

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS
AUTOMATED VALUATION SERVICE PLUS (AVS+)
LICENSE AGREEMENT FOR THIRD-PARTY ADMINISTRATORS

THIS IS A LEGAL AGREEMENT BETWEEN YOU (“LICENSEE”) AND THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (“NAIC” OR “LICENSOR”). BY SIGNING THIS AGREEMENT, YOU ARE CONSENTING TO BE BOUND BY AND ARE BECOMING A PARTY TO ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. PLEASE READ THIS ENTIRE AGREEMENT CAREFULLY BEFORE ACCEPTING ITS TERMS.

RECITALS

The National Association of Insurance Commissioners (“NAIC” or “Association”) is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators of the 50 states, the District of Columbia and five U.S. territories (“NAIC Member”). The NAIC maintains a database of reported investments of insurers with Association Values. The Licensee has represented to the NAIC that it wishes access to the AVS+ and that its needs are consistent with Association Purposes (hereafter defined). Licensor is willing to grant such access on the terms and conditions set forth in this Agreement.

TERMS

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

- 1) Definitions. The parties agree that the following words shall have the following meanings when used in this Agreement.
 - a) **Access Code** shall mean the user identification code assigned to the Licensee that allows access to the Automated Valuation Service Plus (AVS+) system.
 - b) **Access Fee** shall mean the fees described in the Fee Schedule, and any subsequent increases or decreases made by NAIC.
 - c) **Agreement** shall mean this License Agreement together with the Fee Schedule.
 - d) **Association Purposes** shall mean the entry of Association Values on Annual Statements as a means to determine eligibility for certain accounting treatment in the manner contemplated by applicable state insurance law, rules, regulations, procedures and policy, including but not limited to the instructions in the *Purposes and Procedures Manual*, the *Accounting Practices & Procedures Manual*, and Annual Statements, and shall include activity reasonably related thereto. Compliance with the statutory or regulatory requirements of NAIC members related to securities held as security according to a reinsurance contract is contemplated by Association Purposes.
 - e) **Association Value** shall mean, collectively, an NAIC Designation from the VOS Database or FE Datafile for a security.
 - f) **AVS+** shall mean Automated Valuation Service Plus, a proprietary database of reported insurer investments and the Association Values assigned to such investments by the NAIC, together with the software, reports, files, Access Code, user instructions, and procedures by which the Licensee is granted access to the AVS+.
 - g) **CUSIP** shall mean a securities identification system owned by the American Bankers Association and maintained by Standard and Poor’s CUSIP® Global Services.
 - h) **Effective Year** shall mean the single calendar year the Licensee indicates to the NAIC for this Agreement.
 - i) **Exhibit A** shall mean the Identification of Licensed Clients Exhibit attached to this License Agreement and so designated.
 - j) **Licensed Client** shall mean an insurer regulated by an NAIC Member or reinsurer with Association Purposes, even if not regulated by an NAIC member, with licensed access to the AVS+ that has designated a Third-Party Administrator to manage its Portfolio and assigned this Third-Party Administrator its Portfolio Rights.
 - k) **Person** shall mean a natural person, state, municipality, or other political subdivision, corporation, partnership, unincorporated association, or other business or legal entity, whether related to Licensee or not.

