



## Proposal for Property Valuation Services

### Lexington Fayette Urban County Government

**Ryan M. Tate**  
Regional Director  
AssetWorks Risk Management Inc.  
168 Industry Drive  
Pittsburgh, PA 15275

**Michael Skidmore**  
Safety and Loss Control Manager  
Lexington-Fayette Urban County Government  
200 E. Main Street  
Lexington, KY 40507

February 9, 2021

Mr. Michael Skidmore  
Safety and Loss Control Manager  
Lexington-Fayette Urban County Government  
200 East Main Street  
Lexington KY 40507

Dear Mr. Skidmore:

AssetWorks Risk Management Inc. is proposing insurance support services to provide the Lexington-Fayette Urban County Government comprehensive property insurance appraisal services and the collection of supplemental property underwriting data. Our services will assist with developing an insurable value base for ***equitable distribution of premiums, reliable insurance to value*** for risk identification, ***assure accurate coverage*** for risk quantification, ***supplemental property exposure data*** for risk financing and ***provide proof-of-loss documentation*** in a format that is consistent with the ***modeling demands of the reinsurance market***.

Thank you for the opportunity to offer AssetWorks customized property appraisal services. We look forward to the possibility of a demonstration/presentation and ultimately to a maturing professional partnership with you and becoming an integral part of your risk management program. Please contact me at 412.480.6563 or [ryan.tate@assetworks.com](mailto:ryan.tate@assetworks.com) if you have any questions or would like to schedule a call to discuss.

Respectfully submitted,  
AssetWorks Risk Management Inc.

Ryan M. Tate  
Regional Director

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## 1. About AssetWorks





AssetWorks is a wholly owned subsidiary of Constellation Software Inc. (Constellation), a leading, global provider of software and services to organizations in the public and private sector. Constellation acquires, manages, and grows industry-specific software companies that provide specialized, mission-critical solutions to address the unique needs of their customers. Constellation is publicly traded on the TSX under the symbol CSU. For the fiscal year ending December 31, 2019, consolidated revenues were in excess of US \$3.4 Billion.

Our risk management roots are in property insurance valuation services but relationships with our customers, understanding the evolving property risk management landscape, and a drive to be more innovative led AssetWorks to enter the risk management software market nearly two decades ago. Currently, our property risk management solution, featuring a combination of our AMP Property Risk Management software and onsite appraisal services, is unrivaled in the marketplace.

Considering our individual customer’s needs and resources, AssetWorks offers various levels of valuation service to address 100% of property values within a wide range of budgets.

			
<b>Onsite Appraisal</b>	<b>Virtual Valuation</b>	<b>Valuation Estimator</b>	<b>Annual Trending</b>
USPAP-compliant insurance appraisal with onsite, physical inspection to collect building details and generate an accurate estimate of replacement or reproduction cost.	An inspection and valuation service completed by leveraging web-based tools and collaboration with knowledgeable building personnel to validate property data.	A custom-built valuation matrix is applied to generate an accurate estimate of replacement cost leveraging property data stored in the AMP Property Risk Software platform.	Regional trend factors are applied to current replacement cost values as a means of keeping them inline with overall economic changes (e.g. increased cost of materials).

Our combination of valuation consultants and state of the art technology offers innovative and cost-effective services for initial and long-term solutions associated with property insurance and risk management.

			
<b>Ensure You are Properly Insured</b>	<b>Secure the Best and Most Accurate Rates</b>	<b>Increase Confidence in the Quality of Your Data</b>	<b>Leverage the Benefits of a True Partnership</b>
Our valuation consultants go the extra mile to ensure you receive the most accurate and up-to-date values possible helping to ensure you receive the coverage you need	By collecting detailed COPE and catastrophe modeling data you gain a more complete picture of your risk profile which when run through modeling programs can result in more favorable rates	Every engagement includes certified appraisal reports with insurance detail per building and a comparison of values prior to and following the appraisal project	The relationships we build with our clients are important to us. From kick-off meeting through project completion, we believe open communication is paramount to our success and yours

## QUALIFICATIONS

AssetWorks is confident in our ability to respond to the current and future needs of our customers by providing professional and accurate data collection, valuation estimates, and supplemental data needed for underwriting.

