

AGENT SERVICES AGREEMENT

THIS AGENT SERVICES AGREEMENT (this "Agreement"), effective the first of October 2013, is made by and between City of Venice ("City" or "we" or "our") and Employers Mutual, Inc., d/b/a Ascension Benefits & Insurance Solutions of Florida ("Agent" or "you").

Background

City is a municipal corporation organized and located in the State of Florida. Agent is a licensed insurance agency in the State of Florida. City has selected Agent to provide certain risk management and insurance program administration services and, for good and adequate consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Term.** This agreement shall be effective for a period of three (3) years commencing on the effective date first stated above unless sooner terminated as herein provided. City may at its sole discretion offer two (2) additional one (1) year extensions.
2. **Relationship of Parties.** Agent is an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer/employee relationship, a joint venture relationship or partnership relationship. In consideration of the compensation from the City to the Agent, Agent is providing services to the City as an insurance agent.
3. **Agent Services.** Agent, subject to the terms of this Agreement, shall from time to time and as mutually agreed to by the parties during the term hereof, provide insurance-related services to City (the "Services"), pursuant to the specifications set forth in Exhibit A- Agent Services, which is incorporated into the body of this Agreement.
4. **City Responsibilities.** In consideration of the services provided by Agent, City agrees as follows:
 - (a) City shall cooperate fully and timely with Agent and any third parties with whom Agent works in furtherance of the Services.
 - (b) City shall produce timely, complete and accurate information including, but not limited to, current financial information, statements of values, loss information and any other information, necessary for the effectuation of insurance coverage at the request of Agent. City further agrees to provide Agent with notice of any material changes in City's business operations, risk exposures or in any other material information provided under this Agreement.
 - (c) **This Agreement shall not obligate City to procure insurance or to use Agent for any insurance it may wish to procure.** If, however, City chooses to procure its insurance through Agent:
 - (i) City shall timely pay all premiums and fees.
 - (ii) City shall review, confirm the accuracy and recommend any changes to insurance policies issued to City in addition to any review conducted by Agent.

- (iii) City shall provide Agent with at least **sixty (60)** days notice in advance of any policy effective date in the event City intends to allow competing agents or brokers to solicit or market insurance.
- (iv) City shall make all final decisions with respect to underwriting information provided to prospective insurers, insurance coverage to be procured and all matters relating to City's insurance coverage, risk management and loss prevention needs and activities.

5. **Compensation.** In consideration of the services provided hereunder, City shall compensate Agent solely and exclusively through an "Agent Services Fee" in the amount, and payable according to the terms, set forth in Schedule A. If City chooses to procure insurance through Agent, City and Agent acknowledge and agree as follows:

- (a) It is understood and agreed that Agent, or Agent's corporate parent, subsidiaries or affiliated entities, may receive contingent payments or allowances from insurers based on factors which are not client-specific, such as the performance and/or size of an overall book of business produced with an insurer. Such contingent payments or allowances to the extent and proportion attributable to City's coverage will be credited against the balance of the fee owed to Agent pursuant to this Agreement or otherwise be paid to City.
- (b) Agent may, in the ordinary course of its business, receive and retain interest on premiums paid by the City from the date received by Agent until the date the premiums are remitted to the insurance company or intermediary. Notwithstanding anything to the contrary contained herein, any interest income retained by Agent on these premiums will not be credited against the balance of the fee owed to Agent pursuant to this Agreement or otherwise paid to City.
- (c) Compensation for the Services are exclusive of all federal, state and local sales, use, excise, receipts, gross income and other similar taxes and governmental charges and fees. Any such taxes, charges or fees for the Services, now imposed or hereafter imposed during the term of this Agreement, shall be in addition to the compensation, premiums and charges set forth in this Agreement and shall be paid by City upon request.
- (d) Costs and expenses associated with travel and expenses incurred by Agent in the performance of duties performed in the performance of its obligations in this Agreement shall be the sole responsibility of Agent unless specifically agreed upon in advance with City.
- (e) Nothing in this Agreement shall be construed to amend or otherwise alter any terms of any insurance policy and the rights of any insurer to terminate any policy. Termination of this Agreement shall not terminate any policy. Any insurer may terminate its policy in accordance with the terms of such policy. The terms of any policy shall control in the event of any inconsistency between this Agreement and any policy. City authorizes Agent to deliver policies, endorsements, and related documents to City electronically.

6. **Mandatory Florida Fee Agreement Disclosure:** Agent is being compensated based upon a fixed dollar amount, meaning that the contract specifies its compensation and states that additional compensation with respect to the Services will not be paid to Agent or any other party affiliated with Agent. Any such additional compensation to Agent or any other party affiliated with Agent, including any affiliated wholesale brokers or affiliated third party intermediaries, is strictly prohibited. This contract sets compensation based upon a fixed dollar amount and the contract specifies that any such additional compensation shall be credited to the insured, and any such additional compensation to any party affiliated with Agent, including affiliated brokers, affiliated wholesale brokers or affiliated third party intermediaries, must be promptly returned to City. For the purposes of this section, a party is "affiliated" with Agent if such party owns, is owned by or under common ownership with Agent.
7. **Insurance.** During the term of this Agreement, Agent, at its sole expense, shall maintain insurance agent's errors and omissions liability insurance for activities and services pursuant to this Agreement with coverage limits of not less than Five Million Dollars (\$5,000,000).
8. **Termination.**
 - (a) Either party may terminate this Agreement without cause and for any reason whatsoever, by giving written notice of termination to the other party at least sixty (60) days prior to the effective date of termination, which shall be specified in such written notice.
 - (b) Notwithstanding the provisions in sub-paragraph (a) above, City may terminate this Agreement upon the happening of any one of the following causes:
 - (i) Suspension or termination of Agent's insurance license in the State of Florida, which is not cured by Agent within sixty (60) days following such suspension or termination:
 - (ii) Agent's participation in any fraud; or
 - (iii) Agent's material failure to properly perform its duties and responsibilities hereunder because of Agent's gross neglect, proven dishonesty, or commission of a felony.

Termination for any cause enumerated in this sub-paragraph (b) shall be effective upon the delivery of written notice of termination to Agent or at such later time as may be specified in the written notice.

- (c) Notwithstanding the provisions in sub-paragraph (a) above, Agent may terminate this Agreement upon the happening of any one of the following causes:
 - (i) City's failure to pay any Agent Services Fee more than five (5) days after such payment is due;
 - (ii) City's participation in any fraud; or
 - (iii) City's material failure to properly perform its duties and responsibilities hereunder because of City's gross neglect, proven dishonesty, or commission of a felony.

Termination for any cause enumerated in this sub-paragraph (c) shall become effective upon the delivery of written notice of termination to City or at such later time as may be specified in the written notice.

9. **Indemnification.** Agent shall indemnify and hold harmless the City from and against any actions, suits, claims, demands or direct damages, i.e., excluding consequential, punitive or other indirect damages (“Adverse Consequences”) incurred while acting in its capacity as Agent for services for the City and arising out of the negligent actions or omissions of the Agent hereunder, except and to the extent such Adverse Consequences were caused or contributed to by City or City’s subsidiaries or affiliates.
10. **Waiver of Breach.** In the event any breach of this Agreement by the Agent is waived in writing by the City, such waiver shall not constitute a waiver of any subsequent breach by the City.
11. **Notices.** Any notices required or permitted to be given under this Agreement shall be sufficient if in writing and if sent by Certified Mail or by nationally recognized courier service to:

City at:

City of Venice
401 West Venice Avenue
Venice, FL 34285
Attn: Alan Bullock,
Director of Administrative Services

Agent at:

Employers Mutual, Inc.
700 Central Parkway
Stuart, FL 34994
Attn: Senior Vice President

With a copy to:

Ascension Insurance, Inc.
9225 Indian Creek Parkway, Suite 700
Overland Park, KS 66210

Or such other address as either shall give to the other in writing for this purpose.

12. **Interpretation.** This Agreement shall not be construed or interpreted in a manner adverse to any party on the grounds that such party was responsible for drafting any portion of it.
13. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall in no way affect the validity or enforceability of any other provision.
14. **Florida Law Applies.** This Agreement has been made and executed in the State of Florida and shall be governed by and construed and enforced in accordance with the laws of the State of Florida, without regard to its conflicts of laws principles.
15. **Attorney’s Fees.** In any litigation arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to any other remedy obtained, its reasonable attorney’s fees and costs incurred for trial and any appellate proceedings.
16. **Venue.** Exclusive venue is agreed to be in a state or federal court of competent jurisdiction in or for Sarasota County, Florida.
17. **Paragraph Heading.** The paragraph headings and designations used throughout this Agreement have been inserted solely for convenience in reference and shall in no way be taken to limit or

extend the natural and proper construction or meaning of the language employed within the paragraph.

18. **Assignment.** Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto (whether by operation of law or otherwise) without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed. This Agreement will be binding upon, inure to the benefit of, and be enforceable by the parties and their respective successors and permitted assigns.
19. **Entire Agreement.** This Agreement constitutes the entire agreement between City and Agent with respect to its subject matter and merges all prior and contemporaneous communications. The Agreement shall not be modified except by a written agreement dated subsequent to the date of this Agreement and signed on behalf of City and Agent by their respective duly authorized representatives.

[Remainder of Page Intentionally Left Blank- Signature Page Follows]

IN WITNESS WHEREOF, the parties to this Agent Services Agreement have hereunto set their hands and seals as of the day and year indicated below.

AGENT:

Witnesses (2):

- 1. Hollie Smith
- 2. Jeanette L. Bardak

As to Agent

Employers Mutual, Inc.
700 Central Parkway
Stuart, FL 34994

By: [Signature]
 Name: Kevin Cothron
 Title: COO
 Dated: 6-11-13

CITY:

City of Venice, a municipality organized under the laws of the State of Florida

By: [Signature]
 Name: _____
 Title: Mayor John W. Holic
 Dated: JUN 11 2013

ATTEST:

[Signature]
 LYDIA MAGNOLI, MMC
 Asst. City Clerk

WITNESS my hand and the official seal of the said City this 11th day of June, 2013.

[Signature]
 ASSISTANT city clerk

Approved as to form and correctness:

[Signature]
 City Attorney, City of Venice

Approved By City Council

Date: June 11, 2013

EXHIBIT A
AGENT SERVICES

1. Coordinate with the Director of Administrative Services to assure that up-to-date exposure data is incorporated into issuance of newly purchased policies.
2. Issue and deliver valid and timely binders for insurance policies purchased by the City. Assure that insurance policies being purchased will be delivered in accordance with the proposal(s) that were negotiated and/or accepted by the City.
3. Assure that the policies issued reflect no lesser policy terms, conditions, coverage amounts and options than were accepted by the City.
4. Immediately correct policy deficiencies before delivery to the City.
5. Promptly deliver the policies to the City. If any deficiencies from the accepted proposal remain, provide a timeline for their resolution to the satisfaction of the City.
6. Promptly and accurately process insurance policy endorsements and other change requests as needed.
7. Coordinate loss control/safety services desired by the City that are available from the insurers whose policies were purchased through the agent.
8. Assist the City in filing claims with insurers from whom the City has purchased policies through the agent.
9. Be available for risk management meetings with the City, as desirable during the year.
10. Issue Certificates of Insurance, as may be required by the City.
11. Monitor and notify the City of major developments regarding the insurance industry or the City's insurers or policies that may affect the City.
12. Respond to coverage or other insurance policy questions as may be presented by the City.
13. At least annually, review with the Director of Administrative Services the premium/claims history of the City for the policies purchased.
14. Coordinate with the City about 120 to 150 days prior to renewals on giving estimates of renewal changes in premium, coverage, policy terms, etc. and in collecting needed renewal rating and background information.
15. Present renewal pricing and policy changes to the City about 100 days before renewal.

16. If permitted by the City, market coverages with other insurers, and deliver to the City a listing of all companies contacted, detailed spreadsheets of all proposals received and all rejection letters.
17. Promptly provide necessary background and rating data, and premium/claims history information desired for the placing of insurance policies for the City.
18. Cooperate with the City in developing a fair reduction of the contracted agent/broker remuneration in the event the City exercises the option to solicit competition for one or more types of insurance outside of the agent contract.
19. Deliver renewal policies timely and fully disclose insurance policy premiums and commissions or other remuneration received for the sale of such policies.
20. Permit the City to conduct an audit of all remuneration/revenues attributable to the City's account and to fully cooperate with persons designated by the City to perform such audit.

Note: City acknowledges that Agent may not be able to provide certain of the services listed on this Exhibit A if City chooses to procure insurance through another agent.

SCHEDULE A

AGENT SERVICES FEE

\$37,500 annually payable in advance within thirty (30) days of invoice

Annual fee subject to negotiation after initial three year term.