

ONE80 INTERMEDIARIES INC. BROKERAGE AGREEMENT

This agreement (the “**Agreement**”) is made and entered into as of _____ (the “**Effective Date**”), by and between One80 Intermediaries Inc., an Ohio corporation, with its principal place of business located at 3700 Park East Drive, Suite 250, Beachwood, Ohio 44122 (hereinafter referred to, inclusive of its subsidiaries and related divisions, as “**ONE80**”) and _____, a _____ with its principal place of business located at _____ (hereinafter referred to as “**BROKER**”). Each of **ONE80** and **BROKER** are also referred to herein as a “**Party**” and together as the “**Parties**”.

WHEREAS, ONE80 is organized for the purpose of underwriting risks of insurance on behalf of insurance companies as well as brokering and wholesaling business on behalf of insurance companies according to the statutes of the various states and commonwealths of the United States of America.

WHEREAS, BROKER desires to submit applications for insurance to **ONE80**, and to utilize the knowledge and services of **ONE80** in connection with said applications and **ONE80** desires to consider such business.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter expressed, the parties hereto intending to be legally bound agree as follows:

1. LEGAL RELATIONSHIP, STATUS AND AUTHORITY OF BROKER

- (a) In the performance of all services and obligations hereunder, it is mutually understood and agreed by the Parties that **BROKER** is at all times acting and performing as an independent contractor. This Agreement is not and shall not be considered an employer-employee relationship, joint venture, or partnership of any kind and neither Party shall represent to any third persons that any such relationship exists.
- (b) **BROKER** understands it is neither an agent nor a representative of **ONE80** nor of any insurer or other company used by or represented through **ONE80** and the **BROKER** agrees not to infer or to represent otherwise to any insured of **BROKER**, and prospective insured of **BROKER** or any other Party. **BROKER** may not use **ONE80**'s name or the names of its insurers for advertising without the prior written consent of **ONE80**.
- (c) Unless otherwise agreed in writing, no authority is granted the **BROKER** to bind **ONE80**, or those insurers represented by **ONE80**, on any contract of insurance. **ONE80** has the absolute right to decline to quote or bind any insurance business offered it by **BROKER** and no insurance contract is ever bound except as agreed in writing by **ONE80**.

2. APPOINTMENT

- (a) Upon receipt and approval of all necessary documentation, **ONE80** hereby appoints **BROKER** to solicit and submit to **ONE80**, at its own expense, new and renewal applications for insurance policies placed on **BROKER**'S behalf through **ONE80** for which **ONE80** has underwriting and issuing authority.

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- (b) **ONE80** reserves the right to restrict **BROKER'S** access to specific divisions, products and/or subsidiaries of **ONE80** at any time, with or without notice.
- (c) **BROKER** shall not solicit, accept or submit any sub-brokered business under this Agreement without the prior written consent of **ONE80**.

3. SERVICE AND OTHER OBLIGATIONS OF BROKER

- (a) **BROKER** will provide all the usual and customary services of an insurance broker, including, without limitation, the delivery of insurance policies to its insureds and advising its insureds of the terms and condition of, or changes to the terms and conditions of, any insurance proposal or contract. **BROKER** shall promptly forward all **ONE80**-provided policy information and documentation to insured(s).
- (b) **BROKER** agrees to represent the provisions and benefits of **ONE80** offerings adequately and fairly to prospective insured at the time of solicitation in accordance with applicable law and regulations. **BROKER** agrees to make no representations with respect to the benefits of any program offered by **ONE80** not in conformity with the material provided to **BROKER** by **ONE80**.
- (c) **BROKER** agrees not to quote premiums or rates other than those published or provided by **ONE80** or modify any rate or requirement without the written approval of **ONE80**.
- (d) With respect to submissions or applications for insurance coverage on behalf of insureds, **BROKER** shall act in good faith using its best efforts to ensure that all information provided to **ONE80** is accurate and complete in all material respects and that such information does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the other information provided not misleading.
- (e) **BROKER** agrees to notify **ONE80** promptly should it become aware of any events, occurrences, facts, circumstances or information that might reasonably be expected to have a material adverse effect on any of the general affairs, business, prospects, customers, competition, properties, financial position or results of operation of any potential or existing insured.
- (f) **BROKER** shall inform **ONE80** as to the type and amount of insurance coverage to be considered for quotation. **BROKER** understands and acknowledges **ONE80** assumes no responsibility toward **BROKER** or the insured with regard to the adequacy, amount or form of coverage obtained through any insurance carrier.

