



**STATE OF WEST VIRGINIA**  
**Offices of the Insurance Commissioner**  
**Company Analysis and Examinations Division**

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**Managing General Agent (MGA)**  
**License Application - Contract Review**

This form is to be completed as part of the application process. The contract will be compared with the form and the applicant contacted if there are any questions or further clarification is needed. **This information is required pursuant to W. Va. Code §33-37-3.**

Contract between \_\_\_\_\_  
and \_\_\_\_\_

Dated: \_\_\_\_\_

**Responsibilities:**

- Contract specifies division of any responsibilities shared by both parties. (§33-37-3).  
**Contracts cite:** \_\_\_\_\_

**Termination:**

- Insurer may terminate contract upon written notice to MGA. (§33-37-3(a)).  
**Contracts cite:** \_\_\_\_\_
- Insurer may suspend MGA's underwriting authority while termination dispute is pending. (§33-37-3(a)).  
**Contracts cite:** \_\_\_\_\_
- Suspension does not relieve MGA of obligation to service existing business.  
**Contracts cite:** \_\_\_\_\_

**Accounting:**

- MGA shall render accounts to insurer detailing all transactions and remit all funds due under contract on at least a monthly basis. (§33-37-3(b)). **Contracts cite:** \_\_\_\_\_

**Fiduciary Accounts:**

- All funds collected on behalf of insurer are to be held in fiduciary capacity with an FDIC-insured financial institution (§33-37-3(c)). **Contracts cite:** \_\_\_\_\_
- Account will be used for all payments on behalf of insurer (§33-37-3(c)).  
**Contracts cite:** \_\_\_\_\_
- MGA may not retain more than three months estimated claims payments and allocated loss adjustment expenses. (§33-37-3(c)). **Contracts cite:** \_\_\_\_\_

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**Records:**

- Separate records of business will be maintained by MGA (§33-37-3(d)). **Contracts cite:** \_\_\_\_\_
- Insurer has access and may copy all accounts and records related to its business in a form usable by the insurer (§33-37-3(d)). **Contracts cite:** \_\_\_\_\_
- Commissioner has access to all books, bank accounts and records of MGA in a form usable to the Commissioner (§33-37-3(d)). **Contracts cite:** \_\_\_\_\_

**Underwriting Guidelines:**

- Maximum annual premium volumes: (§33-37-3(f)(1)). **Contracts cite:** \_\_\_\_\_
- Basis of rates to be charged; (§33-37-3(f)(2)). **Contracts cite:** \_\_\_\_\_
- Types of risks that may be written (§33-37-3(f)(3)). **Contracts cite:** \_\_\_\_\_
- Maximum limits of liability (§33-37-3(f)(4)). **Contracts cite:** \_\_\_\_\_
- Applicable exclusions (§33-37-3(f)(5)). **Contracts cite:** \_\_\_\_\_
- Territorial limitations (§33-37-3(f)(6)). **Contracts cite:** \_\_\_\_\_
- Policy cancellation provisions (§33-37-3(f)(7)). **Contracts cite:** \_\_\_\_\_
- Maximum policy period (§33-37-3(f)(8)). **Contracts cite:** \_\_\_\_\_
- Insurer has right to cancel or not renew any policy subject to all applicable laws and rules regarding the cancellation and nonrenewal of insurance policies (§33-37-3(f)(8)).  
**Contracts cite:** \_\_\_\_\_

**Settlement Authority:** (If contract permits MGA to settle claims on behalf of insurer)

- All claims will be reported to insurer in timely manner (§33-37-3(g)(1)) **Contracts cite:** \_\_\_\_\_
- Copy of claim file will be sent to insurer at its request or as soon as it becomes known that claim:
- Has potential to exceed amount determined by Commissioner or exceeds the limit set by the insurer, Whichever is less; (§33-37-3(g)(2)(A)) **Contracts cite:** \_\_\_\_\_
  - Involves a coverage dispute; (§33-37-3(g)(2)(B)) **Contracts cite:** \_\_\_\_\_
  - May exceed MGA's claim settlement authority; (§33-37-3(g)(2)(C))  
**Contracts cite:** \_\_\_\_\_
  - Is open for more than 6 months; (§33-37-3(g)(2)(D)) **Contracts cite:** \_\_\_\_\_