### Our customers confidently select AssetWorks as their partner for the following reasons:

- Our project team consists of **full-time employees** (no-subcontractors) and professional valuation consultants associated with the American Society of Appraisers. Our team specializes in providing property valuation services to government entities.
- AssetWorks takes pride in being true public entity specialists, generating over ninety percent of our annual revenue serving public entities, **including over 70 pooling groups and states nationwide.**
- AssetWorks is the technology pioneer in asset management and property valuation solutions. AssetWorks developed a comprehensive proprietary web-based property management system (**AMP™**) to provide our clients the ability to manage, report, and perpetuate valuation data.
- **Quality Assurance & Project Management** - AssetWorks has created internal project management standards which assure consistent application of property data collection, valuation methodology and deliverables of draft and final reports. To ensure complete transparency of the project status and billing, AssetWorks has developed a proprietary project management and communication tool. This tool provides our customers with 24/7 accessibility for real-time updates.
- AssetWorks maintains professional affiliations with national insurance associations including the State Risk and Insurance Management Association (STRIMA), Association of Governmental Risk Pools (AGRIP), Public Risk Management Association (PRIMA) and the Risk and Insurance Management Society (RIMS).

### WATER & SEWER RISK MANAGEMENT POOL

“AssetWorks’ field personnel were professional, on time, and efficient in obtaining the data they needed. When there were unique structures they actively listened to our members and adapted their valuation methods as appropriate. The end product exceeded our expectations.”

– Larry Bailey, Executive Director

### WASHINGTON COUNTIES RISK POOL

“The idea of it is great. You know, that [AssetWorks] can go out, appraise these buildings, enter the data, and then it is all right there in AMP. It saves us a lot of time and allows us to continue doing what we are doing. They’re always looking to deliver the best product for us.”

– Derek Bryan, Executive Director

### SAN MATEO COUNTY SCHOOLS INSURANCE GROUP

“The AssetWorks team has been able to provide this service, as promised, with great communication and with little to no disruption in our school buildings. It has been wonderful working with AssetWorks, and we look forward to doing so in the future.”

– Sharon Vishwa, Member Services & Board Relations Manager

## 2. Proposal & Methodology

### **On-Site Property Insurance Appraisal Services**

The goal of an on-site property insurance appraisal is to physically inspect and appraise select building/structures to obtain uniform and reliable insurance values for insurance placement and allocation of premiums. The resulting data will provide current insurable values, enhanced COPE data, proof-of-loss documentation, as well as the basis for underwriting and insurance premiums. The proposed services will be performed in accordance with industry-wide appraisal standards (USPAP – Uniform Standards of Professional Appraisal Practice).

### **2.1 PROJECT SCOPE & APPROACH**

#### **On-Site Property Insurance Appraisal Services**

The core of success in a property appraisal project begins on the front-end, and by way of dialogue, a truly customized project plan is developed to meet the specifications and needs of LFUCG. Our approach is not a template and is catered towards not only client requests, but by way of our experience and expertise.

#### **Project Kickoff Meeting**

Our project team will hold a comprehensive project-planning meeting with member representatives in advance of the onsite fieldwork. We advise that members of the administrative, risk management and facilities staff or other directly involved personnel attend this meeting. Topics of discussion include confirmation of project scope and time frames, the physical appraisal schedule, accessibility to buildings, and contacts for each Member. This meeting lays the foundation for the methods and procedures used during the on-site fieldwork.

#### **LFUCG/ Member Staff Expectations**

AssetWorks believes that clients retain our services with the expectation that AssetWorks staff, as paid professionals, and consultants, will perform the necessary tasks with the highest level of industry professionals to successfully complete the project on time. We do view our clients as active participants and anticipate their assistance with the following:

- **Pre-Project Planning and Scheduling** – AssetWorks will identify key items to have prepared for the project kickoff meeting. We ask that you prepare and distribute a memo to all locations receiving an appraisal announcing the project and give the general purpose and time frame.
- **Availability of Existing Building Records** – AssetWorks will utilize existing records, as provided by the members. Blueprints, for example, can aid in the accuracy of calculating square foot area. Direct construction costs from Members are another source of valuable information we collect.
- **Access to All Sites** – AssetWorks appraisers will be granted access to all sites and buildings based on a mutually agreed upon appraisal schedule.

#### **Project Closeout Meeting**

Upon completion of the on-site investigation, the AssetWorks project manager will conduct a final closeout meeting with your staff. The focus is to ensure that all sites and properties have been accounted for and to answer any questions that you might have. This is also the time at which your staff should ensure that they have transferred all client supplied data to the project manager. Later delivery of data could delay final report processing.



## 2.2 GENERAL BUILDINGS & STRUCTURES

The basis for valuations of each building lie in the data recorded. A description for each building will be established, depicting Construction, Occupancy, Protection and Exposure (**COPE**) data to be included on the insured property as it is related to loss prevention and valuation.

Single digital images will be prepared for each building and integrated into the final reports. Each building will either be physically measured, square footage verified through a review of blueprints, measured using satellite imaging, or included based on information provided. Additionally, a complete physical address will be recorded, and all buildings will be assigned a unique identification number.



## 2.3 WATER & SEWER TREATMENT

AssetWorks' approach to valuing wastewater facilities are performed on an itemized building and/or by process basis. The fieldwork will begin with a meeting between the project team and the plant manager or other delegate. The following is verified:

- Available blueprints/site map/process summary
- Plant design capacity – measured in “million-gallon capacity per day treated” MGD
- Plant original construction and addition's date
- Any “contractors cost breakdowns” for construction – (original or additions)

### Common Processes and Structures

- Headworks (Influent Pump Station)
- Clarifiers (Primary, Intermediate, Secondary)
- Aeration Tanks/Ponds/Basins
- Gravity Thickeners/Dewatering Buildings
- Digesters
- Filters (Trickling, Biological, UV... etc.)
- Sludge Drying
- Beds/Lagoons/Incinerators
- Laboratories
- Ozone Structures
- Chlorine Contact Structures
- Blower Buildings
- Pump Stations / Equipment Galleries



### Reservoirs & Water Containment Structures

- Type(concrete/steel/above-ground/in-ground)
- Capacity
- Construction Date & Cost

### Pump Houses, Lift Stations, Wells, etc.

- Structure type, size/depth, services, & features
- Itemized equipment (type, capacity)

**2.4 HISTORICAL PROPERTIES**

Buildings registered as historical with the National Register of Historic Places will be valued based on reproduction cost which will include identifying and appraising components of the subject building, utilizing a segregated cost approach to determine valuations on material that is like-kind as well as function. Specialty attributes will be taken into consideration and valued in terms of reproduction as it relates to the subject building. LFCUG will assist in providing information on which buildings, if any, require **reproduction cost/historical** valuations.

**2.5 DATA COLLECTED**

**Primary Construction, Occupancy, Protection, & Exposure Data (COPE)**

- a) Occupancy Type
- b) Construction/ISO Class
- c) Frame Type
- d) Number of Stories
- e) Condition
- f) Roof Shape
- g) Roof Pitch
- h) Roof Strapping
- i) Roof Type
- j) Exterior Walls
- k) Year Built
- l) Foundation/Footing
- m) Square Footage
- n) Ceiling
- o) Partitions/Interior Walls
- p) Updates (Roof/Bldg.) Yr.
- q) Heating/Cooling Systems
- r) Flooring
- s) Electrical/Plumbing
- t) Elevators
- u) Identify Protection Systems
- v) Additional Features
- w) GPS Coordinates
- x) Flood Zone Classifications

**ISO/Construction Classifications**

One of the primary goals of underwriting for property insurance is determining the risk of fire. One of the main considerations in making that determination is assigning the proper construction class. Properly identifying the construction class can help the underwriter understand the construction type and rate the risk more accurately. AssetWorks reports will include ISO classes 1-6, as defined by the Commercial Fire Rating Schedule (CFRS) defined in terms of the Marshall and Swift construction classes

ISO Class	M&S Class	Description
1	D	Frame/Combustible (wood walls & roof)
2	C	Joisted Masonry (free standing masonry shell flammable roof)
3	S	Noncombustible (light steel construction)
4	C	Masonry Noncombustible (free standing masonry walls with noncombustible floors and roof)
5	A	Modified Fire Resistive (noncombustible, 1 hour fire rating)
6	B	Fire Resistive (noncombustible, 2 hour fire rating)



### **Flood Zone Designations**

Flood Zone designations are based on GPS coordinates and mapped via satellite by a provider including E&O coverage. Identifying flood zones based on address can lead to an incorrect designation as many sites include multiple acres and multiple flood zones. In some cases, the flood zone actually intersects the structure, and this has to be represented or an incorrect designation may be applied, particularly when only using a physical address as the determining factor. AssetWorks subscribes to FEMA updates as it relates to flood zone updates and maintains a strong relationship with a geo-mapping group to support zone designations and provide our clients with the accuracy required in this category.

## **2.6 VALUATION METHODOLOGY**

Our investigation of each property will follow generally accepted valuation techniques and standards, incorporating various sources to develop cost conclusions for each building. Sources include price lists, trade journals, industry publications, pricing subscription services, as well as direct cost research. It is an ongoing task to identify and continuously substantiate values. Multiple sources of value exist, but to rely on only one can be limiting as they all have positive points to be reflected. Sources of construction cost information include, but are not limited to:

- Internally developed proprietary water/wastewater treatment plant valuation guide
- Direct cost information from recent projects
- Inquiries with local contractors and architects
- US Department of Labor – Bureau of Labor Statistics
- Marshall and Swift / Boeckh
- RS Means Construction Cost Index
- Reed Construction Data
- Previous AssetWorks valuation data

## Definitions of Value

### Replacement Cost New

Cost of Replacement New is the amount required to reproduce a property entirely at one time, as of a specific date, in like size, kind and quality and in accordance with current market prices for labor, materials, manufactured equipment, contractors overhead, profit and fees, but with no provisions for overtime or bonuses, or for premiums for materials and equipment. In determining replacement cost new, AssetWorks will not consider costs associated with demolition of property, debris removal, or partial loss into our analysis.

This methodology takes local wages and material costs into account, as well as specific structural attributes and current construction code that will cause an increase or decrease in base value such as sprinkler systems, elevators, exterior wall adjustments, actual building occupancy, and quality of construction as related to industry standards.

### Insurance Exclusion

Insurance Exclusion is a provision in an insurance contract describing property, or types of property, that are not covered by an insurance policy. The insurance exclusion amount is deducted from replacement cost to arrive at an insurable value, specific to each structure.

### Actual Cash Value

Actual Cash Value is the Replacement Cost Value less depreciation.

### Cost of Reproduction New (Historical Properties)

Cost of Reproduction New is the amount required to reproduce a duplicate or replica of the entire property at one time in like kind and materials, in accordance with current market prices for materials, labor and manufactured equipment, contractor's overhead, profit, and fees, but with no provisions for overtime, bonuses for labor, or premiums for material.

### Building Contents (Modeling Approach)

Content values will be included based on the "modeling approach" that was developed to meet the valuation needs of our customers without the need for a detailed inventory. AssetWorks utilizes computer models of building types and their contents based on data gathered from thousands of valuations over the past several years.

We will estimate the value of contents by taking the square foot equipment value of a like facility and applying it to the calculated area of the building. The "modeling approach" is unique in that a reliable replacement cost estimate of a building's contents can be generated without performing a lengthy and costly inventory.

## 2.7 PROJECT DELIVERABLES

### Certification Letter

The certified valuation report will include the Letter of Certification, which will:

- Identify the property appraised
- State the purpose of the valuation
- Specify the valuation date
- Define the level of value sought and the premise of value employed
- Describe the nature of the property included and excluded
- Discuss the valuation investigation
- Indicate the factual data considered
- Present the conclusions of value (Replacement Cost unless otherwise ordered)
- Outline the qualifying and limiting conditions
- Include the signature of an authorized officer of the company

### Preliminary & Final Reports

AssetWorks will utilize the AMP application to deliver all valuation reports. AMP will be used as the property data system of record and all data as a result of the virtual valuations conducted will be updated directly in the AMP application. This data will be available in real time as valuations are completed. In addition, any drawings, sketches, plans, documents, and work papers associated with the valuations will be uploaded into AMP as part of the building record. AMP Risk provides the ability to view, export, and manipulate the valuation reports in various formats including PDF, Excel, and HTML. The customer will have the opportunity to review the preliminary valuation results in AMP and approve the value of each structure. Upon approval, final reports can be generated.

### AMP Property Risk Management System – Report Delivery

All valuations conducted by AssetWorks includes report delivery within the AMP Property Risk Management System. LFUCG has access to AMP to view and approve all appraisal results and produce reports as needed for all buildings.

## 2.9 SCHEDULE

### Project Schedule

AssetWorks will work with LFUCG to establish a mutually agreeable schedule and timeframe for the valuations to be completed.

### 3. Statement of Work (SOW)

#### INTRODUCTION

This statement of work covers the professional valuation services and products to be provided by AssetWorks Risk Management Inc. to Lexington Fayette Urban County Government. This SOW confirms the understanding of the scope, objectives, services, deliverables, and work product for this project.

#### VALUATION SERVICES TO BE PROVIDED

- **On-Site Property Insurance Appraisal Services (\$50,000 Threshold)**

#### PROPERTIES TO BE INCLUDED

- **General Buildings & Structures**
- **Water & Sewer Treatment Structures**
- **Historical Properties**

#### DATA TO BE COLLECTED

- **Primary Construction, Occupancy, Protection, & Exposure Data**
  - Occupancy Type
  - Construction/ISO Class
  - Frame Type
  - Number of Stories
  - Condition
  - Roof Shape
  - Roof Pitch
  - Roof Strapping
  - Roof Type
  - Exterior Walls
  - Year Built
  - Foundation/Footing
  - Square Footage
  - Ceiling
  - Partitions/Interior Walls
  - Updates (Roof/Bldg.) Yr.
  - Heating/Cooling Systems
  - Flooring
  - Electrical/Plumbing
  - Elevators
  - Identify Protection Systems
  - Additional Features
  - GPS Coordinates
  - Flood Zone Classifications
- **ISO Construction Classifications**


#### VALUES PROVIDED

- **Replacement Cost New**
- **Insurance Exclusion**
- **Actual Cash Value**
- **Cost of Reproduction New (Historical Properties)**
- **Building Contents (Modeling Approach)**

#### VALUATION DELIVERABLES

- **Appraisal Certification Letter**
- **Preliminary Reports (Delivered via AMP)**
- **Final Reports (Delivered via AMP)**
- **Data File**

### 4. Quote

 <b>Risk Management Inc.</b> 168 Industry Drive Pittsburgh, PA 15275		TO: Lexington Fayette UCG ATTN: Mike Skidmore ADDRESS: 200 E. Main St Lexington, KY 40507		<h2 style="text-align: center;">QUOTE</h2> Quote Created: January 22, 2021 Valid Through: April 22, 2021	
<b>APPRAISAL/VALUATION SERVICES FEES</b>					
<b>SERVICE</b>	<b>THRESHOLD</b>	<b>UOM</b>	<b>QTY</b>	<b>RATE</b>	<b>FEE</b>
On-Site Insurance Appraisal Services	\$50,000	Buildings	276	\$115	\$31,740.00
<b>TOTAL FEE:</b>					<b>\$31,740</b>
<b>SOFTWARE SERVICES FEES</b>					
<b>PRODUCT/SERVICE</b>	<b>IMPLEMENTATION SERVICES</b>	<b>TOTAL FEE</b>			
Professional Services - Data Scrub	data Reconciliation	\$425.00	\$425.00		
<b>TOTAL FEE:</b>					<b>\$425</b>
<p><b>Notes:</b></p> <ul style="list-style-type: none"> <li>* All fees quoted are in US Dollars and inclusive of all out-of-pocket expenses.</li> <li>* AssetWorks will invoice seventy percent (70%) of the Service fees upon completion of the fieldwork portion of the project and the remaining thirty percent (30%) of fees upon delivery of the preliminary reports.</li> <li>* Appraisal Services fees above are estimates. Final billing will be dependent upon how many buildings AssetWorks actually appraises.</li> </ul>					

## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“Agreement”) is effective **March 1, 2021** (“Effective Date”) and entered into between AssetWorks Risk Management Inc. (“AssetWorks”), a Delaware corporation, located at 168 Industry Drive, Pittsburgh, PA 15275 and Lexington-Fayette Urban County Government (“Client”), located at 200 E. Main St., Lexington, KY 40507. In consideration of the mutual covenants contained herein, the parties agree as follows:

### **1. Services.**

1.1 **Services and Statements of Work.** In consideration of the fees paid by Client hereunder, AssetWorks will provide Client with the Services described in Statements of Work (each, a “SOW”) executed by the parties which reference this Agreement. The SOW will set forth the relevant project details. Project completion will be upon delivery of the final reports, which reports will be delivered to Client electronically via a link to AssetWorks’ proprietary application (“Application”). Final report delivery occurs upon the earlier of: (i) acceptance of the preliminary reports by Client or (ii) ten (10) business days after the date of preliminary report delivery, at which time the preliminary reports are then deemed the final reports.

1.2 **Access.** Client agrees to cooperate with AssetWorks in providing access to Client’s property and assets as required for AssetWorks to perform the Services. Failure to provide such access will cause delay in Service delivery and be subject to additional fees.

1.3 **A Summary Appraisal Report** will be provided by AssetWorks in the final reports package. This report includes Value Definitions, Effective Dates, Valuation Methodology, Summary Values and general Assumptions and Limiting Conditions for the valuation findings provided.

### **2. Intellectual Property Rights.**

2.1 **Ownership.** AssetWorks owns all intellectual property rights in and to the Services any related data (excluding Client Data as defined below), documentation, techniques, tools, and software used by AssetWorks to deliver the Services. For clarity, Client obtains no interest in the Services except as expressly provided in this Agreement.

2.2 **Client Data.** Client shall retain all right, title, and interest in and to the Client Data provided by Client to AssetWorks in connection with the Services (collectively, “Client Data”). AssetWorks shall provide guidance to Client in determining the Client Data required by AssetWorks for purposes of performing the Services. Client agrees to provide AssetWorks with all data specifically requested, including documentation and information, in a timely manner. In its performance of the Services, AssetWorks will rely on the Client Data provided by Client. AssetWorks shall assume, without incurring liability therefore, that all Client Data provided by Client is correct and complete. If Client provides additional and/or corrected Client Data at a later date, AssetWorks’ efforts with respect to such additional and/or corrected Client Data shall be deemed additional Services and subject to additional fees. Client grants to AssetWorks a royalty-free, non-exclusive, non-transferable license for the term of this Agreement to use Client Data to the extent necessary to perform the Services. Client is solely responsible for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Client Data.



### **3. Fees and Payment.**

3.1 Fees. Client shall pay the Service fees set forth in the applicable SOW.

3.2 Payment. AssetWorks will invoice seventy percent (70%) of the Service fees upon completion of the fieldwork portion of the project and the remaining thirty percent (30%) of fees upon delivery of the preliminary reports. Unless otherwise provided in the SOW, Client agrees to pay all fees set forth in the applicable SOW within thirty (30) days of the invoice date. With regard to any invoiced amount that is not paid when due, AssetWorks reserves the right to charge, and Client agrees to pay, a late payment fee on the unpaid balance from the due date until paid equal to the lesser of one and one half percent (1.5%) per month, or the maximum amount allowable by law. All fees are non-refundable, except as otherwise explicitly stated in this Agreement.

### **4. Term and Termination.**

4.1 Term. This Agreement shall commence on the Effective Date and continue for a term of one (1) year (“Initial Term”). Thereafter, this Agreement shall automatically renew for additional terms of one (1) year (each, a “Renewal Term”) unless either party provides written notice to the other party at least thirty (30) days prior to the expiration of the then current Term. The Initial Term and any Renewal Term are collectively referred to as the “term” of this Agreement.

4.2 Termination. Either party may terminate this Agreement if the other party breaches any material provision of this Agreement and does not cure the breach within thirty (30) days after receiving written notice. Either party may terminate any individual SOW in accordance with the terms stated in such SOW or, if no such terms, upon providing ninety (90) days’ written notice to the other party.

4.3 Effect of Termination. Upon termination of this Agreement, Client shall immediately cease using the Services and all SOWs will be deemed terminated. Client shall pay AssetWorks all fees due for Services provided through the date of termination in accordance with Section 3.2.

4.4 Suspension or Termination of Services. AssetWorks may suspend or terminate Client’s access to the Services if Client fails to pay any fees when due which remain unpaid for thirty (30) days after receipt of notice. AssetWorks reserves the right to temporarily suspend the Services based on its good faith belief that it is necessary to protect the integrity of the Services.

### **5. Confidentiality.**

5.1 Confidential Information. Each party (the “Disclosing Party”) may from time to time during the term of this Agreement disclose to the other party (the “Receiving Party”) certain information relating to trade secrets, data, designs, drawings, documentation, software (regardless of form or media), prototypes, processes, methods, concepts, research, development, facilities, employees, vendors, clients, marketing, financials, business activities, and other confidential or proprietary information (collectively “Confidential Information”). To the extent practicable, the Disclosing Party shall mark and/or identify Confidential Information as confidential or proprietary at the time of disclosure; provided however, this Agreement shall also apply to information which, based on its nature, is reasonably expected to be

deemed confidential. In addition, the terms of this Agreement shall be deemed Confidential Information. Furthermore, whether or not so marked or identified, the Services and any related data, and any quantitative analysis of the Services or performance of the Services are deemed the Confidential Information of AssetWorks, and the Client Data is deemed the Confidential Information of Client.

5.2 Exceptions. Confidential Information shall not include information that: (a) becomes generally available to the public through no fault of the Receiving Party; (b) is lawfully provided to the Receiving Party by a third party not under an obligation of confidentiality; (c) was lawfully possessed by the Receiving Party prior to receiving the Confidential Information from the Disclosing Party, as evidenced by the Receiving Party's records; or (d) the Receiving Party can demonstrate was independently developed by Receiving Party without use of the Disclosing Party's Confidential Information. The Receiving Party may disclose Confidential Information pursuant to applicable law, regulation, court order, or other legal process; provided, (i) if allowed by law, the Receiving Party has given the Disclosing Party prompt written notice of such required disclosure so that the Disclosing Party may seek a protective order or other appropriate remedy and (ii) the Receiving Party discloses only that portion of the requested Confidential Information that, in the opinion of its legal counsel, it is required to disclose.

5.3 Non-Disclosure and Non-Use. The Receiving Party agrees that it shall not use Confidential Information, or disclose any Confidential Information to any third party, except as expressly permitted under this Agreement. The Receiving Party shall not provide access to the Confidential Information to anyone other than those of its employees, contractors, and financial and legal advisors who have a need to know, who have confidentiality obligations no less restrictive than those set forth herein, and who have been informed of the confidential nature of such information. The Receiving Party shall protect the Confidential Information from unauthorized use, access, or disclosure in the same manner as it protects its own confidential or proprietary information of a similar nature, and in any event with at least a reasonable degree of care.

## **6. Representations and Warranties.**

6.1 General Warranty. Each party represents and warrants: (i) it has the full power and authority to enter into this Agreement; (ii) its execution and performance of this Agreement have been duly authorized by all necessary corporate action on behalf of such party; and (iii) the person signing this Agreement on behalf of such party has the full authority to do so.

6.2 Limited Warranty. AssetWorks warrants it will perform the Services in accordance with the Agreement and any applicable SOWs. AssetWorks further warrants that all Services will be performed in a good and workmanlike manner in accordance with industry standards. Client's exclusive remedy, and AssetWorks' sole liability, for breach of this warranty shall be for AssetWorks to use commercially reasonable efforts to re-perform the affected Services, provided that Client has given written notice to AssetWorks within ninety (90) days of discovery of the non-conformance. AssetWorks shall, to the extent reasonably possible and permissible, pass-through or assign to Client all available warranties it receives from a third-party provider for third party products or services provided by AssetWorks to Client under this Agreement.

6.3 **Disclaimer of Warranty.** The express warranties set forth in this agreement are in lieu of all other warranties, expressed or implied, including, but not limited to, any warranty with respect to third-party products or third party services, the performance of any hardware or software used in performing services, the results to be obtained from the services or the results of any recommendation AssetWorks may make, and any implied warranties concerning performance, merchantability, fitness for use for a particular purpose, and non-infringement.

6.4 **Client Responsibilities.** Client is responsible for maintaining a backup of Client Data on its computer system. AssetWorks will not be responsible for loss of or damage to any data or loss of use of any computer or network systems. Client acknowledges that AssetWorks' performance and delivery of the Services are contingent upon: (i) Client providing safe and hazard-free access to its personnel, facilities, equipment, hardware, software, network, and Client Data and (ii) Client's timely decision-making, notification of relevant issues or information and granting of required permission and/or approval. Customer will promptly obtain and provide to AssetWorks any required licenses, approvals or consents necessary for AssetWorks' performance of the Services.

## **7. Indemnification.**

7.1 AssetWorks will defend and indemnify Client against any claim, action, suit, or proceeding brought by a third party ("Claim") to the extent Client's use of the Services within the scope of this Agreement directly infringes a United States patent or copyright issued to or held by a third party, or misappropriates a trade secret of such third party; provided, Client notifies AssetWorks promptly in writing of such Claim and provides AssetWorks with the sole control, authority, information and assistance necessary to defend or settle such Claim.

7.2 In the event of an infringement Claim, or AssetWorks believes that such a Claim is likely, then AssetWorks shall, at its expense: (i) procure the right for Client to continue using the Services; (ii) replace or modify the Services so that it becomes non-infringing, without materially decreasing the functionality of the Services; or (iii) if neither (i) or (ii) is commercially practical, then, at AssetWorks' sole option, terminate this Agreement and refund a portion of the Service fee paid by Client for the period in which the Services were affected by such infringement.

7.3 AssetWorks will not be liable for any infringement Claim based upon any (i) modification of the Services made by anyone other than AssetWorks; (ii) use of the Services in combination with any service, software, or other technology not supplied by AssetWorks or in which the Services were not intended to be used, to the extent such Claim would not have arisen but for such combination (regardless of whether or not AssetWorks has advised Client that such use would likely result in a Claim of infringement by a third party); or (iii) use of the Services contrary to the terms of this Agreement.

7.4 The foregoing states Assetworks' sole and exclusive liability and the sole and exclusive remedy of client with respect to any claim of infringement or misappropriation of intellectual property rights or proprietary rights of any third-party.

7.5 Client shall defend and indemnify AssetWorks from and against any and all Claims, liabilities, damages, costs, and expenses, including reasonable legal fees, arising from or related to the exclusions set forth in Section 7.3 or violation of Section 2.2.

**8. Limitation of Liability.**

8.1 Neither party shall be liable for any indirect, incidental, consequential, exemplary, special, or punitive damages including, without limitation, any damages resulting from loss of use, loss of business, loss of revenue, loss of profits, or loss of data, even if a party has been advised of the possibility of such damages.

8.2 AssetWorks' entire liability under this Agreement or in any way related to the Services will be limited to direct damages in an amount equal to the fees paid by Client to AssetWorks pursuant to the applicable SOW during the twelve (12) month period immediately preceding the Claim.

**9. General.**

9.1 **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of New York without regard to conflicts of law principles.

9.2 **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable for any reason, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions hereof shall be unaffected and remain in full force and effect.

9.3 **Modification and Waiver.** Any modification, amendment, supplement, waiver, or other change to this Agreement must be in writing and signed by duly authorized representatives of each party. Any waiver or failure to enforce any provision of this Agreement on any occasion shall not be deemed a waiver of any other provision or of such provision on any other occasion.

9.4 **Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent, which shall not be unreasonably withheld; provided, however, either party may assign this Agreement in its entirety, without the other party's consent, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. This Agreement shall be binding upon and inure to the benefit of the successors in interest and permitted assigns of the respective parties.

9.5 **Remedies.** The parties agree that monetary damages are an inadequate remedy for breach of Sections 2 and 5, and further recognize that any such breach would cause irreparable injury for which there would be no adequate remedy at law; therefore, the parties agree that the non-breaching party may seek equitable remedies, including, without limitation, injunctive relief and specific performance (without obligation to post a bond) from a court of competent jurisdiction, in addition to other remedies available at law or in equity.

9.6 **Survival.** All provisions of this Agreement, which by their nature should survive termination of this Agreement, will so survive.

9.7 Force Majeure. Neither party shall be in breach of this Agreement nor liable for delay in performing or failure to perform any of its obligations under this Agreement if such delay or failure result from events, circumstances, or causes beyond its reasonable control; provided, that the party affected by such failure or delay gives the other party prompt written notice of the cause and uses commercially reasonable efforts to correct such failure or delay within a reasonable period of time.

9.8 Headings. The headings and subheadings contained herein are inserted for convenience of reference only and shall in no way be construed to be interpretations of terms.

9.9 Notices. All notices under this Agreement shall be in writing and shall be deemed given upon personal delivery, delivery by prepaid overnight courier, facsimile or electronic mail transmission with receipt acknowledged, or three (3) business days after deposit in the mail via first class mail postage prepaid to the intended recipient at its address listed above or other such address as the parties may indicate in writing.

9.10 Entire Agreement. This Agreement, including SOWs or other attachments hereto and any amendments or written documentation executed by the parties, are the final, complete, and exclusive agreement between the parties relating to the subject matter hereof, and supersede all prior or contemporaneous proposals, understandings, representations, warranties, promises, and other communications, whether oral or written, relating to such subject matter.

9.11 Counterparts. This Agreement, and any amendment or waiver of the terms hereof, may be signed in counterparts, each of which will constitute an original and all of which together will constitute one and the same instrument. Any signature may be delivered by facsimile or electronic format, which will have the effect of an original signature.

The parties, through their authorized representatives, have executed this Agreement as of the Effective Date.

**Client**

**AssetWorks Risk Management Inc.**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**SCHEDULE A**

This Schedule A sets forth details regarding the Services to be provided and the corresponding fees.

<b>APPRAISAL/VALUATION SERVICES FEES</b>					
<b>SERVICE</b>	<b>THRESHOLD</b>	<b>UOM</b>	<b>QTY</b>	<b>RATE</b>	<b>FEE</b>
On-Site Insurance Appraisal Services	\$50,000	Buildings	276	\$115	\$31,740.00
<b>TOTAL FEE:</b>					<b>\$31,740</b>
<b>SOFTWARE SERVICES FEES</b>					
<b>PRODUCT/SERVICE</b>		<b>IMPLEMENTATION SERVICES</b>		<b>TOTAL FEE</b>	
Professional Services - Data Scrub	Data Reconciliation			\$425.00	\$425.00
<b>TOTAL FEE:</b>					<b>\$425</b>