- l) **Portfolio** shall mean a list of CUSIP numbers or other valid security identifiers listed in the *Purposes and Procedures Manual*, representing the securities of a Licensed Client identified in Exhibit A and not of any other Person, entered into the AVS+ by Licensee. For a reinsurer Licensee, Portfolio contemplates the securities held in accordance with Association Purposes.
 - m) **Portfolio Rights** shall mean the right and ability of the Licensee to access the AVS+, maintain Licensed Clients' Portfolios, and request Reports for these portfolios.
 - n) **Purposes and Procedures Manual** shall mean the most recent version of the *Purposes and Procedures Manual of the NAIC Investment Analysis Office*, owned, authored, and published by the NAIC
 - o) **Rating Agencies** shall mean those organizations which analyze the default probability of securities and express credit opinions via a proprietary alphanumeric system to allow investors to compare default probability between one or more securities in public and private transactions. As used herein the term Rating Agencies includes Credit Rating Providers, as defined and listed in the *Purposes and Procedures Manual* and excludes the SVO.
 - p) **Report** shall mean a list of CUSIPs with corresponding Association Values created and delivered electronically by the AVS+.
 - q) The phrases **Annual Statements, FE Datafile, NAIC Designations, SVO, and VOS Database** shall have the meaning used in the *Purposes and Procedures Manual*.
 - r) **Third-Party Administrator** shall mean an individual or group of individuals that are in the business of advising, managing, or procuring AVS+ data for insurance companies' investment portfolios, and have been retained by one or more Licensed Clients to do so.
 - s) **Period End Report** shall mean a Report of Licensee's Licensed Client Portfolio produced by the AVS+ for quarterly and annual statements as specified in the applicable statement instructions.
 - t) **Bill-To Contact** shall mean the person responsible for prompt payment of all AVS+ invoices and to whom all invoices shall be addressed.
 - u) **Primary User Contact** shall mean the person responsible for AVS+ account actions, activity, and usage; and to whom any correspondence will be sent.
- 2) **Grant of License.** The Licensor hereby grants to the Licensee a nonexclusive, nontransferable License to the AVS+ for the term described in Section 3, in accordance with the limitations in Sections 6, 7, and 8, and for the price described in Fee Schedule. This access shall be specifically granted to the user(s) selected by the Licensee and authorized by the Licensor by notification pursuant to Section 10(e).
- 3) **Term.** If the Effective Year is the current calendar year, the term of this Agreement shall commence on the date of execution and shall expire December 31 of the Effective Year. If the Effective Year is the next calendar year, the term of this Agreement shall commence on January 1 and expire on December 31 of the Effective Year.
- 4) **Fees.** Current fees, including any reactivation or additional user fees as applicable, are available in the fee schedule ("Fee Schedule") through the SVO webpage (<https://www.naic.org/svo.htm>).
- 5) **Standard Services.** The following services are provided as part of the AccessFee:
- a) Users may create and maintain AVS+ portfolios online.
 - b) Users may obtain Association Value information on securities which may or may not be owned by the Licensee.
 - c) Users may request unlimited Reports during the service period, excluding posted system shutdown and maintenance periods.
 - d) A Period End Report will be automatically created for all active portfolios, unless the user has elected not to receive same.
 - e) Users may customize receipt of notifications regarding specific securities.
- 6) **Limitations on Use.**
- a) **Association Purposes Only.** The Licensee represents and warrants that it will use the AVS+ only for Association Purposes.
 - b) **Licensed Clients.** The Licensee represents and warrants that it will only use the AVS+ on behalf of Licensed Clients identified in Exhibit A, solely for their Association Purposes, which exhibit Licensee shall

submit to NAIC prior to subscription access being granted and for each subsequent Licensed Client. **Use of the AVS+ for any entity not identified in Exhibit A will be considered a violation of this Agreement and may result in termination of this Agreement pursuant to Section 9(b) and/or legal action.**

- c) **Separate Portfolio.** Licensee shall exercise Portfolio Rights only for each Licensed Client's Portfolio separately and not commingle such with that of any other Person to generate a Report. Licensor shall assign separate Access Codes to Licensee and each Licensed Client as necessary to ensure compliance with this provision.
- d) **No Distribution.** The Licensee agrees that its use of the AVS+ shall be solely for its own internal use as a Third-Party Administrator. Licensee may not market, publish, sell, share, transfer, license or redistribute its Access Code or any information derived from the AVS+ in any manner or form, to any entity or Person that is not named as a Licensed Client in Exhibit A. Notwithstanding the foregoing, Licensee shall have the right to reproduce the information and data for its internal use, provided such internal use does not violate Section 6(f) below. Violation of this limitation on use will result in termination of this license and may result in legal action. Notwithstanding the foregoing, Licensee may use Association Values as part of the reports it provides in its ordinary course of business to clients and within its marketing materials to prospective clients, provided such marketing materials limit use of AVS+ data to aggregate values for illustrative purposes, which do not identify individual securities.
- e) **Nonassignable.** Licensee's right to the AVS+, Access Code, and any documentation or documents related thereto may not be assigned, licensed, or otherwise transferred without the prior written consent of the NAIC.
- f) **No Transfer of Title, Copyright.** The AVS+ is proprietary to the NAIC. Licensee acknowledges that the grant of this License does not transfer title or ownership of the AVS+ or any of its parts to the Licensee. The Licensee hereby expressly acknowledges that the contents of the AVS+ are copyrighted by the NAIC. Except for a reasonable number of back-up copies, any software or other material transferred to the Licensee in connection with the AVS+ may not be duplicated on any electronic media.
- g) **CUSIP Database.** Licensee agrees and acknowledges that the CUSIP Database and the information contained therein is and shall remain valuable intellectual property owned by, or licensed to, CUSIP Global Services ("CGS") and the American Bankers Association ("ABA"), and that no proprietary rights are being transferred to Licensee in such materials or in any of the information contained therein. Any use by Licensee outside of the clearing and settlement of transactions requires a license from CGS, along with an associated fee based on usage. Licensee agrees that misappropriation or misuse of such materials will cause serious damage to CGS and ABA, and that in such event money damages may not constitute sufficient compensation to CGS and ABA; consequently, Licensee agrees that in the event of any misappropriation or misuse, CGS and ABA shall have the right to obtain injunctive relief in addition to any other legal or financial remedies to which CGS and ABA may be entitled.