4. LICENSING AND COMPLIANCE

- (a) **BROKER** warrants that it is properly licensed to transact business as an agent or broker for all types of insurance policies it shall place through **ONE80** in accordance with the insurance laws of the state in which **BROKER** transacts such business and will immediately notify **ONE80** of any such suspension, revocation, expiration without renewal, denial, or termination for any reason whatsoever of any of **BROKER'S** licenses required under this Agreement if such default is not cured within five (5) days of the breach.
- (b) Within five (5) days of the Effective Date, **BROKER** shall provide **ONE80** with: (1) a signed, completed copy of a W-9 taxpayer identification form and (2) copies of all licenses required for the

BROKER to conduct the insurance business hereunder. **BROKER** shall promptly advise **ONE80** of any changes to the information contained in the submitted W-9 form and shall provide **ONE80** with updated copies of all applicable licenses on an annual basis, upon request.

- (c) **BROKER** will comply with any applicable licensing and surplus or excess lines laws of the jurisdictions in which it transacts business as well as all other applicable laws governing the conduct of business which is the subject of this Agreement, including but not limited to requirements pertaining to countersignatures, to the filing of affidavits with regulatory authorities and the payment of premiums and surplus or excess lines taxes. The responsibility for making any surplus lines tax filings applicable to any policy placed through **ONE80** shall be determined by the Parties in writing prior to the placement of the coverage. **BROKER** agrees to timely provide **ONE80** with all documents required in connection with the excess lines placement. Failure to timely provide all required documents will result in **BROKER** becoming solely responsible for the excess lines placement filing and premium tax payments.
- (d) **BROKER** shall comply with any and all laws, regulations, agreements or other legal requirements that require **BROKER** to make any disclosure concerning the existence of this Agreement, its terms and conditions, or the compensation **ONE80** pays to **BROKER**. **ONE80** assumes no responsibility to make such disclosure on behalf of **BROKER**.
- (e) **BROKER** shall comply with any and all laws and regulations relating to disclosure of fees charged to the insured.
- (f) **BROKER** will defend, indemnify, save harmless and protect **ONE80** against any and all claims, suits, actions, liabilities, losses, expenses or damages which **ONE80** may incur, directly or indirectly, as a result of any violation or alleged violation of any law or for failure to perform the usual and customary services of an insurance broker by **BROKER** or its sub-brokers, including but not limited to the failure by **BROKER** or its sub-brokers to deliver policies to their insureds or failing to advise their insureds of the terms and conditions of, or changes to the terms and conditions of, any insurance proposal or contract.

5. PREMIUM REMITTANCE

- (a) Except as otherwise set forth in this Section 5, **BROKER** guarantees the full payment due to **ONE80** of all premiums, including but not limited to deposit, minimum earned, extension and adjustable premiums, fees plus applicable state and local taxes, less commissions, on every insurance contract bound, written or placed for **BROKER** by **ONE80**. **BROKER** shall be liable to **ONE80** for the payment of all premiums, fees and taxes whether or not collected by **BROKER**. **ONE80**'s billings may take the form of binders, invoices or statements. The net balance will be due and payable as indicated on quotes, binders and invoices and may vary based upon the payment terms of the issuing company and/or program. If no date is specified, premiums are to be remitted no later than the 20th day following the effective date of the underlying transaction. Preferred form of payment is an ACH deposit. **ONE80** banking information will be provided on the Wire Transfer Instruction sheet upon execution of Agreement.
- (b) In no event shall the payment by **BROKER** of the premium due on a particular coverage bound be contingent upon issuance of a policy.

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- (c) The payment of the premiums to **BROKER** shall not be considered a payment to **ONE80** and **BROKER** agrees that all premiums received by **BROKER** for insurance policies placed through **ONE80** are the property of **ONE80** and the insurance company underwriting that insurance coverage. **BROKER** shall hold all such premiums in a fiduciary capacity until such time as said funds are delivered to **ONE80**. **BROKER** further agrees that such fiduciary funds shall not be used by **BROKER** for any other purpose whatsoever. **BROKER** hereby guarantees the payment of all premiums due on insurance bound or written hereunder, whether or not collected by **BROKER** and whether or not financed. Any credit extended by **ONE80** or any insurance carrier to the insured or others shall be at the sole risk of **BROKER**.
- (d) Failure of an insured to pay additional premiums where developed by audit of the insured or endorsement does not release the **BROKER** from its efforts and expenses to collect said premiums. **ONE80** shall only relieve the **BROKER** of its obligations to collect any premiums associated with an audit of an insured if the **BROKER**, within thirty (30) days of audit invoicing by **ONE80** or any insurance carrier, deems any such premiums to be uncollectible and so informs **ONE80** in writing and assigns said invoice to **ONE80** for collection and only to the extent **ONE80** is relieved of its responsibility to the applicable insurer to collect the uncollectible premium. **BROKER** will not receive any commission from **ONE80** on subsequent amounts collected by **ONE80** from audit premiums assigned by it to **ONE80** for collection.
- (e) **BROKER** shall be liable for any and all attorney's fees incurred in collecting or attempting to collect unpaid premiums, as well as any and all other costs incurred by **ONE80** related thereto, in the event that **ONE80** or representatives of insurance companies institute collection procedures against **BROKER**, other than for premiums due with respect to the audit of an insured that are assigned by **BROKER** to **ONE80** within the thirty (30) day allowance period set forth in the immediately preceding paragraph.
- (f) Notwithstanding the foregoing, Paragraphs 5(a) through (e) above do not apply if the insurance service or product placed by **ONE80** is billed directly to the insured or consumer by the carrier or **ONE80**. **BROKER** has no right to request or demand direct billing and any agreement to provide direct bill must be approved by **ONE80**.

6. CANCELLATION OF INSURANCE

Nothing in this Agreement shall be construed as limiting or restricting the right of **ONE80** to decline to accept any insurance application or to cancel any binder, policy or contract of insurance issued under this Agreement in accordance with the cancellation provisions of such binder, policy or contract.

7. COMMISSIONS

- (a) **ONE80** shall pay **BROKER** a commission on each policy written under this Agreement on which the premium shall be fully paid at the rate of commission stipulated in **ONE80's** proposal or binder. **BROKER** shall pay **ONE80** a return commission on any return premiums at the rate originally allowed when the policy in question was written or renewed, including but not limited to return premiums on cancellations ordered or made by **ONE80**, whether or not **BROKER** shall have collected the premium.

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- (b) **ONE80** may at any time deduct or set off from any other commission source any such debt due at any time from **BROKER** or to recover commission payments due to **ONE80**. This provision shall survive the termination of this Agreement.

8. CLAIMS

- (a) **BROKER** shall immediately notify **ONE80** of all claims, suits, and notices of loss and cooperate fully with **ONE80**, and/or any assigned third party administrators or representatives of an issuing insurance company to facilitate the investigation, adjustment, settlement and payment of any claim when and as requested by **ONE80** and/or said assigned third party administrators or representatives of the insurance company.
- (b) **BROKER** will assist **ONE80** in the collection of any deductible due from the insured.

9. ERRORS AND OMISSIONS

BROKER shall maintain at all times during the term of this Agreement and for a period of three (3) years thereafter, errors and omissions liability coverage with a minimum limit of \$1,000,000 that provides **ONE80** with not less than thirty (30) days' prior notice any cancellation, modification or non-renewal of coverage with an insurance company carrying a minimum rating by AM Best of A-. The **BROKER** shall provide **ONE80** with evidence of such coverage upon request.

10. TERM & TERMINATION

- (a) This Agreement shall be effective beginning on the Effective Date and shall remain in effect unless and until terminated in accordance with the provisions of this Agreement (the "**Term**").
- (b) This Agreement and may be terminated at any time for convenience by either Party, with or without cause, by giving the other Party written notice.
- (c) Notwithstanding any other provision of this Agreement, this Agreement shall terminate immediately upon the occurrence of any of the following: (i) **BROKER** fails to pay over on demand monies belonging to or due to **ONE80** or an insurer; (ii) any of **BROKER'S** licenses for the types of business conducted or to be conducted under this Agreement is suspended, revoked, expired, denied or terminated for any reason; (iii) commencement of either a voluntary or involuntary proceeding under any bankruptcy or other insolvency law with respect to **BROKER** or **BROKER** shall cease to conduct business, dissolve, liquidate, have a receiver appointed for its affairs or make an assignment for the benefit of its creditors and **BROKER** hereby agrees to notify **ONE80** of the occurrence of any such event with five (5) business days of the occurrence of any of the same; (iv) dissolution and/or liquidation of **BROKER**; (v) **BROKER'S** material default or substantive breach of one or more of the obligations under this Agreement (including any amendments); (vi) **BROKER'S** or its employees', agents' or contractors' commission of fraud, dishonesty, breach of trust, theft, misappropriation of money, or breach of any fiduciary duty; (vii) the sale, transfer or other substantial change in ownership of **BROKER**, (viii) cancellation or expiration of the errors and omissions insurance required of **BROKER** under this Agreement; (ix) misappropriation (or failure to remit) any funds or property due to **ONE80**; (x) if **BROKER** is a natural person, the death of **BROKER**.

- (d) The terms of this Agreement shall survive its termination with respect to any insurance policy in force at said time as well as with respect to losses or claims arising under policies written pursuant to this Agreement and the payment of premiums or other charges or other accounts or matters remaining unsettled between **BROKER** and **ONE80**. Additionally, the obligation of the **BROKER** to indemnify and hold **ONE80** harmless for any matter, together with any and all other liabilities owed by the **BROKER** to **ONE80** hereunder or for the breach of the terms of this Agreement, shall survive its termination.
- (e) In the event **ONE80** terminates this Agreement for violation of its terms by the **BROKER**, the **BROKER** relinquishes all rights or claim to subsequent commissions or additional premium commissions insofar as such may be necessary to satisfy the interest of **ONE80** under this Agreement. Subject to Section 11 below, **ONE80** recognizes the **BROKER'S** ownership of the insurance contract(s) placed under this Agreement.

11. OWNERSHIP OF EXPIRATIONS

The ownership, use, and control of expirations and the records related to the policies bound under this Agreement shall remain in the undisputed possession and ownership of the **BROKER**; provided, that, upon termination of this Agreement, if **BROKER** has not then properly accounted for and paid all premiums to **ONE80** for which **BROKER** is liable under this Agreement, the use and control of the **BROKER'S** expirations including all right, title and interest in and to the records thereof shall be vested in **ONE80** as of the date of such termination.

12. INDEMNIFICATION

- (a) The **BROKER** agrees to indemnify and hold **ONE80** harmless from any damages, losses, expenses, liabilities, penalties and other costs or expenses, including without limitation reasonable attorneys' fees, arising out of, relating to or resulting from (i) any breach of this Agreement by the **BROKER**, the (ii) negligence, wrongful acts or omissions of **BROKER** or its employees, agents or contractors or (iii) the adequacy, amount or form of any insurance coverage obtained or placed through **ONE80** or issued by **ONE80** or any insurance company. **BROKER** agrees to pay for any costs and reasonable attorneys' fees incurred by **ONE80** to collect any sums due from the **BROKER** to **ONE80** or to enforce the terms of this Agreement.
- (b) **ONE80** agrees to indemnify and hold the **BROKER** harmless from any damages, losses, expenses, liabilities, penalties and other costs or expenses, including without limitation reasonable attorneys' fees, arising out of, relating to or resulting from any breach of this Agreement by **ONE80** or **ONE80's** negligence, wrongful acts or omissions, but solely with respect to its areas of responsibility under this Agreement, and agrees to pay for any costs and reasonable attorneys' fees incurred by the **BROKER** to collect any sums due from **ONE80** to the **BROKER** or to enforce the terms of this Agreement. **BROKER** agrees **ONE80** will not be held liable and not indemnify **BROKER** for any allegation or claim of **ONE80's** alleged failure to advise or provide adequate limits, coverage or terms and conditions nor for denial of an insureds claim.

13. CONFIDENTIALITY

- (a) The parties recognize and agree that each party will be provided with confidential information ("**Confidential Information**") of the other Party including technical information, materials, data, reports, programs, documentation, diagrams, ideas, concepts, techniques, processes, inventions,

knowledge, know-how, and trade secrets. Each of the parties shall maintain the confidentiality of the Confidential Information of the other Party, take steps to minimize the dissemination or copying of such Confidential Information, and use the Confidential Information solely for the purpose of performing its obligations under this Agreement.

- (b) **BROKER** warrants and represents that **BROKER** and its subcontractors have implemented and will maintain administrative, technical and physical safeguards reasonably designed to protect Confidential Information (including any nonpublic personal information relating to an identifiable natural person contained therein) against accidental, unauthorized or unlawful disclosure consistent with applicable laws. **BROKER** further represents that **BROKER** and its subcontractors have implemented and will maintain a written information security plan consistent with applicable privacy and data security laws that specifies measures to mitigate reasonably foreseeable internal and external risks to **ONE80**'s Confidential Information. A summary of **BROKER'S** and its subcontractors' information security program shall be made available to **ONE80** upon receipt of a written request.

14. MISCELLANEOUS.

- (a) This Agreement is entered into solely between the **BROKER** and **ONE80**, constitutes their entire agreement with respect to the subject matter hereof and supersedes all other oral or written agreements, communications and negotiations with respect thereto. **ONE80** assumes no responsibility toward any policyholder or sub-broker with regard to the adequacy, amount or form of any insurance coverage obtained or placed through **ONE80**.
- (b) **BROKER** shall not assign this Agreement or any benefits or rights under this Agreement without **ONE80**'s prior written consent. **BROKER** shall notify **ONE80** in writing of any change in name or address or any sale, transfer, merger or consolidation of all, or substantially all, of the **BROKER'S** stock or assets including expirations or renewals, to another person or entity. **ONE80** shall not be obliged to appoint such other person or entity.
- (c) **BROKER** shall cooperate fully with **ONE80** in any investigation or proceeding of any regulatory or governmental body, or court of competent jurisdiction, including, where required by law, making its books and records available to such entities for inspection, if it is determined by **ONE80** that the investigation or proceeding affects matters covered by, related to, or arising out of this Agreement.
- (d) **BROKER** shall maintain accurate records concerning all business transacted pursuant to this Agreement. All records, books of accounts and documents of any kind connected to the business conducted under this Agreement shall be open to inspection and audit by **ONE80** at any time upon reasonable advance notice to **BROKER** during the Term of this Agreement and for a minimum period of seven (7) years after the termination of this Agreement.
- (e) The failure by either Party to enforce compliance with any term or condition of this Agreement shall not constitute a waiver of such term or condition. No waiver of any breach or default of this Agreement shall be valid unless in writing and signed by the Party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent breach or default of the same or similar nature.
- (f) Any notice given under this Agreement shall be in writing and either delivered personally, sent by overnight courier or mailed by certified mail, return receipt requested, to the addressee. Such notice

shall be deemed given when so delivered personally, or if sent by overnight courier, one (1) business day after the date so sent, or if mailed by certified mail, three (3) business days after the date of mailing. Notices shall be sent to the address of the addressee stated below or to such other address as any addressee shall request by written notice.

If to **BROKER**:

If to **ONE80**:

ATTN:	ATTN:
ADDRESS:	ADDRESS: 3700 Park East Drive, Suite 250, Beachwood, OH 44122
Copy to: _____	Copy to: Legal Department 160 Federal Street, 4 th Floor, Boston, MA 02110 E-mail: legal@one80intermediaries.com

- (g) Each Party hereby designates the state and federal courts sitting in Boston, Massachusetts as the exclusive courts of proper jurisdiction and venue of and for any and all lawsuits or other legal proceedings relating to this Agreement; hereby irrevocably consents to such designation, jurisdiction and venue; and hereby waives any objection or defense relating to jurisdiction or venue with respect to any lawsuit or other legal proceeding initiated in or transferred to the state and federal courts sitting in Boston, Massachusetts.
- (h) This Agreement shall be governed by and construed in accordance with the domestic laws of the Commonwealth of Massachusetts without giving effect to any choice or conflict of law provision or rule (whether of the Commonwealth of Massachusetts or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the Commonwealth of Massachusetts.
- (i) If any covenant, term or provision of this Agreement is determined to be illegal, invalid or unenforceable, that determination will affect only that particular provision, and each other provision will remain in full force and effect and will be valid and enforceable to the fullest extent permitted by law.
- (j) Each Party represents and warrants to the other Party that: (1) it has the full right, power, and authority to enter into this Agreement, to grant the rights provided hereunder, and to perform its obligations hereunder; (2) the execution of this Agreement by the person whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action of the Party; and (3) when executed and delivered by both parties, this Agreement will constitute the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.
- (k) This Agreement supersedes all agreements existing between **BROKER** and **ONE80** and shall be applicable to all business placed by **BROKER** with **ONE80** or its companies.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

ONE80 INTERMEDIARIES INC.,
on behalf of itself and each of its subsidiaries

By:



Print: _____

Title: _____

BROKER:

By:

Print: _____

Title: _____

**SCHEDULE A
APPROVED OFFICE LOCATIONS**

Address	Contact Information