



NONSTANDARD LICENSE AGREEMENT

THIS IS A LEGAL AGREEMENT BETWEEN YOU AND THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (“NAIC”). BY CLICKING ON THE AGREE BUTTON, 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.:

1. License

Subject to the terms and conditions of this Agreement, NAIC hereby grants to you, “Licensee”, and Licensee hereby accepts a non-exclusive, non-transferable, worldwide license to access and use the System for Electronic Rate and Form Filing (“SERFF”) for the limited purpose of performing Nonstandard Filing Services. For purposes of this Agreement, Nonstandard Filing Services means providing rate, form or document filing services to companies (“Customer(s)”) for a fee. Licensee may not reverse engineer, reverse assemble or reverse compile SERFF.

2. Licensee’s Obligations

(a) Licensee agrees it will not provide direct access to SERFF to its Customers but will only provide information from SERFF to its Customers through performance of Nonstandard Filing Services;

(b) Licensee represents and warrants that prior to providing information from SERFF through Licensee’s Nonstandard Filing Services to a Customer it will obtain a written agreement (hereinafter referred to as the “Customer Agreement”) from the Customer. The Customer Agreement will contain the following provisions: (i) neither Licensee nor NAIC make any representation or warranty with respect to SERFF or the truth, accuracy, currency or completeness of the data in SERFF; (ii) express disclaimer of all warranties regarding SERFF which extend beyond the description of SERFF, including without limitation the implied warranties of merchantability and fitness for a particular purpose; (iii) Customer will not offer, sell or otherwise distribute all or any portion of the information from SERFF to any third party (defined as one who is not an officer, director, agent, consultant, contractor, employee, majority-owned subsidiary or affiliate of Customer); (iv) Customer may share the information from SERFF with any of its subsidiaries or affiliates provided it discloses to Licensee the name and location of said subsidiaries and affiliates; (v) Customer recognizes SERFF is the exclusive property of the NAIC and agrees to take no action adverse to such rights of the NAIC as owner and sole copyright proprietor; and (vi) Customer agrees to keep all terms of the Customer Agreement confidential including pricing.

(c) Licensee agrees to provide to the NAIC, and maintain on an ongoing basis, an accurate listing of subsidiaries, affiliates and Customers along with updated contact information for those entities and any other relevant subsidiary, affiliate or Customer information as required in order to fully utilize filing services in SERFF. Licensee must provide this information to NAIC within five (5) days of securing a new Customer.

(d) Within ten (10) days of receiving a written request from NAIC for the Customer Agreement(s) between Licensee and its Customer(s) regarding the above provisions, Licensee shall provide such Customer Agreement(s) to NAIC.

(e) Information from SERFF obtained by Licensee shall be used only by or on behalf of the Customer for whom the information was requested. Except as provided in this Agreement, Licensee shall not archive, database or otherwise retain or use any information from SERFF for



Providing flexibility, promoting uniformity

any other purposes, except to the extent that Licensee is required by law to maintain such information.

3. Title

NAIC retains all proprietary right, title and interest in and to SERFF and in the sources, development and licensing or other disposal of SERFF and enhancements and updates thereto, including its presentation format. The NAIC owns the patent, copyright, trade secret, trade name and all other intellectual property rights in and to SERFF including, but not limited to, the data bases, source codes, object codes, computer programs, compilations and presentation format. It is expressly understood that neither Licensee nor Licensee's Customers obtain any rights in SERFF furnished by NAIC except as expressly provided in this Agreement.

This is not a contract of sale, and Licensee obtains no rights under Section 109 of the Copyright Act of 1976. It is recognized that SERFF is the exclusive property of NAIC, and Licensee agrees to take no action adverse to such rights of NAIC as owner of SERFF and as sole copyright proprietor. Licensee agrees to preserve NAIC's notice of copyright or other proprietary rights in the form and in the manner as may be specified by NAIC from time to time. Such notices shall be preserved and affixed to all copies of SERFF furnished or permitted to be made hereunder.

4. Indemnification Obligations

NAIC represents and warrants that SERFF does not and will not violate or infringe any enforceable patent, trademark, trade secret, copyright or similar right. NAIC will pay all losses that a court finally awards or any settlement or legal costs attributed to any claim that SERFF infringes any enforceable patent, trademark, trade secret, copyright or similar right. To qualify for such payment, Licensee must (1) give NAIC prompt written notification of any such claim, and (2) allow NAIC to control, and fully cooperate with NAIC in, the defense and all related settlement negotiations. But in no event shall NAIC be liable for loss of profit, goodwill, or other special or any consequential damages suffered by the other party or others in any way attributable to SERFF.

Licensee assumes sole responsibility for all of its use of SERFF and indemnifies, defends, and holds harmless NAIC from any liability or claim that is attributable to improper use of SERFF by Licensee or Licensee's Customers.

5. Limitation of Liability

Except as provided elsewhere in this Agreement, NAIC has MADE NO WARRANTY OR PROMISE, EITHER EXPRESS OR IMPLIED, with respect to SERFF covered by this Agreement. NAIC does not guarantee uninterrupted access to SERFF. All data is furnished to NAIC by third parties, and the truth, accuracy, currency, and completeness thereof is necessarily dependent thereon regardless of the media on which data is provided to NAIC. NAIC expressly disclaims **THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE.**

Except as provided elsewhere in this Agreement, THERE ARE NO WARRANTIES, EITHER EXPRESS OR IMPLIED, THAT EXTEND BEYOND THE DESCRIPTION OF SERFF SET FORTH IN THIS AGREEMENT. NAIC SHALL NOT BE LIABLE FOR AND LICENSEE 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 LICENSEE OR LICENSEE'S CUSTOMERS AS A RESULT OF RELIANCE ON OR USE OF SERFF.



Except for the Parties' indemnification obligations under this Agreement, in the event of any dispute between NAIC and Licensee, it is mutually agreed and understood that both Parties' sole remedy and sole liability to the other party shall be in the form of liquidated damages which shall in no event exceed the actual fees paid by Licensee, whether such claim is based on tort, negligence, or other legal or equitable theory.

6. Fees

Licensee shall pay fees for the right to access and use SERFF and to distribute information from SERFF through Nonstandard Filing Services. A schedule of standard fees is available at www.serff.com. NAIC may change or modify the standard published charges upon (30) days' written notice to Licensee. All invoices from NAIC shall be due and payable within thirty (30) days of receipt by Licensee.

7. Electronic Funds Transfer (EFT)

If Licensee chooses to electronically submit state insurance department filing fees ("DOI Fees"), this Agreement authorizes the NAIC, upon receipt of appropriate account information, to initiate daily debit entries and, if necessary credit entries and adjustments through the Automated Clearing House ("ACH") Operating System for that purpose.

Licensee agrees to maintain sufficient funds in the account identified to cover the amount of DOI fees incurred and to indemnify the NAIC for any obligations, indebtedness or liability owed to the NAIC's financial institution or any state DOI caused by Licensee's failure to have sufficient funds. Licensee shall reimburse the NAIC for any obligations incurred within five days, including any penalties or other charges.

The NAIC shall not be liable for and Licensee 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 Licensee or Licensee's Customers as a result of reliance on or use of the NAIC's EFT program or the ACH operating system.

8. Nonassignability

Licensee agrees that neither this Agreement nor any of the rights granted hereunder shall be transferable or assignable to any other party without the express prior written permission of NAIC.

9. Cancellation or Termination

This Agreement shall remain in full force and effect until cancelled or terminated as provided herein. This Agreement may be terminated by either party, with or without cause, upon thirty (30) days' written notice to the other party, provided Licensee shall remain responsible for any outstanding balance of payment.

In the event NAIC deems Licensee to be in breach of this Agreement, NAIC shall provide written notice to Licensee specifying said breach and giving Licensee fifteen (15) days within which to cure said breach and avoid termination. If said breach is not cured within fifteen (15) days of notification, the Agreement may be terminated by NAIC.

The provisions of Section 2, 3, 4, 5, 9, 10, 11, 12, 13 and 14 shall survive the termination of this Agreement.



10. Confidential Information and Nondisclosure

The parties acknowledge that in the course of this Agreement, each may acquire information about the other, its business activities and operations, technical information, trade secrets, copyrighted material, and its client and financial information, all of which shall be deemed to be Confidential Information (the "Confidential Information"). All Confidential Information shall be maintained using reasonable security measures similar to those measures used by the parties for the protection of their own Confidential Information of a similar kind. Neither party to this Agreement shall be entitled to use the Confidential Information obtained from the other, for purposes other than those contemplated by this Agreement, without express prior written consent. The term "Confidential Information" shall not include any information that, through no fault of the possessing Party, is in the public domain, is developed independently by or on behalf of a Party as shown by documentary evidence, or becomes disclosed to either Party by a third party not having an obligation of confidence to either Party or through this Agreement.

11. Publicity

Licensee agrees that it will not use the name of NAIC in any form or attribution in connection with any solicitation, publicity, advertising, endorsement or other promotion, except as permitted by the terms of this Agreement, without the express prior written permission of NAIC.

12. Dispute Resolution and Forum

Except for claims relating to intellectual property issues, any controversy or claim arising out of or relating to this Agreement or the breach thereof, shall be settled by arbitration at Kansas City, Missouri in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any Court having jurisdiction thereof. All arbitration proceedings shall be conducted in the English language. The Parties hereby agree that any claims relating to intellectual property issues shall be instituted in federal court in the Western District of Missouri, Kansas City, Missouri. Each party agrees not to institute any litigation or proceeding against the other party except as provided herein.

13. Governing Law

This Agreement shall be governed by the laws of the State of Missouri, U.S.A.

14. Severability

If any one or more provisions of this Agreement are held invalid by any court of competent jurisdiction or are voided or nullified for any reason, such provision(s) 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.

15. Notices

Any and all notices that may be served with respect to this Agreement, including notice of termination, shall be in writing and shall be deemed sufficiently served if mailed by registered mail addressed to:



NAIC:
Scott A. Morris
Chief Technology Officer
National Association of Insurance Commissioners
1100 Walnut, Suite 1500
Kansas City, Missouri 64106

16. Miscellaneous.

Nothing in this Agreement shall be construed to constitute or appoint either party as a partner, joint venturer, agent or representative of the other party for any purpose whatsoever, or to grant to either party any rights or authority to assume or create any obligation or responsibility, express or implied, for or on behalf of or in the name of the other, or to bind the other in any way or manner whatsoever.

17. Entire Agreement

This Agreement supersedes all other agreements or representations either oral or written between NAIC and Licensee regarding a license to use SERFF. No waiver, alteration or modification of provisions in this Agreement shall be binding unless subsequently made in writing and signed by duly authorized representatives of NAIC and Licensee.

THIS AGREEMENT CONTAINS A PROVISION FOR BINDING ARBITRATION.