Licensee agrees that Licensee shall not publish or distribute in any medium the CUSIP Database or any information contained therein or summaries or subsets thereof to any person or entity except in connection with the normal clearing and settlement of security transactions. Licensee further agrees that the use of CUSIP numbers and descriptions is not intended to create or maintain, and does not serve the purpose of the creation or maintenance of, a master file or database of CUSIP descriptions or numbers for itself or any third-party recipient of such service and is not intended to create and does not serve in any way as a substitute for the CUSIP MASTER TAPE, PRINT, DB, INTERNET, ELECTRONIC, CD-ROM Services, and/or any other future services developed by the CGS.

7) Representations

The NAIC encourages the Licensee to become familiar with the most recent version of the *Purposes and Procedures Manual*, which is provided within the AVS+ platform. A digital copy can also be purchased separately. Licensee understands and acknowledges that:

- a) Association Values are final only when published as part of an AVS+ Period End Report order and that until so published may be changed at any time in the sole discretion of the NAIC;
- b) The legal appropriateness of investments, limitations, or restrictions on investments of a particular type or the final accounting treatment actually accorded to insurer investment are state regulatory functions legally entrusted to insurance officials in the context of applicable law and practice. The NAIC has no regulatory authority;
- c) NAIC Designations are not market substitutes for or functional equivalents of the credit ratings of Rating

Agencies and are not produced to permit investors to compare the likelihood of default or of full and timely payment between one or more securities; and

- d) NAIC Designations or prices are not intended to be and should not be used as the basis upon which to buy or sell any security.

8) Warranties and Indemnification

Licensee agrees that the following terms and conditions shall survive any termination of its right to access the materials identified above.

- a) Association Values are produced solely to assist NAIC members in determining appropriate accounting treatment for the investments of insurers. Many NAIC Designations are derived from the ratings of Rating Agencies and security prices in AVS+ are often derived from professional pricing services. All Association Values are based on information provided by or on behalf of insurers or obtained by SVO analysts from publicly available information. All such information is believed to be accurate and reliable; however, the truth, accuracy, and completeness thereof is necessarily dependent upon the source of the information. Also, there is the possibility of human or mechanical error in the production or transmission of information as well as the possibility of incomplete or untimely disclosure by insurers or other third-party providers of information. LICENSOR EXPRESSLY DISCLAIMS THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE AND NO EXPRESS OR IMPLIED WARRANTY IS MADE RESPECTING THE TRUTH, ACCURACY, TIMELINESS, OR COMPLETENESS OF ASSOCIATION VALUES BY THE LICENSOR TO THE LICENSEE OR ANY OTHER PERSON OR ENTITY.
- b) NEITHER CGS, ABA NOR ANY OF THEIR AFFILIATES MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, AS TO THE ACCURACY, ADEQUACY, OR COMPLETENESS OF ANY OF THE INFORMATION CONTAINED IN THE CUSIP DATABASE. ALL SUCH MATERIALS ARE PROVIDED TO LICENSEE ON AN "AS IS" BASIS, WITHOUT ANY WARRANTIES AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE NOR WITH RESPECT TO THE RESULTS WHICH MAY BE OBTAINED FROM THE USE OF SUCH MATERIALS. NEITHER CGS, ABA NOR THEIR AFFILIATES SHALL HAVE ANY RESPONSIBILITY OR LIABILITY FOR ANY ERRORS OR OMISSIONS NOR SHALL THEY BE LIABLE FOR ANY DAMAGES, WHETHER DIRECT OR INDIRECT, SPECIAL OR CONSEQUENTIAL, EVEN IF THEY HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE LIABILITY OF CGS, ABA OR ANY OF THEIR AFFILIATES PURSUANT TO ANY CAUSE OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE FEE PAID BY LICENSEE FOR ACCESS TO SUCH MATERIALS IN THE MONTH IN WHICH SUCH CAUSE OF ACTION IS ALLEGED TO HAVE ARISEN. FURTHERMORE, CGS AND ABA SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR DELAYS OR FAILURES DUE TO CIRCUMSTANCES BEYOND THEIR CONTROL.
- c) LICENSEE ASSUMES SOLE RESPONSIBILITY AND RISK FOR ITS USE OF THE AVS+ AND INDEMNIFIES AND HOLDS LICENSOR HARMLESS FROM AND AGAINST ANY LIABILITY OR CLAIM OF ANY PERSON THAT IS ATTRIBUTABLE TO THE USE, INABILITY TO USE, OR IMPROPER USE BY LICENSEE OF THE AVS+ OR INFORMATION CONTAINED THEREIN.
- d) Licensor shall not be liable for and LICENSEE EXPRESSLY WAIVES ANY CLAIM FOR ANY LOSS, COST OR INJURY, DIRECT OR INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO, LOST SALES, LOST PROFIT, BUSINESS INTERRUPTION, OR THIRD-PARTY CLAIMS), SUFFERED BY LICENSEE AS A RESULT OF RELIANCE ON OR USE OF ASSOCIATION VALUES. In the event of any dispute between the Licensee and the Licensor, the parties agree that the Licensee's sole remedy and Licensor's sole liability shall in no event exceed the actual License fee paid by the Licensee during the current period, whether such claim is based on tort, contract, or other legal or equitable theory.

