

InsurBanc Business OnLine Banking Agreement

WHEREAS, Financial Institution provides its customers certain Internet-based electronic management and information services, and

WHEREAS, Company wishes to obtain the right to use such services upon the following terms and conditions.

NOW THEREFORE, the parties hereto agree as follows:

1. **Services.** Subject to the terms and conditions of this Agreement, Financial Institution hereby grants Company and Company hereby accepts a non-exclusive, non-transferable right to access and use the Banks OnLine Service. Company agrees that the Service may be modified from time to time to upgrade or improve functionality. Financial Institution will provide Company with prior notice of any such modifications or enhancements.

2. **Company Account.** Company hereby requests that each of its account(s) be made available for access through the appropriate Service. [Company may request Financial Institution to include accounts of affiliated companies for access through the Services (i.e. companies in which Company or its parent have direct, or indirect majority ownership).] Company represents and warrants that it is authorized to give such instructions and to have such accounts included. Company shall provide appropriate authorizations from such companies to Financial Institution permitting their account(s) to be so included.

3. **Financial Institution's Obligation.** (a) Financial Institution agrees to transmit all the financial data under its control required to utilize the Services selected by Company and to act on appropriate instructions received from Company in connection with such Services. Company understands and agrees that the Services may be provided by Financial Institution or its designated agent.

(b) Company understands that Services availability is at all times conditioned upon the corresponding operation and availability of those computer services and systems used in communicating Company's instructions and requests to Financial Institution and Financial Institution's response. Financial Institution shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by Company in the event of any failure or interruption

of such services or any part thereof, resulting from the act or omission of any third party, or from any other cause not reasonably within the control of Financial Institution.

(c) Financial Institution shall exercise due care in seeking both to preserve the confidentiality of the user number, password, test key, or other code or identifier and to prevent the use of the Services by unauthorized persons (and in this connection it is understood and agreed that implementation by Financial Institution of its normal procedures for maintaining the confidentiality of information relating to its customers, and where practicable the obtaining by Financial Institution from any third parties engaged in the installation, maintenance and operation of the system of similar undertakings, shall constitute fulfillment of its obligation so to exercise due care) but shall not otherwise be under any liability or have any responsibility of any kind for any loss incurred or damage suffered by Company by reason or in consequence of any unauthorized person gaining access to or otherwise making use of the Services. Company assumes full responsibility for the consequences of any misuse or unauthorized use of or access to the Services or disclosure of any confidential information or instructions of Company by Company's employees, agents, or other third parties.

(d) As relates to Financial Institution's provision of Services via the Internet ("Internet Services"), Company agrees to the following:

(i) Company will facilitate timely cooperation between any necessary third parties in order for Financial Institution to provide Internet Services.

(ii) Company is, and shall remain, solely and exclusively responsible for any and all financial risks, including, without limitation, insufficient funds, associated with accessing Internet Services. Financial Institution shall not be liable in any manner for such risk unless (A) Company follows the procedures described in materials for use of Internet Services; and (B) Company is assessed a penalty or late fee due to Financial Institution's wrongful act or

omission. In no event shall Financial Institution's responsibilities for such penalties or late fees exceed \$100.00.

(iii) Company will use Internet Services in accordance with such reasonable rules as may be established by Financial Institution from time to time as set forth in any materials furnished by Financial Institution to Company.

(iv) Company assumes exclusive responsibility for the consequences of any instructions it may give to Financial Institution, for Company's failures to access Internet Services properly in a manner prescribed by Financial Institution, and for Company's failure to supply accurate input information, including, without limitation, any information contained in an application.

(v) Company will designate a bank settlement account to be used for the purposes of settling, in aggregate, the financial transactions requested via Internet Services. Financial Institution shall provide Company with details of the specific transactions, reported similarly as other transactions may be done, that were a result of access to Internet Services. Company shall be responsible for auditing and balancing of any settlement accounts.

(vi) Company will verify and reconcile any out-of-balance condition, and promptly notify Financial Institution of any errors in the foregoing within 30 business days (exclusive of weekends and applicable holidays) after receipt of the applicable detail report(s) from Financial Institution. If notified within such period, Financial Institution shall correct and resubmit all erroneous files, reports, and other data at Financial Institution's then standard charges, or at no charge, if the erroneous report or other data directly resulted from Financial Institution's error.

(vii) Company is solely responsible for purchasing, obtaining, installing, operating any and all necessary equipment or software needed to access Internet Services from Financial Institution or a Financial Institution-approved alternative, and shall be responsible for maintaining such equipment or software in an operating condition, including any mandatory maintenance service programs prescribed by Financial Institution. Financial Institution will provide minimum specifications for all such equipment or software.

(viii) Company will be responsible for the payment of all telecommunications expenses associated with Internet Services.

Company acknowledges and understands its responsibility and liability as they relate to Company's access to the Internet. Financial Institution assumes no liability or control over the Internet access of its on-site systems and remote employee or affiliate access.

4. **Use of Services.** Company will use the Services only for its own internal business use in accordance with the terms of this Agreement. Without limiting the generality of the foregoing, Company agrees not to make the Services available or allow use of the Services in a computer bureau service business, timesharing, or otherwise disclose or allow use of the Services by or for the benefit of any third party.

5. **Administrative Rules.** This Agreement shall be subject to such administrative rules as Financial Institution may establish and disseminate from time to time governing the services it will provide in connection with the Services.

6. **Charges; Taxes.** Company agrees to pay to Financial Institution promptly, all fees listed in the Fee Schedule set forth in Schedule C. Such fees may be changed by Financial Institution from time to time upon 30 days' notice to Company. In addition to said fees, Company agrees to pay all sales, use, or other taxes applicable to the Services, excluding, however, taxes based upon Financial Institution's net income.

7. **Warranties; Disclaimer of Warranties.**

(a) COMPANY ACKNOWLEDGES THAT THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. [FINANCIAL INSTITUTION IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN OR TO ANY INFORMATION RESULTING FROM COMPANY'S USE OF THE SERVICES.]

(b) FINANCIAL INSTITUTION MAKES NO AND EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE SERVICES INCLUDING THE WARRANTY OF TITLE AND THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND

NONINFRINGEMENT. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, FINANCIAL INSTITUTION DISCLAIMS ANY WARRANTIES REGARDING THE OPERATION, PERFORMANCE OR FUNCTIONALITY OF THE SERVICES (INCLUDING, WITHOUT LIMITATION, THAT THE SERVICES WILL OPERATE WITHOUT INTERRUPTION OR BE ERROR FREE). [COMPANY FURTHER ACKNOWLEDGES THAT THERE ARE CERTAIN SECURITY, CORRUPTION, TRANSMISSION ERROR AND ACCESS AVAILABILITY RISKS ASSOCIATED WITH USING OPEN NETWORKS SUCH AS THE INTERNET AND/OR TELECOMMUNICATION LINES OR CIRCUITS. COMPANY HEREBY ASSUMES ALL RISKS RELATING TO THE FOREGOING.]

8. **Financial Institution's Liabilities.** Financial Institution's duties and liabilities will be limited to those set forth herein. FINANCIAL INSTITUTION'S LIABILITY SHALL BE LIMITED TO DIRECT DAMAGES SUSTAINED BY COMPANY AND ONLY TO THE EXTENT SUCH DAMAGES ARE A DIRECT RESULT OF FINANCIAL INSTITUTION'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; PROVIDED THAT THE MAXIMUM AGGREGATE LIABILITY OF FINANCIAL INSTITUTION RESULTING FROM ANY SUCH CLAIMS SHALL NOT EXCEED THE TOTAL FEES PAID BY COMPANY FOR THE SERVICE RESULTING IN SUCH LIABILITY IN THE [SIX] MONTH PERIOD PRECEDING THE DATE THE CLAIM ACCRUED. IN NO EVENT SHALL FINANCIAL INSTITUTION BE LIABLE FOR SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND INCLUDING LOST PROFITS WHETHER OR NOT FINANCIAL INSTITUTION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. FINANCIAL INSTITUTION'S LICENSORS OR SUPPLIERS WILL NOT BE SUBJECT TO ANY LIABILITY TO COMPANY IN CONNECTION WITH ANY MATTER.

9. **Force Majeure.** Financial Institution shall not be responsible for liability, loss, or damage of any kind resulting from any delay in the performance of or failure to perform its responsibilities hereunder due to causes beyond Financial Institution's reasonable control.

10. **Term; Termination.** The term of this Agreement shall begin on the date upon which Financial Institution executes this Agreement and shall continue [until terminated as provided in this

Section 10]. [Either party may terminate this Agreement upon not less than 30 days' prior written notice to the other party.] Notwithstanding any such notice of termination, this Agreement shall remain effective in respect of any transaction occurring prior to such termination. Upon any termination of this Agreement, (i) Company will immediately cease using the Services, (ii) Company shall promptly remit all unpaid monies due under this Agreement and (iii) all rights and obligations of the parties shall terminate except that the rights and obligations of the parties under Sections 5, 7, 8, 10, 11, 12, 13, 14 and 15 shall survive. ***[Financial Institution may suspend Company's access to the Services in the event that Financial Institution reasonably determines such suspension is necessary in order to protect the Services or Financial Institution from harm or compromise of integrity, security, reputation, or operation.]***

11. **Indemnification.** Company agrees to indemnify, defend and hold harmless Financial Institution and its shareholders, directors, officers, employees and agents (the "Indemnified Parties") from and against any and all losses, costs, expenses, fees, claims, damages, liabilities and causes of actions (including, but not limited to, reasonable attorney fees and disbursements) of third parties resulting or arising from: (a) Company's failure to abide by or perform any obligation imposed upon Company under this Agreement, (b) the willful misconduct, fraud, criminal activity, intentional tort or negligence of Company or any of its representatives involving use of the Services; (c) the actions, omissions or commissions of Company, its employees, consultants and/or agents relating to the Services; and (d) any transmission or instruction, whether or not authorized, acted upon by Financial Institution in good faith. Company shall be provided with prompt notice of any claims and given full authority and assistance (at Company's expense) for the defense of any such claims; provided that Financial Institution may participate in such defense and settlement with counsel of Financial Institution's own choosing at Financial Institution's own expense; provided, further, however, Company shall have no authority to settle any claim against any Indemnified Party without the prior written consent of such Indemnified Party (which consent shall not be unreasonably withheld).

12. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the state of Connecticut.

13. **Complete Agreement.** The parties hereto acknowledge that each has read this Agreement, understands it, and agrees to be bound by its terms. The parties further agree that this Agreement and any modifications made pursuant to it constitute the complete and exclusive expression of the terms of this Agreement between the parties, and supersedes all other proposals, whether oral or written, understandings, representations, conditions, warranties, covenants, and all other communications between the parties relating to the subject matter of this Agreement. The parties further agree that this Agreement may not in any way be explained or supplemented by a prior or existing course of dealings between the parties or by any prior performance between the parties pursuant to this Agreement or otherwise.

14. **Amendment; Counterparts; Miscellaneous.**
No amendment or supplement to this Agreement

shall be effective unless made in writing and either signed by duly authorized representatives of both parties, and signed by the party to be charged. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but such counterparts together shall constitute one instrument. If any provision of this Agreement is held to be unenforceable or invalid, the other provisions shall continue in full force and effect. The failure of either party to insist on strict performance of any of the provisions hereunder shall not be construed as the waiver of any subsequent default of a similar nature.

15. **Third Party Beneficiary.** The parties acknowledge that Fiserv Solutions, Inc. (d/b/a BANKLINK) is an intended third party beneficiary of this Agreement.