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- Is closed by payment of an amount set by the Commissioner or an amount set by insurer, whichever is less (§33-37-3(g)(2)(E)) **Contracts cite:** \_\_\_\_\_
- All claim files are joint property of insurer and MGA. (§33-37-3(g)(3))  
**Contracts cite:** \_\_\_\_\_
- Upon order of liquidation of insurer, files become sole property of insurer or its estate (§33-37-3(g)(3))  
**Contracts cite:** \_\_\_\_\_
- MGA has reasonable access to files and right to copy files in a timely basis. (§33-37-3(g)(3))  
**Contracts cite:** \_\_\_\_\_
- Insurer may terminate settlement authority upon written notice or upon termination of contract (§33-37-3(g)(4))  
**Contracts cite:** \_\_\_\_\_
- Insurer may suspend settlement authority while termination dispute is pending (§33-37-3(g)(4))  
**Contracts cite:** \_\_\_\_\_
- Upon termination of settlement authority, it is preferred that the MGA:  
**Contracts cite:** \_\_\_\_\_
- Desist from any draw on funds of insurer.  
**Contracts cite:** \_\_\_\_\_
- Immediate forward to insurer all claims files within MGA's immediate possession (and any received thereafter) **Contracts cite:** \_\_\_\_\_
- Promptly transfer to insurer any funds owed to insurer or to any policyholder  
**Contracts cite:** \_\_\_\_\_
- Promptly transfer to insurer any property of insurer within MGA's actual or constructive possession.  
**Contracts cite:** \_\_\_\_\_

**Transmission:**

- If electronic claims files exist, the contract must address the timely transmission of the data. (§33-37-3(h))  
**Contracts cite:** \_\_\_\_\_

**Interim Profits:** (if applicable)

- Interims may not be paid until one year after earned for property; five years for casualty. (§33-37-3(i))  
**Contracts cite:** \_\_\_\_\_
- Interims may not be paid until verified by actuary. (§33-37-3(i))  
**Contracts cite:** \_\_\_\_\_

**Advertising:**

- MGA may use only advertising material pertaining to the business issued by an insurer that has been approved in writing by the insurer in advance of its use. (§33-37-3(j)) **Contracts cite:** \_\_\_\_\_

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**MGA May Not:**

- Assign contract (in whole or part). **Contracts cite:** \_\_\_\_\_
- Bind reinsurance or retrocessions (except facultative agreement contract containing: (§33-37-3(k)(1))  
**Contracts cite:** \_\_\_\_\_
- Reinsurance underwriting guidelines for reinsurance assumed and ceded. (§33-37-3(k)(1))  
**Contracts cite:** \_\_\_\_\_
- List of reinsurers with which automatic agreements are in effect. (§33-37-3(k)(1))  
**Contracts cite:** \_\_\_\_\_
- Coverages and amounts or percentages that may be reinsured. (§33-37-3(k)(1))  
**Contracts cite:** \_\_\_\_\_
- Commission schedules. (§33-37-3(k)(1)) **Contracts cite:** \_\_\_\_\_
- Commit insurer to participate in insurance or reinsurance syndicates. (§33-37-3(k)(2))  
**Contracts cite:** \_\_\_\_\_
- Use any producer without verifying producer is licensed in WV for kind of insurance transacted. (§33-37-3(k)(3))  
**Contracts cite:** \_\_\_\_\_
- Without prior approval of the insurer, pay or commit insurer to pay a claim over amount specified by insurer, net of reinsurance, which may not exceed 1% of insurer's policyholder surplus as of December 31 of preceding year. (§33-37-3(k)(4)) **Contracts cite:** \_\_\_\_\_
- Collect any payment from reinsurer or commit insurer to any claim settlement with a reinsurer without prior approval of insurer, and if prior approval is given, MGA will promptly forward report to insurer. (§33-37-3(k)(5))  
**Contracts cite:** \_\_\_\_\_
- Permit its subproducer to serve on the insurer's board of directors. (§33-37-3(k)(6))  
**Contracts cite:** \_\_\_\_\_
- Jointly employ any employee of insurer. (§33-37-3(k)(7)) **Contracts cite:** \_\_\_\_\_
- Appoint a submanaging general agent. (§33-37-3(k)(8)) **Contracts cite:** \_\_\_\_\_

**Submit your completed application to:**

WV Offices of the Insurance Commissioner  
Financial Conditions Division  
PO Box 50540  
Charleston, WV 25305-0540

**Questions:**

Access West Virginia Code at <http://www.legis.state.wv.us/legishp.html>

E-mail: Financial Conditions Division at [OICFinancialConditions@wv.gov](mailto:OICFinancialConditions@wv.gov); or phone at (304) 558-2100.

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