Notwithstanding the foregoing, Licensor represents and warrants that the AVS+ does not and will not violate or infringe any enforceable patent, trademark, trade secret, copyright, or similar intellectual property right. Licensor will defend all claims and pay all losses that a court finally awards or any settlement attributed to any claim made against Licensee alleging that the AVS+ infringes upon an enforceable patent, trademark, trade secret, copyright, or similar intellectual property right, provided Licensee (1) gives Licensor prompt written notification within 15 days of receipt of notice of any such claim; and (2) allows Licensor to control, and fully cooperates with the Licensor in the defense and all related settlement negotiations. In no event shall Licensor be liable for loss of profit, goodwill, or other special or any

consequential damages suffered by Licensee in any way attributable to the AVS+.

9) Violation, Termination and Administrative Procedure.

- e) Violation. Licensee agrees that the violation of any term of this License Agreement shall constitute a violation of the License.
- f) Termination. Upon Licensee's violation of Section 6 of this License, the NAIC may, in its sole discretion, immediately terminate the License. If the NAIC shall decide to terminate the License, it shall terminate the Access Code and delete Licensee's Portfolio from the AVS+. The Licensee understands and agrees that it shall have no right of action for such termination.

10) Miscellaneous Provisions.

- a. Force Majeure. Neither party shall be liable for any delay or failure to perform any aspect of this Agreement as a result of any interruption of service, resulting directly or indirectly from natural disasters, acts of public enemies, war, accidents, fires, electrical failures, machine failures or unavailability, postal delays, explosions, the elements, strikes, lockouts, labor disputes, governmental orders or regulations, observations of holidays, shortages of suitable parts, materials, or any other cause beyond the control of either party.
- b. Law Governing Agreement; Arbitration. This Agreement shall be construed in accordance with the laws of the State of New York. Any controversy or claim arising out of or relating to this Agreement or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and the judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.
- c. Entire Agreement. This Agreement sets forth the entire agreement and understanding between the parties respecting the subject matter of this Agreement and merges all prior discussions between the parties. Neither of the parties shall be bound by any conditions, definitions, Warranties, understandings, or representations with respect to the subject matter of this Agreement other than as expressly provided herein.
- d. Survivability. The provisions of Sections 6, 7, and 8 of this Agreement shall survive the expiration or termination of this agreement.
- e. Notification. Notification to Licensor can be made via email at securitiessupport@naic.org, or via standard mail at ATTN: AVS+ Administrator c/o Strategic Business Initiatives, NAIC Central Office, 1100 Walnut Street, Suite 1500, Kansas City, MO 64106.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]

In Witness Whereof, the parties have hereunto set their hands, intending to be bound.

NAIC

Company Name

By

By

JAMES W. WOODY
Printed Name

Printed Name

CHIEF FINANCIAL OFFICER
Title

Title

Date

Date

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK]