or through others as his agent engage in, or in any way be connected with the fire, casualty, accident, health and/or life insurance business and/or insurance agency or brokerage business within the County of, which is within twenty (20) miles of employer's principal place of business."

## **Non- Disclosure Clauses**

**Choice of law:**

This clause is used primarily when the parties live in different states. In essence, it allows the parties to choose which state law will apply to their contract. Such clause is usually honored by the courts, provided it does not violate the laws of the forum state.

**Arbitration:**

This clause may provide that, in the event of a dispute or breach, the matter will be resolved by a neutral arbitrator. Such clauses are usually honored by the courts.

**Non-Disclosure:**

This clause is usually contained in the same contract as the covenant not to compete. It is distinguishable from the covenant not to compete in that the covenant not to compete emphasizes the employees' ability to compete with the employer upon termination, whereas the covenant of non-disclosure emphasizes the employee's ability (restrictions thereon) to disclose information pertaining to the employer's company to third persons. Hence, the two clauses complement one another.

The following is a sample of a covenant not to disclose information:

"Employee further specifically agrees that he will not at any time, in any fashion, form or manner, either directly or indirectly, divulge, disclose or communicate to any person, firm or corporation in any manner whatsoever any information of any kind, nature or description concerning any matters affecting or relating to the business of the employer, including without limiting the generality of the foregoing, the names of any of its customers, or any other information of, about or concerning the business of the--employer, its manner of operation, its plans, or other data of any kind, nature or description without regard to whether any or all of the foregoing matters would be deemed to be confidential, material or important, the parties hereto stipulate that as between them, the same are important, material and confidential and gravely affect the effective and successful conduct of the business of the employer, and its good will, and that any breach of the terms of this paragraph is a material breach hereof."

**Severance**

This clause is very important in that it provides that, in the event that any portion of the contract is deemed to be invalid, only that portion will be enforced, hence, the remainder of the clause, paragraph, or contract will be enforceable.

The following is an example. "The covenants contained in this paragraph shall survive termination of employment. In the event it is determined that the covenants contained herein are illegal and/or unenforceable, it is the intent of the parties that the scope of the covenant be reduced to conform to the requirements of law."

**Non-Solicitation:**

This clause is a companion clause of the covenant not to compete, and the covenant not to disclose. This clause provides that the employee will not solicit or procure any of the employer's clients.

The following is a sample of this type of clause:

"Employee agrees that he will not, within a period of two (2) years following the date of the voluntary or involuntary termination of his employment with Employer, either directly or indirectly, by and for himself, or as agent of another, or through others as his agent: (a) In any way seek to induce, bring about, promote, facilitate or encourage the discontinuance of, or in any way solicit for and on behalf of himself or others, or in any way quote rates, accept, receive, write, bind, broker or transfer any renewal or replacement of any of the insurance business, policies, risks or accounts, written, issued, covered, obtained (whether through the efforts of Employee or not) or carried by the Employer."