

MANAGING GENERAL AGENT CONTRACT CHECKLIST

Contracts between MGA & Insurer (8-208, 8-209 & 8-210)

NOTE: All bold items represent MANDATORY contract provisions under § 8-208.

GENERAL PROVISIONS:

- _____ Responsibilities of each party (*division of responsibilities for shared functions*) §8-208(b)(1)
- _____ Timely transmission of data for electronic claims files, if any

MGA REQUIREMENTS:

- _____ Provide accounts to insurer detailing all transactions §8-208(b)(3)(i)
- _____ Monthly remittance of all money due under the contract §8-208(b)(3)(iii)
- _____ Hold money collected for insurer in federally insured financial institution §8-208(b)(4)(i)
- _____ All payments to insurer from the federally insured account §8-208(b)(4)(ii)
- _____ Keep separate records of business written for insurer §8-208(b)(6)(i)
- _____ Keep all books, records & accounts in a form acceptable to Commissioner §8-208(b)(7)
- _____ Comply with all applicable insurance laws and regulations §8-208(b)(11)

MGA PROHIBITIONS:

- _____ Assigning the contract §8-208(b)(8)
- _____ Appointing or hiring an agent that is not “qualified” §8-209(a)(2)
- _____ Taking action against an agent in violation of 27-503 §8-209(a)(3)
- _____ Employ an individual also employed by the insurer §8-209(a)(7)
- _____ Allow an MGA employee or agent to serve on insurer’s board of directors §8-208(a)(8)
- _____ Appoint a submanaging agent without the prior approval of the insurer and the Commissioner §8-209(a)(9)(i)

Keeping more than 3 months’:

- _____ Estimated claims payments §8-208(b)(5)
- _____ Allocated loss adjustment expenses §8-208(b)(5)

INSURER RIGHTS:

- _____ Right to cancel or nonrenew any policy underwritten by MGA (*subject to state requirements*) §8-208(b)(10)
- _____ Right to access to records of business written [*Commissioner must have access also*] §8-208(b)(6)(ii)
- _____ Termination of contract **for cause** with written notice §8-208(b)(2)(i)
- _____ Suspension of MGA’s underwriting authority during dispute about the for cause termination 8-208(b)(2)(ii)

STATEMENT OF UNDERWRITING GUIDELINES: §8-208(b)(9)

- _____ Maximum annual volume of premiums
- _____ Types or classifications of risks that may be written
- _____ Maximum limits of liability
- _____ Applicable exclusions
- _____ Territorial limitations
- _____ Provisions for cancellation of policies
- _____ Maximum periods of policies

INTERIM PROFIT SHARING: (If MGA has ability to share in profits after being given the authority to determine the interim profits by establishing loss reserves, controlling claims payments or any other method)

_____ No payment until: §8-208 (c)(2)

- **Property** - 1 year after profits are earned §8-208(c)(2)(i)
- **Casualty** - 5 years after profits are earned §8-208(c)(2)(i)
- **AND only after verification of profits by insurer under § 8-210 §8-208(c)(2)(ii)**

CLAIM SETTLEMENT: (If permitted by contract)

_____ MGA to report, timely, all claims to insurer §8-208(d)(1)

_____ Statement of MGA's claim settlement authority implied

_____ MGA to give insurer a copy of any claim file that is: §8-208(d)(2)

_____ Requested:

_____ Coverage Dispute:

_____ Potentially Exceeds MGA's Settlement Authority:

_____ Remains Open More Than Six Months After MGA Receives The Claim:

_____ Settled For More Than \$500:

_____ Written approval needed to pay or commit insurer to pay a claim, net of reinsurance, that exceeds 1% of the policyholder's surplus as of 12/30 of the preceding calendar year §8-209(a)(4)

_____ Insurer right to terminate settlement authority for cause with 30 days' notice §8-208(d)(3)(i)

_____ Insurer right to suspend settlement authority during a dispute about the cause for termination §8-208(d)(3)(ii)

_____ All claims files are property of insurer §8-208(d)(4)

_____ Following Commissioner's order of liquidation, rehabilitation, reorganization or conservation against insurer, claim files become the property of the Commissioner's appointee. §8-208(d)(4)

REINSURANCE:

MGA MAY NOT:

_____ Commit the insurer to participate in insurance or reinsurance syndicates §8-209(a)(1)

_____ Without written approval, collect any payment from a reinsurer §8-209(a)(5)

_____ Commit the insurer to a claim settlement with a reinsurer §8-209(a)(6)

_____ Bind reinsurance or retrocessions Except For: §8-209(b)

Facultative reinsurance contracts under obligatory facultative agreements If the contract between the MGA & insurer contains reinsurance underwriting guidelines for reinsurance both assumed and ceded, including all of the following:

- (a) list of reinsurers with which the automatic agreements are in effect
- (b) the coverages and amounts or percentages that may be reinsured
- (c) commission schedules

INSURER DUTIES:

_____ Maintain for 5 years independent financial examinations of each MGA in a form acceptable to the Commissioner §8-210(a)

_____ Maintain for 5 years report from an independent actuary (member of American Academy of Actuaries) attesting to the adequacy of loss reserves established by MGA. §8-210(b)

_____ Conduct on-site review of underwriting operation & claims processing operation of MGA (twice per year) §8-210(c)