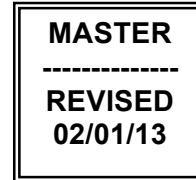


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This sample was prepared by Thomas M. Braniff, JD, CPCU. Mr. Braniff is the Managing Partner of Braniff Attorneys / Counselors, and President of Texas Insurance Consulting. Both firms concentrate their activities in the area of insurance, regulatory and risk management matters. Mr. Braniff has previously owned and operated general lines agencies, managing general agencies, and insurance companies. He can be contacted directly for additional information or regarding representation at 713-664-0604 or tomas@braniff-law.com.

PURCHASE AND SALE AGREEMENT



**This Agreement Is Subject To Arbitration
Under The Texas General Arbitration Act**

THIS AGREEMENT is made and entered into effective the ___ day of _____, 2012 the "Effective Date"), by and between _____, individually (hereinafter referred to as "Seller") and _____, a Texas corporation (hereinafter referred to as "Buyer").

WHEREAS, Seller is engaged in the business of operating an independent insurance agency in the name of _____ Insurance Agency (hereinafter referred to as "Agency") having its principal place of business at _____, Texas; and

WHEREAS, Seller owns one hundred percent (100%) of the assets (hereinafter referred to as "Assets" and/or "Accounts" and/or "Policies") of the Agency, and Seller desires to sell to Buyer certain of the Assets, Accounts and/or Policies of the Agency, as more fully set forth in this Purchase and Sale Agreement and/or Exhibits thereto (hereinafter referred to as "Agreement"); and

WHEREAS, Buyer desires to purchase those certain Assets, Accounts and/or Policies of Seller upon the terms and conditions set forth herein; and

WHEREAS, the respective parties deem it advisable and in their best interest for Buyer to acquire said Assets, Accounts and/or Policies of Seller and for Seller to sell the Assets, Accounts and/or Policies to Buyer:

NOW, THEREFORE, in consideration of the mutual representations, warranties and covenants contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **CLOSING.** The date of Closing ("Closing") shall be on or about _____, 201_. The place of Closing shall be at the office of _____ in _____, Texas, at 10:00 a.m.

(a) At the Closing, Seller shall deliver:

- (i) An executed copy of this Agreement and/or other instruments of conveyance as Buyer may reasonably require (if any) to transfer to the Buyer good, valid and marketable title and beneficial ownership of all of the assets referred to in Exhibit "A" hereof, free and clear of all liens, claims, security interests, encumbrances, restrictions or other charges of any kind.
- (ii) All files, expiration records, dailies and other documents relating to the Accounts or Policies. Seller shall provide immediate access to such records and other documents so that Buyer may take possession thereof.
- (iii) Copies of the insurance agent licenses currently held by Seller and staff licenses.
- (iv) All moneys that have been collected by Seller for Policies with an effective date on or after the effective date of this Agreement, including a detailed listing of all prepaid amounts by Account for reconciling payments made to Seller prior to the Effective Date.
- (v) Such other instruments and documents of conveyance or assignment as may be reasonably necessary to transfer the Assets being acquired, and to carry out the requirements and intent hereof.

(b) At the Closing, Buyer shall deliver:

- (i) A Producer Agreement in a form agreed to between the parties prior to execution of this Agreement.
- (ii) Such other instruments and documents as may be reasonably necessary to carry out the requirements and intent hereof.

(c) After the Closing, all parties shall execute and deliver such additional instruments and documents as may be reasonably required to transfer to Buyer title to the subject Assets, further secure Buyer's or security in the Assets, and/or to carry out the terms, conditions and intent hereof.

2. **ASSETS BEING TRANSFERRED.** Seller hereby agrees to sell, assign, transfer and convey to the Buyer, and Buyer hereby agrees to purchase from Seller the Assets, more particularly described as follows:

- (a) Seller's book of insurance business consisting of policies and customer lists, expiration information and other written material relating to all property, casualty, life, health and disability insurance policies, including rights to renewals thereof, and all records and documents relating to all insurance handled by Seller, (hereinafter collectively referred to as the "Accounts" or "Policies"). A description and listing of the Policies and customers issued and outstanding as of _____, 201_, in alphabetical order, each client's name, address, contact information, and the annual premium and commissions earned from each during

the previous twelve (12) months, is attached thereto as Exhibit "A" of this Agreement.

- (b) The exclusive rights to use the trade names “_____ Insurance Agency” and “_____ Insurance”, or derivatives thereof, so long as Buyer performs all obligations pursuant to this Agreement.
- (c) The telephone numbers used by Agency as of the date of Closing, which include any yellow page and magazine advertisements pertaining to said phone, fax and data service numbers, domain names URL/websites and email addresses and other means of communication; and assignment of Agency’s post office box numbered in _____, _____ County, Texas, as well as all domain rights associated with Agency’s URL/websites, email addresses and other means of communication; with future costs for all of the above to be assumed by Buyer on and after _____, 201__.
- (d) All items of furniture, fixtures, equipment, machines, computers and peripheral supplies and any business property of Seller (as generally described in Exhibit “B” attached hereto) used in the operation of the Agency as of the close of business on _____, 201__; subject to no implied or expressed warranty as to use for intended purpose merchantability or condition.
- (e) Those certain agency agreements which Seller now has with insurance companies that Seller represents as an agent/broker. Buyer acknowledges that none of said agency agreements are assignable without the consent of the insurance companies which are parties thereto. Seller makes no warranty or representation with respect to whether said entities will grant such requisite consent, and it is understood and agreed that the grant of such consent by any or all of said insurance companies shall not be a condition precedent to the obligations of Buyer hereunder. Provided, however, Seller does agree to use his/her best efforts diligently and in good faith to assist Buyer in obtaining the consent of such insurance companies to said assignment and/or the appointment of Buyer as agent of said companies under a new agreement.
- (f) All forms, form letters and templates, both software and printed, developed by Agency, and used by Agency prior to _____, 201__. Buyer acknowledges that continued use shall be solely at Buyer’s own risk and without liability to Seller.
- (g) Those certain employment agreements and/or covenants not to compete in effect between Seller, Agency and its current and former employees, if any.

3. **PURCHASE PRICE.** Subject to the terms and conditions of this Agreement and in reliance upon the representations, warranties and covenants of Seller, Buyer shall purchase the Assets, Accounts and/or Policies in exchange for the following consideration:

- (a) Buyer shall execute a Promissory Note to Seller in the principal amount of \$____, 000 payable in __ payments of \$_____ each, which shall include percent (__) annual interest on the declining balance, the first payment of which shall be payable on _____, 200__, with the remaining __ payments payable on

the ___the of each month thereafter, with the final payment being due and payable on _____, _____.

- (b) As collateral to secure Buyer's obligation set forth above, Buyer agrees that Seller may file and record a security statement evidencing its interest in the book of business and expiration rights in Seller's book of business.

4. **ALLOCATION OF PURCHASE PRICE.** The parties hereto agree that the total consideration to be paid hereunder shall be allocated as follows. The parties further acknowledge the fairness and reasonableness of the following allocations, and agree that for tax purposes they will each report the same in accordance with such allocations.

- (a) The amount of _____ percent (___ %) of the purchase price shall be allocated specifically as consideration for the Accounts or Policies listed in Exhibit "A" hereof.
- (b) The amount of _____ percent (___ %) of the purchase price shall be allocated specifically as consideration for the goodwill of the Seller.
- (c) The amount of _____ percent (___ %) of the purchase price shall be allocated specifically as the consideration for the protective and restrictive covenants of Seller contained in this Agreement.
- (d) The amount of _____ percent (___ %) of the purchase price shall be allocated specifically as consideration for the tangible personal property of the Seller described in Section 2(d) hereof, and listed in Exhibit "B" hereof.

5. **SELLERS' RIGHT TO AUDIT.** Seller shall have the right to audit those books and records of Buyer that pertain to the administration and servicing of the Accounts or Policies being transferred by this Agreement. Should Seller elect to exercise his right to audit, he shall do so by notice to Buyer in writing. Said notice shall designate the date (not sooner than five (5) days from the date of notice) and time of such audit which shall be conducted on the premises of Buyer during normal business hours or otherwise as the parties may agree; provided, however, no such audit may be conducted by Seller during such time as Buyer's books and records are being audited by Buyer's auditors for tax purposes or any other legitimate business purpose. Buyer shall instruct its personnel to cooperate with Seller's representatives in the conduct of such audit. In the event such audit shall determine that an error has been made in said accounting, then the parties shall may such adjustment as may be required within thirty (30) days following completion of said audit. Seller shall have the right to conduct such audits not more often than once in any six (6) month period. Said audit(s) shall be at the sole expense of Seller.

