



**ELECTRONIC FUNDS TRANSFER
AND INDEMNIFICATION AGREEMENT**

This Electronic Funds Transfer and Indemnification Agreement (“EFT Agreement”) is entered into on this _____ day of _____, 20__ by and between the National Association of Insurance Commissioners (“NAIC”) located at 1100 Walnut Street, Suite 1500, Kansas City, Missouri 64106 and _____ (“Company”), located at _____, collectively referred to as the “Parties”.

RECITALS

WHEREAS:

- A. NAIC is a nonprofit corporation organized under the laws of the State of Delaware whose membership consists of the chief insurance regulatory officials of the fifty states, the District of Columbia and the United States Territories;
- B. The System for Electronic Rate & Form Filing (“SERFF”) is a NAIC-proprietary computer based application that allows insurance companies an electronic method for creating and submitting rate, rule and form filings to participating state insurance departments for review and approval;
- C. NAIC and Company have entered into a SERFF License Agreement (“License Agreement”) in which NAIC provides access to SERFF for Company to submit filings;
- D. NAIC and Company desire to utilize the Automated Clearing House Operating System for purposes of allowing Company to electronically submit the state insurance department filing fees (“DOI Fees”); and
- E. The Parties intend for this EFT Agreement to govern the Parties’ respective rights and obligations relating to utilization of the Automated Clearing House Operating System for the above-stated purpose and do not intend to supersede or affect the Parties' obligations under the License Agreement.

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein, it is hereby agreed to as follows:

1. **AUTHORITY**

Company hereby authorizes NAIC to initiate debit entries and, if necessary, credit entries and adjustments through the Automated Clearing House (“ACH”) Operating System for the purpose of electronically transferring DOI Fees from Company to NAIC.



2. **NAIC'S OBLIGATIONS**

- a. NAIC will initiate a daily electronic process to debit Company's bank account through the ACH Operating System for the amounts due the state insurance departments as specified by Company in SERFF.
- b. NAIC will initiate a daily electronic process to transfer to the appropriate state insurance departments' bank accounts through the ACH Operating System the amounts due to the state insurance departments as determined by Company in SERFF.
- c. NAIC will, if necessary, initiate an electronic process to credit Company's bank account through the ACH Operating System for any amounts due Company by the NAIC. NAIC will not credit Company's bank account for any amounts due Company if NAIC has already sent the fee for the transaction at issue to the state insurance department.

3. **COMPANY'S OBLIGATIONS**

- a. Company will provide the information required in Exhibit A as well as hereby authorizes NAIC to disclose, if necessary, the information in Exhibit A to NAIC's financial institution and to Company's financial institution.
- b. Company will at all times have sufficient funds in the bank account identified in Exhibit A to cover the amount of DOI Fees incurred by Company as a result of the number of SERFF transactions performed by Company. In the event there are not sufficient funds in the account or the account is no longer active, NAIC may immediately disable Company's ability to submit transactions with EFT payment.
- c. Company also agrees to indemnify and hold harmless NAIC for any and all existing or future obligations, indebtedness or liabilities owed by NAIC to NAIC's financial institution and/or the state insurance departments caused directly or indirectly by Company's failure to have sufficient funds available to cover the DOI Fees at the time NAIC's debit entries were processed through the ACH Operating System. Within five (5) days after NAIC incurs an obligation, indebtedness or liability caused directly or indirectly by Company's failure to have sufficient funds available, Company shall reimburse NAIC for all amounts NAIC was required to pay to satisfy said obligation including penalties and other charges. For amounts not paid within five (5) days, interest shall accrue at the prime rate compounded annually until said amounts including interest are paid in full. Company's indemnification and reimbursement obligations hereunder are unconditional and are independent of and exclusive of any defenses, claims or set-offs Company may have against its financial institution, its customers, or the organization(s) directly or indirectly responsible for causing Company's failure to have sufficient funds.
- d. Company will complete Exhibits A, B, C attached herein.



4. **DISCLAIMER AND LIMITATION OF LIABILITY**

a. Company acknowledges NAIC will not determine the sufficiency of funds available from Company's account to cover the DOI Fees prior to the time NAIC transfers the DOI Fees to the appropriate state insurance departments. Company agrees NAIC shall have no liability to Company for transferring DOI Fees to the appropriate state insurance departments on behalf of Company even though Company does not have sufficient funds available to cover the DOI Fees.

b. NAIC has MADE NO WARRANTY OR PROMISE, EITHER EXPRESS OR IMPLIED, with respect to the Automated Clearing House Operating System covered by this Agreement. NAIC expressly disclaims **THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE**. EXCEPT AS PROVIDED BELOW AND SUBJECT TO THE LIMITS IN PARAGRAPH (C), NAIC SHALL NOT BE LIABLE FOR AND COMPANY EXPRESSLY WAIVES ANY CLAIM FOR ANY LOSS, COST, OR INJURY, DIRECT OR INDIRECT (INCLUDING, BUT NOT LIMITED TO, LOST SALES, LOST PROFIT, BUSINESS INTERRUPTION, OR THIRD PARTY CLAIMS), SUFFERED BY COMPANY AS A RESULT OF RELIANCE ON OR USE OF NAIC'S ELECTRONIC FUNDS TRANSFER PROGRAM OR THE AUTOMATED CLEARING HOUSE OPERATING SYSTEM, UNLESS SUCH LOSS, COST, OR INJURY IS A RESULT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF NAIC.

c. In the event of any dispute brought by either party, it is mutually agreed and understood that either party's liability shall in no event exceed the actual monetary amount transferred from Company's account to NAIC's account through the ACH Operating System, whether such claim is based on tort, negligence, or other legal or equitable theory.

5. **NON-ASSIGNABILITY**

Neither party shall transfer or assign its rights or obligations under this EFT Agreement without the express prior written permission of the other party.

6. **GOVERNING LAW**

This EFT Agreement shall be governed by and construed under the laws of the State of Missouri.

7. **SEVERABILITY**

If any one or more provisions of this EFT Agreement are held invalid by any court of competent jurisdiction or are voided or nullified for any reason, such provision shall be reformed so as to be effective as nearly as intended by the Parties, and together with the other remaining provisions and paragraphs shall continue in full force and effect and shall be binding upon the Parties so as to carry on the intents and purposes of the Parties as nearly as possible.



8. **EFFECT OF AGREEMENT**

This EFT Agreement governs the Parties' respective rights and obligations relating to utilization of the Automated Clearing House Operating system and does not supersede, modify or affect the parties' obligations under the License Agreement. Where this EFT Agreement is silent on a term or condition, the License Agreement will govern. Where the terms of this EFT Agreement are inconsistent with the terms of the License Agreement, the terms of the License Agreement will govern.

IN WITNESS WHEREOF, the parties hereto have executed this EFT Agreement on the day and year first above written.

NAIC

COMPANY

By

By

Printed Name

Printed Name

Title

Title

Date

Date



Providing flexibility, promoting uniformity

Gzj kllv A

**AUTHORIZATION FOR ELECTRONIC
DEBIT AND CREDIT ENTRIES**

SERFF Instance Name: _____

The National Association of Insurance Commissioners (“NAIC”) is authorized to initiate debit entries and to initiate, if necessary, credit entries and adjustments for the correction of any debit entries in error from or to the account indicated below of _____ (COMPANY) at the financial institution indicated below:

Name of Financial Institution: _____

Address of Financial Institution: _____

Routing & Transit No.: _____

Account No.: _____

Account Name (if applicable): _____

The Company authorizes the above-named Financial Institution to honor such requests from the NAIC and to debit or if applicable, to credit, the same to the account indicated above. The debit entries initiated by the NAIC are for the payment of DOI Fees as such term is defined in the EFT Agreement between the Company and the NAIC.

This authorization shall remain in full force and effect until the above-named Financial Institution as well as the NAIC have received written notice from the Company of termination of authority in such time and manner as to afford the Financial Institution as well as the NAIC a reasonable time to act on said termination. Notwithstanding the foregoing, this authorization shall terminate no later than thirty (30) days after written notice of termination is received by the NAIC.

Signature of Authorizing Party: _____

Printed Name of Authorized Party: _____

Title of Authorizing Party: _____

Name of Company: _____

Address: _____

Telephone Number: _____

Date: _____



Exhibit B
EFT Enrollment Form

Company Name

Treasury/Cash Management/Bank Account Manager Contact (Within your company)

Name

Phone

Fax

Email

Rate and Form Filing Department Accounting/Accounts Payable Contact (Within your company)

Name

Phone

Fax

Email

Rate and Form Filing Department Contact

Name

Phone

Fax

Email