6. **SERVICING OF EXISTING POLICIES.** From and after the Effective Date, Buyer hereby agrees to service the in force business generated by Seller prior to the closing. Buyer will handle all of Seller's receivables, and payables with insurance companies, brokers and other providers, that are due to or from Seller as of the Effective Date. Seller, however, shall remain responsible for any amounts that Buyer may be requires to pay in connection with such transactions.

An escrow account will be established by Buyer under the name _____ Escrow Account. Seller shall deposit into this account an amount equal to the accounts payable indicated in Seller's Balance Sheet, plus any prepaid amounts as provided in Section 1 (a) (iv) of this Agreement. Buyer will pay refunds or other amounts to Accounts

or insurance companies, brokers and other providers in excess of the balance of the Escrow Account, and charge the amounts to the Escrow Account balance. In the event Buyer pays refunds due to Accounts or insurance companies, brokers and other providers, Buyer may charge the expense against other amounts due from Buyer to Seller. When all such refunds or other amounts pertaining to business placed by Seller prior to the Effective Date of this Agreement are paid in full, any amount remaining in the Escrow Account shall be the property of Seller.

7. ACCOUNTS RECEIVABLE / PAYABLE AND ADDITIONAL / RETURN COMMISSIONS.

The following provisions shall apply with respect to accounts receivable and accounts payable, as well as additional and return commissions and premiums:

- (a) All of Agency's or Seller's accounts receivable, and all commissions and other revenues actually received by Seller which are attributable to the insurance placed by Agency or Seller with an effective date of coverage prior to the Effective Date of this Agreement shall remain the property of and/or be the responsibility of Seller.
- (b) All of Agency's or Seller's accounts payable, as well as all return commissions or premiums due in connection with revenues received by Agency or Seller prior to the Effective Date of this Agreement, shall be the responsibility of the Seller.
- (c) Agency and/or Seller shall account for and deliver to Buyer all funds Agency and/or Seller may have collected for business written with an effective date of coverage on and after the Effective Date of this Agreement. Thereafter, Agency and/or Seller shall remit to Buyer forthwith upon receipt of any such payments.
- (d) All commissions on Agency Bill policies with a policy effective date prior to the Effective Date of this Agreement, and actually billed and having a payment due date prior to the Effective Date of this Agreement, shall be the property of Seller; and those with a policy effective date, or that are billed, or that have an installment payment due date on or after the Effective Date of this Agreement shall be the property of Buyer.
- (e) All commissions on Direct Bill policies actually received by Seller from insurance carriers and other providers before the Effective Date of this Agreement shall be the property of Seller; and those actually received from insurance carriers and other providers on or after the Effective Date of this Agreement shall be the property of Buyer.
- (f) All additional commissions as a result of audits, endorsements or other transactions actually received by Agency or Seller before the Effective Date of this Agreement shall be the property of Seller. All additional commissions as a result of audits, endorsements or other transactions actually received on or after the Effective Date of this Agreement shall be the property of Buyer, regardless of effective date of the transaction.
- (g) Buyer shall be entitled to all contingent or override commissions that may be received for increased production, and commissions for endorsements, audits and installment payments received on or after the Effective Date of this Agreement, regardless of when earned.

8. **PROFIT SHARING / CONTINGENCY BONUSES.** Contingency, bonus or profit sharing payments, if any, that may be received, that are based on production or performance of Seller and/or Agency during calendar years ____ and ____, from either ____ Insurance Company or _____ Insurance Company, shall be shared pro-rata between Buyer and Seller in accordance with the volume of premium written, with each insurance company during those calendar years. Thereafter, Seller's right to contingency, bonus or profit sharing payments shall be governed by the Producer Agreement executed between Buyer and of Seller.
9. **TRIPS / REWARDS / INCENTIVES.** With respect to any trips, prizes, rewards or other similar non-monetary gifts or incentives that are received by Buyer or Seller in conjunction with premium production or other performance during calendar years ____ or ____ (but not actually awarded until ____ or ____, as the case may be) shall be divided between Buyer and Seller as equally as may be possible under the circumstances. Any such awards or incentives received by Buyer in conjunction with premium production or other performance taking place during calendar years ____ and thereafter, shall be the property of Buyer, to be distributed as Buyer's in its sole discretion may decide.
10. **REPRESENTATIONS AND WARRANTIES OF SELLER.** Seller hereby represents and warrants to Buyer as follows, which warranties and representations shall be true and complete as of the Effective Date of this Agreement, and shall survive thereafter.
- (a) _____ Insurance Agency, ____ is a Texas _____ duly organized, validly existing and in good standing under the laws of the State of Texas and is duly qualified in each jurisdiction in which Seller conducts operations to carry on the business in which it is engaged, and to execute and deliver and carry out the transactions contemplated by this Agreement.
 - (b) Seller has full power and authority to execute and deliver and carry out the transactions contemplated by this Agreement.
 - (c) Seller and Agency are, and on the effective date will be, duly licensed by the State of Texas to conduct business as an insurance agent, under the authority granted by a General Lines Agent's license. Agency has full power and authority to conduct all of its business as now conducted.
 - (d) Seller holds good and marketable title to the Assets to be sold and transferred hereunder free and clear of all liens, claims, security interests, encumbrances, restrictions or other charges of any kind. No other person, firm or corporation owns or has any record, beneficial or security interest in said Assets or Policies or any part thereof; and, upon final execution hereof, Buyer will acquire good, valid and marketable title, free and clear of all liens, claims, security interests, encumbrances, restrictions or other charges of any kind.
 - (e) All of the Policies are for direct Accounts owned exclusively by Seller, free of all liens, encumbrances, claims and demands of all persons. None of the Policies have been produced for Seller by any producer or employee, nor have any of the Policies been "brokered" into Seller by anyone, nor have any of the Policies been purchased by Seller or otherwise acquired from anyone within forty-eight (48) months immediately preceding the date of execution of this Agreement.

- (f) Seller is not a party to any agreement, whether written or oral, which in any manner restricts their right to enter into this Agreement and to carry out the terms and conditions hereof.
- (g) Seller is not in arrears or in default of their obligations under any of the agency agreements with insurance companies and other providers, and Seller is in good standing with all the insurance companies or other providers with whom it has done business.
- (h) There is no pending or threatened litigation against Seller or proceeding before any administrative or licensing authority which in any manner may affect the value of or title to the Assets and/or Policies being sold hereunder, and there are no unsettled or unpaid judgments against Seller.
- (i) Seller has filed all federal, state and municipal income tax returns and all other applicable federal, state and municipal tax returns required to have been filed by it, and has paid the taxes due, and no waivers or extensions of the statutory period of limitation within which assessments may be made have been granted with respect to any such returns.
- (j) All premiums properly due and payable (meaning those not the subject of legitimate dispute, which dispute has been raised by Seller in writing directed to the claimant) to insurance companies or general agents for business written with an inception date prior to the effective date of this Agreement have been paid or will be paid, prior to any default thereon.
- (k) Exhibit "A" is a true and complete list of all the Accounts and Policies; and all of the Policies listed in Exhibit "A" are, to the best of Seller's knowledge, active accounts with property, casualty, life and/or health insurance in force as of _____, 201__.
- (l) Seller is not in arrears in the payment of any producer commissions, or wages, or withholding social security or other taxes thereon.
- (m) Neither Seller nor Agency have any contracts, agreements, understandings or arrangements of any kind, either oral or written, with respect to the sharing of fees or commissions in connection the Accounts or Policies being transferred under this Agreement; including, but not limited to, any contract, agreement, arrangement or understanding with any insurance carrier (except for the agency agreements with insurance companies) or with any insurance agent or broker, or with any trade group or association or any other person or entity with respect to any of the Policies or Accounts.
- (n) Within the _____ (__) months prior to the date of this Agreement, no other potential buyer or other insurance agent or broker or representatives thereof have received copies of or have had access to Seller's or Agency's files and records containing information relative to the Policies including, but not limited to, expirations, dailies, customer lists and customer account records.
- (o) There has been no known material adverse change in the condition, financial or otherwise, of Seller or of any of the Assets to be transferred to Buyer hereunder.

- (p) Seller and/or Agency have in effect a policy of errors and omissions insurance issued by _____ Insurance Company, effective _____, 201__, through _____, 201__, being policy No. _____ with limits of liability of not less than \$ _____ million per occurrence and \$ _____ million annual aggregate with a deductible of not more than \$ _____ per occurrence. Seller hereby covenants it will notify its errors and omissions carrier of this transaction and obtain an extended claims reporting clause or extension added to their existing policy for a period of not less than twenty-four (24) months following the Effective Date of this Agreement.
- (q) All of the tangible personal property of Seller listed on Exhibit "B" is now in good and proper working order and will be delivered to Buyer at the Closing in good and proper working order without material damage thereto.
- (r) At no time during the past five (5) years have Sellers ever operated or conducted business under any fictitious name other than _____ Insurance Agency. Said trade name is owned by Seller, free of the claims and demands of all persons.
- (s) Seller shall add Buyer's name to all of the insurance company premium trust/escrow accounts currently maintained by Seller, and pass control of those accounts to Buyer, in order to provide a smooth transition of cash flow following the Closing. Buyer shall be authorized to deposit and withdraw funds from the trust/escrow accounts. Seller shall audit all such trust/escrow accounts prior to Closing and provide Buyer a detailed reconciliation indicating funds to be retained by Seller, and funds to be left in the accounts to be paid to insurance companies and other providers. In the event the funds left in the accounts are not adequate to fulfill Agency's or Seller's obligations to the insurance companies in question, then Seller shall immediately upon notice from Buyer deposit the funds necessary.

11. **REPRESENTATIONS AND WARRANTIES OF BUYER.** Buyer hereby represents and warrants to Seller as follows, which warranties and representations are true and complete as of the date hereof and, shall be true and complete as of the Effective Date of this Agreement, and shall survive thereafter:

- (a) Buyer is a _____ duly organized, validly existing and in good standing under the laws of the State of Texas and is duly qualified in each jurisdiction in which Buyer conducts operations, with full power and authority (corporate and other) to carry on the business in which it is engaged and to execute and deliver and carry out the transactions contemplated by this Agreement.
- (b) The execution and delivery of this Agreement and the performance of the transactions contemplated hereby have been duly authorized, and do not and will not result in a breach of or constitute a default under any provision of the Articles of Incorporation or By-Laws or Member or Partnership Agreement of Buyer; or any lease, license or other agreement to which it is a party or is bound, or by which any of its properties or assets may be bound or affected, or violate any order, of any court or administrative agency.

- (c) On and after the Effective Date hereof, this Agreement will be a valid and binding obligation of Buyer enforceable in accordance with its terms except as limited by bankruptcy, insolvency and similar laws affecting creditor's rights generally and by equitable principles.
 - (d) Buyer has adequate markets in which to renew substantially all existing Policies and has sufficient and adequately trained personnel to service the Policies in a proper and businesslike manner.
 - (e) There is no pending litigation against Buyer nor any pending proceedings against Buyer before any administrative or licensing authority, and Buyer has no knowledge of any threatened litigation against it or any threatened proceedings against it before any administrative or licensing authority which in any manner has any material affect upon its financial condition, its operations or its ability to enter into this Agreement and carry out the transactions contemplated hereby.
 - (f) Buyer is not a party to any agreement, whether written or oral, which in any manner restricts or impairs its right to enter into this Agreement and to carry out the terms and conditions hereof, and no approval or consent is necessary from any government agency or any individual or entity not a party hereto in order to effect the transactions embodied herein.
 - (g) Buyer has in effect a policy of errors and omissions insurance issued by _____ Insurance Company, effective _____, 201_ through _____, 201_, being policy No. _____, with limits of liability of not less than \$_____ per occurrence and \$_____ annual aggregate with a deductible of not more than \$_____ per occurrence. Buyer hereby covenants it will maintain in effect for a period of not less than _____ months following the Closing Date. Buyer further covenants that it will notify its errors and omissions insurance company and pay any additional premium that may be required in order to purchase coverage for matters that may arise from acts or omissions of Buyer or its representatives which occur after the Effective Date of this Agreement.
12. **NO ASSUMPTION OF LIABILITIES BY BUYER.** Except as expressly and specifically provided herein, Buyer shall be under no obligation to assume and shall not be deemed to have assumed any obligation, liability, contract or commitment of Seller of any kind whatsoever; including, but not limited to, any liability under any employment agreement, consulting arrangement, pension or profit sharing plan, stock option or purchase plan or other employee contract, federal and state taxes, all of which liabilities shall remain the exclusive obligation of Seller.
13. **PRESERVATION OF RECORDS.** Buyer agrees that it shall preserve all of the records in connection with the Accounts and Policies transferred hereunder for a period of not less than _____ (__) months from the date of Closing. Buyer shall permit Seller or their appointed representatives access to said records.
14. **CODING OF POLICIES.** Buyer agrees to segregate and establish separate codes in its computer system for all Policies purchased thru this Agreement, for a period of not less than _____ (__) months after Closing. Said coding shall not be deemed to imply any ownership interest in the Accounts and Policies by Seller.
15. **SELLER'S INDEMNIFICATION OF BUYER.** Seller hereby agrees to indemnify, reimburse, hold harmless and defend Buyer from any and all debts, claims, taxes, costs

and expenses of any and every nature whatsoever (including attorney's fees and other costs) resulting from (a) any and all errors and omissions claims arising out of or with respect to insurance policies placed or which should have been placed by Seller prior to the effective date, (b) the operation and conduct of Seller's or Agency's business prior to the effective date hereunder, (c) any other obligations or liabilities of the Seller or Agency, and/or (d) any breach by Seller of any of the obligations, agreements, covenants, provisions, representations or warranties made by Seller herein or in any other agreement or document. Buyer shall have no obligation or duty to detect or discover latent errors and omissions of Seller or Agency (including their agents, servants and employees) with respect to insurance business placed or which should have been placed by Seller prior to the Effective Date of this Agreement; and Seller shall indemnify, defend or hold Buyer harmless of any claim with respect to such errors and omissions.

16. **BUYER'S INDEMNIFICATION OF SELLER.** Buyer hereby agrees to indemnify, reimburse, hold harmless and defend Seller from any and all debts, claims, taxes, costs and expenses of any and every nature whatsoever (including attorney's fees) resulting from (a) its operation and conduct of Buyer's business following the effective date, (b) any other financial obligations or liabilities of Buyer, and (c) any breach by Buyer of any of the obligations, agreements, representations or warranties made by Buyer herein or in any other agreement or document.
17. **NOTICE OF CLAIM.** In the event a claim shall be made against Buyer or the Assets acquired by Buyer hereunder, due to the actions of Seller or on account of a breach by Seller of any of the terms and conditions hereof, then Buyer shall notify Seller within five (5) days of receipt of such notice, and upon the failure by Seller within fifteen (15) days of notice of such claim, to assume the defense of such claim, Buyer shall be permitted and entitled to defend, settle and pay said claim on its own. The reasonable cost of any such defense, judgment or settlement, including expenses incurred by Buyer, shall be the responsibility of Seller.
18. **BUYER'S RIGHT OF OFFSET.** Any sums which Seller may owe to Buyer hereunder, whether on account of the obligation to indemnify Buyer for certain actions or on account of any breach of warranty, representation or covenant herein contained or provided for, or on account of premiums or commissions which Buyer may be required to pay or allow, which premiums or commissions are the obligation of Seller, may be offset by Buyer against any and all sums which Buyer may owe to Seller hereunder; provided, however, such right of offset shall not relieve Seller of their obligation to indemnify or reimburse Buyer, as aforesaid, but shall be only as a matter of convenience for Buyer should it elect to make such offset in whole or in part.
19. **PROTECTIVE AND RESTRICTIVE COVENANTS.** In recognition of the fact that Seller has been engaged in a personal service business involving confidential information and personal relationships with insureds, the success of which business is in large part due to the exclusive retention of confidential information and continuation of such personal relationships with customers and prospects, Seller does hereby covenant and agree as follows and acknowledges that the following covenants are reasonable and necessary for the protection of Buyer and may be enforced to the extent set forth herein or to such extent as a court of appropriate jurisdiction may deem reasonable and proper.
 - (a) All information concerning the Accounts or Policies being acquired under this Agreement, including expiration data in connection therewith, is confidential information constituting trade secrets and will be treated as such; and Seller will not, from the effective date, directly or indirectly, make use of such information for

Seller's own benefit, or for the benefit of anyone else, except Buyer; nor will Seller, directly or indirectly divulge such information to anyone.

- (b) Except on behalf of or for the benefit of Buyer, Seller will not, for a period of _____ (__) months following the effective date, directly or indirectly, solicit, obtain, accept from or in any way transact insurance or financial services business for any of the Accounts or customers being transferred to Buyer hereunder; nor directly or indirectly aid or assist any other party in the solicitation or placement of insurance or financial services business for the customers or Accounts being transferred hereunder.
- (c) Except on behalf of or for the benefit of Buyer, for a period of _____ (__) months following the date of termination of Seller's association with Buyer as a Producer, Seller will not solicit, attempt to obtain, accept or transact insurance or financial services business; or in any manner engage in the insurance and/or financial services business for any of the Accounts or customers that Seller may develop and write business for during the term of the Producer Agreement between Buyer and Seller.
- (d) The promises and covenants of each of the parties provided in Section __ of this Agreement shall apply within the geographic area of _____ County, Texas; and shall apply outside that area only to the extent that the protected customers or Accounts have operations, locations, or affiliates outside the area. In the event the provisions of Section __ of this Agreement should be deemed to exceed the time, scope, or geographic limitations permitted by applicable laws, then such provisions shall be reformed to the maximum time, scope, or geographic limitation permitted by such applicable laws.
- (e) The parties hereby acknowledge that a breach or threatened breach of the provisions of Section ____ of this Agreement would cause irreparable harm to Buyer or the other individuals or agencies that are or that may have been associated with Buyer, the amount of which would be impossible to calculate in monetary terms. Should Seller violate or threaten to violate any of the provisions of this Agreement, then Buyer shall, in addition to its other rights or remedies, be entitled to injunctive relief to restrain Seller from violation or threatened violation. Buyer shall not be required to post a bond or other security in connection with such restraining order(s) and/or injunction(s).
- (f) In the event that any action, suit or proceeding, in law or in equity, is brought to enforce the provisions of this Agreement, and such action results in the award or a judgment for monetary damages and/or the granting of a restraining order or injunction in favor of Buyer, Buyer shall also be entitled to recover from Seller all reasonable expenses incurred, including attorney's fees, court costs, and other expenses associated with the matter.

20. **PUBLIC ANNOUNCEMENTS.** The parties agree that, prior to the Closing hereunder, except as otherwise required by law, any and all public announcements or other communications with anyone, whether public or private (including, but not limited to, any communications to those insurance companies which Seller represents) concerning this Agreement and the transactions contemplated hereunder, shall be subject to the approval of all parties.

21. **ARBITRATION.** Except with respect to the rights of Buyer under Section 15 of this Agreement, for which a court of competent jurisdiction may grant a restraining order or injunction in favor of Buyer, the parties hereby agree that any claim or controversy regarding this Agreement which cannot be settled by Buyer and Seller shall be submitted to binding arbitration upon the written request by either party to the other. The arbitration shall be conducted at _____, Texas, in the absence of and or agreement otherwise between Buyer and Seller.

Unless both parties agree on a single Arbitrator within fifteen (15) days of the request to arbitrate, then each party shall select an Arbitrator. The two (2) Arbitrators shall be disinterested persons, knowledgeable about the insurance agency business in Texas, that have not engaged in business with either party.

The two (2) Arbitrators shall then select a competent and disinterested person knowledgeable about the insurance agency business in Texas as a third Arbitrator within an additional fifteen (15) day period. If the two (2) Arbitrators cannot agree upon a third Arbitrator within said period, each Arbitrator shall nominate two (2) individuals that are knowledgeable in the insurance agency business in Texas to serve in that position. The four (4) nominees' names shall be placed on identical slips of paper and deposited into an opaque receptacle by a disinterested person. The person whose name is drawn out by the disinterested person shall serve as the third Arbitrator.

A decision of any two (2) of the three (3) Arbitrators shall be final and binding on both Buyer and Seller. The decision shall be in writing signed by the three (3) Arbitrators, and given to Buyer and Seller within sixty (60) days after the date of the request for arbitration.

Each of the parties to this Agreement agree to bear all the expenses of its selected Arbitrator and equal shares of all other arbitration expenses; except in the event that a single Arbitrator is used, in which case each party shall equally bear all arbitration expenses.

22. **NOTICE.** Any notices required hereunder shall be in writing and deemed to have been received (a) on the date delivered if delivered in hand, (b) the next following business day after being sent if sent by overnight delivery service, or (c) two (2) business days after mailing, postage prepaid, by certified mail, return receipt requested to the party entitled to notice at the addresses indicated below, or such other address as may be directed by written notice given hereafter. A business day shall be deemed any day on which the United Postal Service shall have regular mail deliveries to the address to which the notice shall be directed.

If to Buyer:

If to Seller:

23. **MISCELLANEOUS.**

- (a) This Agreement may not be modified, revised, altered, added to, or extended in any manner, or superseded except by an instrument in writing signed by Seller and Buyer.
- (b) This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument representing the agreement of the parties hereto.
- (c) The failure by any party to enforce any provision of this Agreement shall not be in any way construed as a waiver of any such provision nor prevent that party thereafter from enforcing each and every provision of this Agreement.
- (d) The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects so as to permit the enforcement of each provision hereof to the fullest extent permitted by law.
- (e) This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and assigns; provided, however, no assignment by a party of its rights and/or interest in and to this Agreement shall in any manner relieve the assigning party of or from any of its obligations, liabilities or undertakings herein contained. Buyer hereby consents to such assignment of this Agreement by the Seller; provided, however, Buyer shall not be bound by such assignment unless and until it shall have received notice that such assignment has occurred and notice of the terms thereof.
- (f) This Agreement (including all Exhibits hereto) contains the entire agreement between the parties hereto and supersedes any and all prior agreements, arrangements or understandings between the parties relating to the subject matter hereof. No oral understandings, oral statements, oral promises, or oral inducements exist. No representations, warranties, covenants or conditions, express or implied, whether by statute or otherwise, other than as set forth herein, have been made by the parties hereto.
- (g) This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Any legal proceedings (other than arbitration) shall be conducted solely in the courts of the State of Texas in _____ County unless otherwise mutually agreed in writing by Seller and Buyer.
- (h) The section headings in this Agreement are for the convenience of the parties, and in no way alter, modify, or amend, limit or restrict the contractual obligations of the parties.

IN WITNESS WHEREOF, the parties have each caused this instrument to be executed in their respective names and on their respective behalf by them individually, or by a duly authorized owner or officer, effective as of the date first above written, it being understood and agreed that no signatory hereto shall be bound hereunder until this Agreement shall be executed by all parties hereto.

_____ ("**Buyer**")

By: _____
_____, President

_____ ("**Seller**")

ACKNOWLEDGED AND AGREED:

_____ ("**Agency**")

By: _____

_____,' _____

_____, **INDIVIDUALLY (“Spouse”)**

EXHIBIT "A"
LIST OF ACCOUNTS

THIS EXHIBIT forms a part of the Purchase And Sale Agreement entered into effective the 1st day of _____, 20__, by and between _____, individually (referred to as "Seller") and _____, a Texas Corporation (referred to as "Buyer").

The following is a list of all Accounts comprising the book of business, customer lists, expirations, and renewal rights being transferred to Buyer from Seller.

EXHIBIT "B"
FURNITURE / FIXTURE / EQUIPMENT

THIS EXHIBIT forms a part of the Purchase And Sale Agreement entered into effective the 1st day of _____, 20__, by and between _____, individually (referred to as "Seller") and _____, a Texas Corporation (referred to as "Buyer").

The following is a list of all furniture, fixtures, equipment, machines, computers, and peripheral supplies and business property of Seller and Agency that is being sold and transferred to Buyer as provided in the Purchase And Sale Agreement:

CONSENT OF SPOUSE

The undersigned, being the spouse of _____, does hereby acknowledge that he / she has read the foregoing Purchase And Sale Agreement executed in connection with the sale of certain insurance accounts and other assets by _____ to _____, Inc., a duly organized Texas Corporation, and / or an entity that is affiliated therewith, and that he / she has had the opportunity to retain independent counsel in reviewing its terms. The undersigned does, for himself or herself, his or her heirs, representatives, and assigns, hereby agrees to all terms, conditions and provisions of said Agreement, and to be bound thereby, and agrees to join in the execution and delivery of any document required or convenient in carrying out the intentions and purpose of said Agreement.

Spouse:

Dated:
