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Contract Number

21640

SAP Number

Arrowhead Regional Medical Center

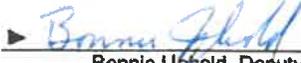
Department Contract Representative	William L. Gilbert
Telephone Number	909-580-6150
Contractor	Data Innovations, LLC
Contractor Representative	Mike Devergilio
Telephone Number	947-465-6500
Contract Term	September 14, 2021, through September 13, 2022
Original Contract Amount	\$164,411
Amendment Amount	
Total Contract Amount	\$164,411
Cost Center	9175004200

Briefly describe the general nature of the contract:

Professional Services Agreement with Data Innovations to provide professional services for the instrument manager interface system and software licensed by the County under Contract No. 20-1061.

FOR COUNTY USE ONLY

Approved as to Legal Form

▶ 
Bonnie Uphold, Deputy County Counsel

Date 8-24-2021

Reviewed for Contract Compliance

▶ _____

Date _____

Reviewed/Approved by Department

▶ 

Date 9/7/21



DATA INNOVATIONS LLC PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (THE "AGREEMENT"), by and between The County of San Bernardino on behalf of Arrowhead Regional Medical Center ("Customer") and Data Innovations LLC ("DI"), a Delaware limited liability company, having its principal place of business at 120 Kimball Avenue, Suite 100, South Burlington, Vermont 05403 sets forth the terms and conditions under which DI agrees to provide professional services to Customer. This Agreement shall be effective as of the date of Customer's signature on the applicable Data Innovations quote for the professional services (the "Quote").

PLEASE READ THIS AGREEMENT CAREFULLY. EXECUTION OF A QUOTE, SUBMISSION OF A PURCHASE ORDER OR PAYMENT OF THE FEES RELATED TO THE PROVISION OF THESE PROFESSIONAL SERVICES WILL BE DEEMED CUSTOMER'S ACCEPTANCE OF THE TERMS AND CONDITIONS SET FORTH HEREIN. CUSTOMER AGREES THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN NEGOTIATED AGREEMENT SIGNED BY CUSTOMER.

1. DEFINITIONS.

- 1.1. **"Applicable Taxes"** means all value-added, sales, use, import, duties, customs or other taxes applicable to the Services performed under this Agreement, except for any taxes based upon DI's net income.
- 1.2. **"Billable Expenses"** means all actual, out-of-pocket expenses incurred by DI while performing the Services, including, but not limited to; airfare, lodging, car rental, meals and incidentals.
- 1.3. **"Change Request"** means a written, mutually agreed upon change to the Customer's requirements and/or the scope of the Services, delivery schedule and/or Services Fees.
- 1.4. **"Confidential Information"** means all non-public data or information regarding the parties' business or technical operations that is designated as confidential and falls within a recognized exemption to the San Bernardino County Sunshine Ordinance, County Code of Ordinances Section 19.0101, California Government Code 54950, and California Public Records Act (Government Code Section 6250) including, but not limited to, (i) information with respect to either party's existing or contemplated products, services, marketing plans, supplier, business opportunities, finance, operations, prices, customers or personnel, processes, techniques or know-how, sales data, internal performance results, or any information or data developed pursuant to the performance of the Services contemplated hereunder, (ii) information transmitted in writing or other tangible form and clearly marked as "Confidential," and (iii) information which is promptly reduced to writing and clearly marked as "Confidential" if first transmitted orally. DI hereby designates the DI Tools as DI's Confidential Information. Confidential Information shall not include information that (a) is in or enters the public domain without breach of this Agreement by the Receiving Party, (b) was demonstrably in the possession of the Receiving Party prior to first receiving it from the Disclosing Party without restrictions on disclosure, (c) the Receiving Party can demonstrate was developed by the Receiving Party independently and without use of or reference to the Disclosing Party's Confidential Information, or (d) the Receiving Party receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation. Confidential Information shall not be deemed to be in the public domain or generally known or available to the public merely because any part of said information is embodied in general disclosures or because individual features, components or combinations thereof are known or become known to the public.
- 1.5. **"Disclosing Party"** means the party providing Confidential Information to the Receiving Party.
- 1.6. **"DI Tools"** means any tools, databases, ideas, and methodologies used by DI in providing the Services and the Work Products.
- 1.7. **"Documentation"** means all related explanatory written materials, manuals, or files for the Software.
- 1.8. **"Driver"** means the software developed by DI to connect laboratory devices and information systems to the Software. Drivers communicate via TCP/IP, Serial, File I/O, ODBC and more.
- 1.9. **"Due Date"** means forty-five (45) days from the date of invoice on which all amounts billed by DI will be due and payable.
- 1.10. **"Force Majeure"** means any act or condition whatsoever beyond the reasonable control of and not occasioned by the fault or negligence of the affected party), including, without limitation, acts of God, acts of terrorism, acts of nature or of a public enemy, acts of a federal government or any state or political subdivision thereof, internet brownouts, fires, floods, explosions, wars, or other catastrophes; labor disturbances; freight embargoes; or delays of a supplier or subcontractor due to such causes.
- 1.11. **"IM"** means DI's proprietary software application, Instrument Manager™.
- 1.12. **"Receiving Party"** means the party receiving the Confidential Information of the Disclosing Party.
- 1.13. **"Scheduled Date"** means the specific date set by the parties to commence the Services.
- 1.14. **"Services Fees"** means all fees for the performance of Services, including all actual Billable Expenses.
- 1.15. **"Services"** means training, implementation, installation and/or consulting services provided by DI, as more specifically described herein.



- 1.16. **"Software"** means (i) all application(s) or computer software in machine-readable, object code form, owned or licensed by DI to Customer, including the files, disk(s), CD-ROM(s) or other media with which this Agreement is provided (ii) the Documentation, (iii) all Drivers and (iv) and all Updates.
- 1.17. **"Update(s)"** means an error correction, patch, bug fix, modification, enhancement, improvement, upgrade, modified version, updates, addition, new release, and copies of the Software.
- 1.18. **"Work Product"** means any implementation artifacts, interfaces, or other items delivered to Customer.

2. **SERVICES.** The Services to be provided under this Agreement shall be described in the Quote.

3. **SERVICES FEES.** As consideration for the Services provided by DI to Customer, Customer or a third-party on their behalf will compensate DI for the Services Fees set forth in each applicable Quote. DI's performance is dependent on Customer carrying out its obligations as set forth in this Agreement, and the applicable Quote, and Customer acknowledges that the Services Fees take into account these obligations.

4. **CHANGE REQUEST.** Customer acknowledges and agrees that the Services Fees set forth in each Quote are only for the Services scoped in such Quote. If any of the following occur DI's time of performance and the related Services Fees under a Quote may be increased or decreased:

- 4.1. Customer's requirements and/or the scope of the Services scoped in the Quote change;
- 4.2. Customer fails to carry out its obligations as set forth in the Quote;
- 4.3. Customer or any governmental agency authorized to regulate or supervise Customer makes a special request that impacts DI's normal Services schedule under the Quote;

The parties shall enter into a Change Request to document any such changes. DI shall no obligation to begin work on any additional Services prior to the Change Request being in place.

5. **PAYMENT TERMS.**

5.1. **Services Fees.** Customer, or to a third-party on their behalf, shall pay DI all Services Fees, plus Applicable Taxes, by the Due Date. An invoice will be generated by DI upon completion of the Services or individual milestones, as detailed in the Quote.

5.2. **Intentionally omitted.**

5.3. **Tax Exempt.** If Customer is not subject to any or all Applicable Taxes, then Customer is responsible for submitting the applicable documentation to DI. If this document is not provided prior to completion of the Services, Applicable Taxes will be calculated and included on the Customer's invoice.

6. **LICENSE GRANT AND OWNERSHIP.**

6.1. Subject to the terms and conditions of this Agreement, and the applicable terms set forth in a Quote, and upon payment of all Services Fees owed under the Quote, DI hereby grants Customer a perpetual (subject to the termination provisions of Section 12), non-exclusive, non-transferable, license to use the Work Products solely for Customer's internal business purposes. Nothing contained herein shall grant any rights of ownership to Customer in the DI Tools. If any Software (whether pre-existing or new) is delivered as part of the Services provided herein, Customer acknowledges and agrees that i) nothing contained herein shall grant any rights of use or ownership to Customer in such Software, and ii) all such Software shall be licensed to Customer pursuant to separately executed license agreements.

6.2. Customer acknowledges that DI shall have sole and exclusive ownership of all right, title and interest in and to the Work Products, including any and all DI copyright material, including algorithms, predefined rules and validation templates, provided to Customer under the scope of this Agreement and all modifications and enhancements thereof (including ownership of all trade secrets and copyrights pertaining thereto), subject only to the rights and privileges expressly granted to Customer herein. This Agreement does not provide Customer with title to or ownership of the Work Products, but only a right of limited use as set forth herein.

6.3. The license to use the Work Products granted to Customer by DI herein, shall be limited by the following: Customer shall not distribute, copy or use the Work Products for any purpose beyond the scope of this Agreement, except for archival or backup purposes or disclosure required by law, regulatory compliance and/or laboratory accreditation purposes.

6.4. The right of limited use granted to Customer by DI for the Work Products is non-transferable.

7. **CONFIDENTIAL INFORMATION AND PRIVACY REGULATIONS.**

7.1. Each party shall exercise no less than reasonable care with respect to the handling and protection of such Confidential Information. Confidential Information shall not be disclosed by the Receiving Party without the prior written consent of the Disclosing Party. The Receiving Party shall use the Confidential Information of the Disclosing Party only during the term of this Agreement and as expressly permitted herein and shall disclose such Confidential Information only to its employees and independent contractors who are subject to binding use and disclosure restrictions at least as protective as those set forth herein and only as is reasonably required in connection with the exercise of its rights and obligations under this Agreement. Notwithstanding the above, the Receiving Party may disclose Confidential



Information of the Disclosing Party pursuant to a valid order or requirement of a court or government agency, provided that the Receiving Party gives prompt notice to the Disclosing Party upon receiving the order or learning of the requirement. Any such disclosure by the Receiving Party of the Confidential Information of the Disclosing Party, shall, in no way, be deemed to change, affect or diminish the confidential status of such Confidential Information. Each party shall maintain the Confidential Information of the other party in strict confidence, until such time as the Confidential Information falls under one of the exceptions listed in items (i) through (iv) of Section 1.4 above. Notwithstanding the foregoing, the parties agree, that this Agreement is subject to the San Bernardino County Sunshine Ordinance, County Code of Ordinances Section 19.0101, California Government Code 54950, and California Public Records Act (Government Code Section 6250) (collectively, "Regulations"). If DI believes that any portion of this Agreement (including any attachments, amendments, SOWs, materials, or Work Product provided to Customer is exempt from public disclosure, DI must clearly mark that portion "Confidential" or "Proprietary". DI also must include a brief description that identifies the recognized exemption from disclosure under the Regulations. Customer will use reasonable means to ensure that such information is safeguarded but will not be held liable for inadvertent disclosure of the information. Information marked "Confidential" or "Proprietary" in its entirety will not be honored, and Customer will not deny public disclosure of any information so marked. DI represents that it has a good faith belief that such portions are exempt from disclosure under the Regulations and agrees to reimburse Customer for, and to indemnify, defend, and hold harmless Customer, its officers, employees, and agents, from and against any and all claims, damages, losses, liabilities, suits, judgments, fines, penalties, costs, and expenses, including without limitation, attorneys' fees, expenses, and court costs of any nature arising from or relating to Customer's non-disclosure of any such information. If the Receiving Party receives a subpoena, other validly issued administrative or judicial process, or public records request requesting Confidential Information of the Disclosing Party, the Receiving Party will, to the extent legally permissible, promptly notify the Disclosing Party and if requested by the Disclosing Party, tender to the Disclosing Party the defense of the subpoena or process. Unless the subpoena or process is timely limited, quashed or extended, the Receiving Party will then be entitled to comply with the request to the extent permitted by law.

- 7.2. **Privacy Regulations.** The parties agree that they must meet the requirements of certain regulations related to the use and protection of personal information. Therefore, the parties agree to abide by the applicable terms and conditions of the General Data Protection Regulations as they become effective on May 25, 2018 and/or the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and Title XIII of the American Recovery and Reinvestment Act of 2009 ("ARRA") also known as the Health Information Technology for Economic Clinical Health Act (the "HITECH Act") (collectively referred to herein as the "Privacy Regulations"). The parties agree to enter into separate privacy and security agreements, as necessary, to facilitate compliance with the Privacy Regulations, including but not limited to a Business Associate Agreement and/or a GDPR Data Processing Addendum, for the provision of Services to Customers.

8. RULES-BASED SERVICES. As part of the Services provided under this Agreement, DI may provide Customer with Rules-Based Decision Processing services ("Rules-Based Services") which can include:

- 8.1. Consulting and/or training Customer on designing and developing rules and algorithms of their own creation to direct IM in the processing of patient test results.
- 8.2. Predefined rules and algorithms that have been modified with Customer's input and approval to direct IM in the processing of patient test results.
- 8.3. Templates and consulting to Customer for use and approval to validate the services provided in this Agreement for the IM system prior to processing patient test results.
- 8.4. Customer agrees and acknowledges that the content of any algorithms, and any corresponding results and actions, shall be solely Customer's responsibility. While DI may offer Customer consulting, training and/or predefined algorithms and rules to implement certain parameters for processing patient test results, Customer agrees that the final identified parameters shall at all times be determined by, and be the sole responsibility of, Customer. Customer shall not, under any circumstances, rely upon DI to make final determinations regarding the content or direction of any Customer rules or processing decisions.
- 8.5. Because the responsibility for any and all parameters, content and direction of any rules implemented via IM through Rules-Based Services rests solely with Customer, DI makes no representations or warranties with respect to any algorithms, or their content, implemented via its Rules-Based Services.

9. WARRANTIES AND DISCLAIMERS.

- 9.1. **Intentionally Omitted.**
- 9.2. Customer represents and warrants that it owns or has obtained all rights in the materials and data (including Customer/patient information) necessary so that DI's use of such materials and data to provide Services to Customer does not violate any intellectual property rights or other rights (e.g. privacy) of a third party.



9.3. DI warrants that the Services will be performed with reasonable skill and care by competent and trained personnel. As Customer's exclusive remedy and DI's sole obligation for breach of this warranty, DI shall use commercially reasonable efforts to correct defective Services at no additional charge to Customer, provided that Customer gives DI specific written notice of the defective Services within thirty (30) days after the Services are performed.

9.4. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, AND ANY WARRANTY, CONDITION, REPRESENTATION OR TERM TO THE EXTENT TO WHICH THE SAME CANNOT OR MAY NOT BE EXCLUDED OR LIMITED BY LAW APPLICABLE TO CUSTOMER IN THEIR JURISDICTION, DI DISCLAIMS ALL OTHER WARRANTIES, CONDITIONS, REPRESENTATIONS AND OTHER TERMS (WHETHER ORAL, WRITTEN, EXPRESS OR IMPLIED), WHETHER STATUTORY, ARISING BY LAW OR CUSTOM, USAGE OR OTHERWISE, RELATING TO THIS AGREEMENT OF THE SERVICES AND WORK PRODUCT, INCLUDING WITHOUT LIMITATION, TO THE FULLEST EXTENT ALLOWABLE BY LAW, TERMS AS TO SATISFACTORY QUALITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE, THIRD PARTY RIGHTS, AND INTEGRATION AND THOSE ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE, WITH RESPECT TO ANY SERVICES OR WORK PRODUCTS DELIVERED UNDER THIS AGREEMENT. THERE ARE NO WARRANTIES BEYOND THE DESCRIPTION OF THE FACE HEREOF. CUSTOMER IS RESPONSIBLE FOR THE RESULTS TO BE ACHIEVED FROM RECEIVING THE SERVICES AND FROM USING ANY WORK PRODUCT.

10. LIABILITY.

10.1. Customer shall be liable for its employees' actions and omissions in connection with this Agreement.

10.2. IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER ANY THEORY OF CONTRACT, TORT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND OR NATURE WHATSOEVER, WHETHER FORESEEABLE OR UNFORESEEABLE, SUFFERED BY THE OTHER PARTY, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST DATA OR CONTENT, BUSINESS INTERRUPTIONS, LOSS OF INCOME, LOSS OF GOOD WILL, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, DAMAGES DUE TO FORCE MAJEURE, OR OTHER ECONOMIC LOSS ARISING OUT OF OR RELATED TO THE SERVICES OR WORK PRODUCT PROVIDED UNDER THIS AGREEMENT OR ANY USE OR FAILURE TO BE ABLE TO USE THE SERVICES OR WORK PRODUCTS, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF PURPOSE OF ANY LIMITED REMEDY. DI SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATED TO (I) THE ACCURACY OR COMPLETENESS OF CUSTOMER/PATIENT INFORMATION, OR ANY OTHER INFORMATION PROVIDED BY OR THROUGH CUSTOMER; OR (II) FOR TRANSACTIONS PERFORMED USING THE WORK PRODUCT OR SERVICES; OR (III) MODIFICATIONS TO THE WORK PRODUCT BY CUSTOMER, WHETHER SUFFERED BY CUSTOMER OR ANY THIRD PARTY. DI SHALL NOT BE LIABLE FOR DISTURBANCES AND FAILURE OF INTERNET CONNECTIONS. THE FOREGOING LIMITATIONS AND EXCLUSIONS APPLY TO THE EXTENT PERMITTED BY APPLICABLE LAW IN CUSTOMER'S JURISDICTION. Except for DI's indemnity obligations or claims arising from a party's gross negligence, willful misconduct, or violation of law, a party's total aggregate liability for any damages arising out of or related to this Agreement, for any and all causes whatsoever, and the other party's maximum remedy, regardless of the form of action, whether in contract, tort or otherwise, will not exceed five hundred thousand dollars (\$500,000). The existence of one or more claims will not enlarge this limit. Customer acknowledges that DI's pricing reflects this allocation of risk and the limitation of liability specified in this section will apply regardless of whether any limited or exclusive remedy is specified in this Agreement.

11. INDEMNIFICATION.

11.1. DI will defend, indemnify, and hold Customer harmless from all demands, claims, liabilities, actions, suits judgments, decrees, proceedings, (including reasonable attorneys' fees incurred in connection therewith) losses, damages and expenses associated with a claim asserted against Customer, arising out of bodily injury (including death) or damage to property or persons that occurs in connection with the performance by DI of its obligations under this Agreement, to the extent that such injury or damage is caused in whole or in part by willful misconduct, grossly negligent acts, errors, or omissions of DI in performing its obligations under this Agreement.

11.2. DI will defend or settle, at its option, any third party claims brought against Customer alleging that the Work Products delivered under this Agreement infringes the copyrights of any third party, and will pay such damages or costs as are finally awarded against Customer attributable to such claim. Notwithstanding the foregoing, DI will have no liability for any claims of infringement arising out of or related to (i) use of the Work Product outside the scope of the Documentation, (ii) a modification of the Work Product by anyone other than DI or its authorized agent; (ii) the incorporation into the Work Product of any feature or information provided by or requested by Customer; (iii) a combination of the Work



Product with any third party software or equipment not specified in the Documentation, where such combination is the cause of such infringement; or (iv) the use of a version of the Work Product other than the then-current version made available to Customer, if the infringement would have been avoided by use of the then-current version and Customer has been made aware of this fact by DI. Should the Work Product become, or in the opinion of DI is likely to become, the subject of such a third party claim, DI may, at its sole option (a) procure for Customer a license to use the Work Product at no additional cost to Customer; (b) modify, in whole or in part, the Work Product to make it non-infringing; (c) replace the Work Product with non-infringing Work Product which is functionally equivalent or, if none of (a), (b), or (c) are available, then (d) terminate the license for the infringing Work Product and refund the prorated Service Fees paid for such Work Product, based on a five (5) year period from the Effective Date. THIS SECTION STATES THE ENTIRE LIABILITY AND OBLIGATION OF DI AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND RECOURSE WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OR MISAPPROPRIATION OF ANY THIRD PARTY'S RIGHTS BY THE WORK PRODUCT.

- 11.3. **Procedures.** If a credible claim is made or threatened, including without limitation the filing of a lawsuit against Customer, or Customer receives a demand or notice claiming actual or potential infringement or misappropriation of any Intellectual Property Rights, Customer will use reasonable efforts to notify DI promptly of such lawsuit, claim or election. However, Customer's failure to provide or delay in providing such notice will relieve DI of its obligations only if and to the extent that such delay or failure materially prejudices DI's ability to defend such lawsuit or claim. Customer will give DI sole control of the defense and settlement of such claim; provided that DI may not settle the claim unless such settlement (a) includes a release of all claims pending against Customer, (b) contains no admission of liability or wrongdoing by Customer, and (c) imposes no obligations upon Customer other than an obligation to stop using Work Product that are the subject of the claim. In the event that DI fails to or elects not to defend Customer against any claim for which Customer is entitled to indemnity by DI, then DI shall reimburse Customer for all reasonable attorneys' fees and expenses within thirty (30) days from date of invoice or debit memo from Customer. After thirty (30) days, Customer will be entitled to deduct any unpaid invoice or debit memo amount from any amounts owed by Customer to DI. This shall not apply to any judgment or settlement amount, which amounts Customer shall be entitled to notify, invoice or debit DI's account at any time; and Customer, at its sole discretion, may settle the claim or suit.

12. TERM, RESCHEDULING, TERMINATION AND SURVIVAL.

12.1. Agreement:

- 12.1.1. **Term.** The term of this Agreement shall begin upon the Effective Date and shall continue for a period of five (5) years, unless terminated as provided herein.
- 12.1.2. **Termination Without Cause.** Either party may terminate this Agreement without cause upon thirty (30) days' written notice to the other.
- 12.1.3. **Termination with Cause.** If either party materially breaches this Agreement (including, without limitation, any obligation to pay fees), and fails to remedy such breach (if such breach can be remedied) within thirty (30) days of receipt of written notice of such breach, the other party may terminate this Agreement.
- 12.1.4. **Termination for Bankruptcy.** This Agreement will terminate automatically if all or a substantial portion of either party's assets are transferred to an assignee for the benefit of creditors, to a receiver or to a trustee in bankruptcy, a proceeding is commenced by or against the party for relief under bankruptcy or similar laws and such proceeding is not dismissed within sixty (60) days, or a party is adjudged bankrupt.
- 12.1.5. **Effect of Termination.** Upon any termination of this Agreement:
- 12.1.5.1. All licenses granted herein if any, shall immediately terminate except for Work Product fully paid-up under a perpetual license, however, in case of termination by DI for breach by Customer all licenses granted herein shall immediately terminate.
- 12.1.5.2. DI shall cease performing the Services, and Customer shall immediately cease using delivered Work Product except for Work Product fully-paid up under a perpetual license.
- 12.1.5.3. Each party shall promptly return to the other all Confidential Information of the other party that it may have in its possession or control except for fully paid-up Work Product being used by Customer under a perpetual license and in accordance with the terms and conditions of this Agreement.
- 12.1.5.4. Any applicable Services Fees related to Services performed by DI through the date of termination, shall be accelerated and become due and payable.



- 12.2. **Survival.** The provisions of this Agreement and the related obligations of the parties, which by their nature should survive termination or expiration, shall survive and remain in full force and effect, but this shall not imply or create any continued right to use the Work Products after termination of this Agreement if such termination is for Customer's material breach.

13. GENERAL.

- 13.1. **Severability.** If any provision hereof is held invalid or unenforceable by an arbitrator or a court of competent jurisdiction, the remaining portions shall remain in full force and effect.
- 13.2. **No Waiver.** No failure or delay by either party in exercising any right hereunder will operate as a waiver thereof.
- 13.3. **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the State of California, without regard to conflicts of laws principles of any jurisdiction. The parties hereby disclaim the application of the 1980 U.N. Convention on Contracts for the International Sale of Goods.
- 13.4. **Publicity.** Customer agrees that DI may publicize the fact that Customer is a user of the Services in a mutually agreed upon initial press release. Thereafter, DI may use Customer name in a list of other Service customers.
- 13.5. **Force Majeure.** Except with regard to payments due DI, neither party shall be liable for any delays or failures in performance due to an event of Force Majeure.
- 13.6. **Intentionally omitted.**
- 13.7. **Entire Agreement.** This Agreement constitutes and contains the entire understanding and agreement of the parties with respect to the subject matter herein and supersedes any and all proposals, agreements, communications, representations, discussions, undertakings, or advertising, whether written or oral, of the parties with respect to the subject matter herein. Any terms and conditions appearing on the face or reverse side of any purchase order, acknowledgement, confirmation or other document furnished by Customer that that are different from or in addition to those set forth herein are hereby expressly rejected and shall not be binding on the parties, even if signed and returned, unless both parties hereto expressly agree, in an instrument separate from and in addition to the purchase order, acknowledgement, or confirmation, to be bound by such separate or additional terms and conditions.
- 13.8. **Amendment.** This Agreement may not be modified, altered or amended except by written agreement signed by an authorized representative of both parties.
- 13.9. **Relationship of the Parties.** Nothing in this Agreement shall be construed to create any relationship between DI and Customer other than that of independent contracting parties.
- 13.10. **Third Party Beneficiaries.** This Agreement is not intended to create and does not create enforceable obligations for the benefit of any third party.
- 13.11. **Assignment.** Neither party may assign (whether by operation or law or otherwise), sublicense, share, pledge, rent or transfer any of its rights under this Agreement without the prior written consent of the other party, which will not be unreasonably withheld. Notwithstanding the foregoing, either party shall have the right to assign its rights and obligations hereunder whether upon change of control, or by sale of assets, reorganization, merger or otherwise provided such assignment is a) not to a direct competitor of the other party; (b) such assignment does not interfere with a party's performance obligations under this Agreement; (c) such assignment does not change the scope of the Services and the intent contemplated by the parties under this Agreement; (d) such assignment is not pursuant to bankruptcy proceeding and the assigning party provides the other party with prompt written notice upon any such assignment. Any assignment or transfer in violation of the above is void. This Agreement will be binding on the parties, their successors and permitted assigns.
- 13.12. **Notices.** All notices required under this Agreement, shall be (a) in writing, (b) deemed to have been duly made and received when (i) personally served, (ii) delivered by commercially established courier service, or (iii) ten (10) days after deposit in mail via certified mail, return receipt requested.
- 13.13. **Disputes.** Any and all disputes, controversies, differences or claims arising from or related to this Agreement, or the interpretation, making, performance, breach or termination thereof or transactions conducted pursuant to the rights and duties granted by this Agreement ("Disputes"), shall be settled or resolved in the following manner:
- 13.13.1. **Dispute Resolution.** To initiate Dispute Resolution, a party must give written notice to the other party as to the details of the Dispute ("Dispute Notice"). Upon receipt of the Dispute Notice the following designated representatives of the parties shall meet within the number of days specified below:
- 13.13.1.1. **Step One:** The DI Service Consultant shall confer or meet with Customer's corresponding personnel within five (5) days of receipt of the Dispute Notice by either party.



- 13.13.1.2. **Step Two:** If the Dispute remains unresolved, the Services Manager for DI shall confer or meet with Customer's corresponding management level personnel within the next five (5) days.
- 13.13.1.3. **Step Three:** If the Dispute remains unresolved DI's Director of Operations shall confer or meet with Customer's corresponding management level personnel within five (5) days thereafter.
- 13.13.2. **Mediation.** If the Dispute cannot be settled internally by Dispute Resolution, then the parties may mutually agree to settle their Disputes by third party mediation ("Mediation"). The parties will nominate an independent third party trained as a mediator ("the Mediator") who will act fairly and with complete impartiality towards the parties. The language of any Mediation shall be English.
- 13.13.3. **Relief.** The parties may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief, without breach of this Agreement.
- 13.13.4. **Court of Competent Jurisdiction.** The parties agree that the venue of any action or claim brought by any party to this Contract will be the Superior Court of California, County of San Bernardino, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue.
- 13.14. **Equitable Relief.** The parties agree that any breach of a party's confidentiality obligations or a breach of the license grant and restrictions set forth in this Agreement may result in irreparable injury to the other party for which there is no adequate remedy at law. Therefore, notwithstanding the Dispute Resolution section set forth herein, in the event of any breach or threatened breach of such obligations, the non-breaching party will be entitled to seek equitable relief in addition to its other available legal remedies.

IN WITNESS WHEREOF, the Customer and DI have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY

DATA INNOVATIONS LLC

▶ 
 Curt Hagman, Chairman, Board of Supervisors

(Print or type name of corporation, company, contractor, etc.)
 By ▶ 
 (Authorized signature - sign in blue ink)

SEP 14 2021

SIGNED AND CERTIFIED THAT A COPY OF THIS

DOCUMENT HAS BEEN DELIVERED TO THE

CHAIRMAN OF THE BOARD

Lynna Monell

Clerk of the Board of Supervisors

of San Bernardino County



Deputy

Name Premila Peters
 (Print or type name of person signing contract)

Title President
 (Print or Type)

Dated: August 19, 2021

Address 463 Mountain View Drive
 Colchester, VT 05449



FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
County Counsel		
Date _____	Date _____	Date _____



DATA INNOVATIONS LLC STATEMENT OF WORK

This Statement of Work (the "SOW"), effective as of the last date of signature below (the "Effective Date") by and between Data Innovations LLC ("DI"), a Delaware limited liability company, having its principal place of business at 463 Mountain View Drive, Colchester, Vermont 05446 and Arrowhead Regional Medical Center ("Customer"), having its principal place of business at 400 North Pepper Ave Colton, CA 92324-1801, sets forth the terms and conditions under which DI agrees to provide Professional Services to Customer.

This SOW is subject to the terms and conditions of the Professional Services Agreement effective _____ (the "**Agreement**"), to which this SOW is a supplement. All terms and conditions in the Agreement are incorporated by reference herein and shall remain unchanged and in effect. All Professional Services will be provided under this SOW and terms and conditions of the Agreement. In the event of any conflict between the terms and conditions of this SOW and the terms and conditions of the Agreement, the terms and conditions of the Agreement shall control. All definitions not set out in this SOW shall have the meaning as set forth in the Agreement.

1. DEFINITIONS.

- 1.1. "AV" means Auto-verification
- 1.2. "Customer Key Project Stakeholders" may include but are not limited to Project Manager(s), IM analyst(s), LIS analyst(s), Interface Engine analyst(s), Laboratory staff, Network/IT resource(s) and Laboratory leadership.
- 1.3. "Customer Workflow Validation Testing" means testing all workflows for all instruments in scope according to the validation plan written and approved by the Customer. Workflows may include but are not limited to add on orders, partially released results, instrument errors, shared sample workflows, workflows with automation lines, reflexing workflows etc.
- 1.4. "Functional Testing" means testing a successful roundtrip of one (1) test component order out of the LIS to the instrument, and one (1) test component result filing back into the LIS from the instrument on each instrument in scope.
- 1.5. "Go-Live" means the date the Instrument Manager software, and any associated Work Product delivered under this SOW if applicable, become operational in a live production environment.
- 1.6. "IM" means DI's proprietary software application, Instrument Manager™.
- 1.7. "Instrument Connectivity Testing" means establishing connectivity of each instrument in scope with Instrument Manager.
- 1.8. "LIS" means Laboratory Information System.
- 1.9. "LIS Connectivity Testing" means establishing connectivity between the LIS and Instrument Manager.
- 1.10. "Mapped Record Testing" means testing every test component and every test panel from the LIS on orders and results for all instruments in scope.
- 1.11. "QC" means Quality Control
- 1.12. "Shell Configuration" means building configurations and connection assignments in Instrument Manager for all instruments in scope

2. PROFESSIONAL SERVICES.

- 2.1. **Description of Professional Services.** DI will perform the following Professional Services under this SOW:
 - 2.1.1. **Project Coordination Meeting**
 - Discussion of DI implementation project plan for integration of instrument and application testing within the Epic Beaker overall project plan and timeline
 - Review instrument list and identify any future instrument changes to occur during the implementation
 - Prepare DI implementation project plan
 - 2.1.2. **Project Kick-Off Meeting**
 - Introduce Customer to DI and Instrument Manager
 - Review DI implementation project plan and dashboard
 - Update list of Customer Key Project Stakeholders and provide documentation of list with contact information to include phone number and email address for each Customer Key Project Stakeholder to the DI Sales Representative and Project Manager
 - Identify one (1) individual to act as the Customer's primary point of contact with respect to the delivery of Professional Services as described in this SOW
 - Identify one (1) individual to act as the Customer's primary point of escalation for issues, risks, and other project related escalations, and provide sufficient contact information for the individual to be reached during business hours



- Confirm date Epic Beaker interfaces will be ready for LIS Connectivity Testing between Epic Beaker LIS (including an interface engine if applicable) and Instrument Manager
 - Review DI recommendations for best-practice testing strategies
 - Finalize implementation plan, including training class if purchased
 - Determine action items, next steps, and schedule follow up meetings as needed
- 2.1.3. **Pre-Implementation Tasks**
- Confirm net new Instrument Manager production and test licenses were received
 - Server procurement meeting with Customer IT resource(s) if needed
 - Finalize instrument list for all instruments in scope for the Epic Beaker implementation, including planning for instrumentation changes within the laboratory
 - Customer collects list of IP addresses and ports or other connectivity information for all instruments in scope and Epic Beaker orders and results interfaces
 - Discussion and planning for any net-new instrument connectivity, such as wiring new data drops and/or procuring new device servers in the laboratory
 - Customer provides network ready servers (production, failover, and test) for Instrument Manager installation
 - Customer provides instrument test codes for each instrument where possible
 - Schedule Instrument Manager Basic and Introduction to Rules Writing for Instrument Manager training classes for Customer IM analyst(s) if training seats were purchased
 - Schedule Shell Configuration setup
 - Schedule Instrument Functional Testing
- 2.1.4. **Phase 1 – Installation and LIS Connectivity Testing**
- Install Instrument Manager Software on Customer provided production, failover and test servers
 - Customer is assumed to have purchased net new Instrument Manager licenses for both production and test to be used with new Customer-provided servers (production, failover, and test)
 - Production and failover servers use the same IM license number
 - Set up the Instrument Manager Shell Configuration
 - Customer IM analyst(s) will work with the assigned DI Professional Services Representative(s) to load drivers in Instrument Manager and begin the Shell Configuration build
 - **LIS Connectivity Testing:** Establish connectivity between Instrument Manager and Epic Beaker
 - Ensure that an order is successfully received and processed in Instrument Manager from Epic Beaker for one test component
 - Ensure that a result is successfully sent to Epic Beaker for the test component that was ordered
 - An interface engine may be used between Epic Beaker and Instrument Manager at the Customer's discretion. Customer is responsible setup, maintenance, and troubleshooting of any interface engine in use
- 2.1.5. **Phase 2 – Instrument Functional Testing**
- Functional Testing may be completed with DI Professional Services Representative(s) on-site or remotely. Travel expenses will apply if on-site
 - Finish shell configuration if not completed in Phase 1 to create configurations and connections for the instruments and middleware defined below and the Epic Beaker LIS.
 - One (1) Sysmex WAM Middleware with one (1) Sysmex XN 9000 connected
 - One (1) Siemens RapidComm Middleware with one (1) Rapid Point 500 connected
 - One (1) Beckman LabPro with Microscan and one (1) Bruker MALDI connected
 - One (1) Sysmex AUWi (using WAM driver)
 - Two (2) Stago Compact Max



- One (1) BD Viper
 - One (1) BD Epicenter with two (2) BD Bactec connected
 - One (1) Haemonetics TEG Manager with one (1) TEG 6S connected
 - One (1) BioMerieux BioFire
 - One (1) Cepheid Genexpert
 - One (1) Clinitek Advantus
 - One (1) Roche Instrument Manager with four (4) instruments connected (Two (2) Cobas 6000, and two (2) e602) and an automation line – Intended to be connected via the DI InterIM drivers
 - Assist with mapping at least one (1) test component for all instruments in scope for the project
 - **Instrument Connectivity Testing:** Establish connectivity between Instrument Manager and each of the instruments included in scope
 - **Functional Testing:** The DI Professional Services Representative(s) will work with the Customer's IM analyst(s) and Customer's Epic Beaker resource(s) to troubleshoot and modify the appropriate Beaker environment and IM configuration, as necessary, in order to:
 - Ensure that an order is successfully received and processed from Epic Beaker for each of the instruments included in scope
 - Ensure that a result is successfully sent to Epic Beaker for each of the instruments included in scope
 - Provide Instrument Manager Basic Training to Customer resource(s) for the number of seats purchased. Refer to <http://datainnovations.com/training> for syllabus
 - **Provide Instrument Manager application guidance, mentoring and troubleshooting assistance during on-site and remote testing sessions. Although the Customer has attended Basic training, DI will reinforce concepts taught through the course in order to prepare Customer resources for independent remote testing of duplicate instrument types in subsequent phases of the project.**
- 2.1.6. **Phase 3 – Mapped Record Testing**
- Assist Customer with mapping all remaining test components for all instruments as needed to remain within the project timelines
 - Provide support to Customer resources to ensure that a full roundtrip test (order from Epic Beaker to instrument, result from instrument to Epic Beaker) is completed for all test components and test panels on all instruments in scope
 - Assist Customer IM analyst(s) with troubleshooting all aspects of the dataflow between Instrument Manager and the laboratory instrumentation, to ensure roundtrip testing is successful
 - Assist Customer with writing necessary rules in Instrument Manager to format orders and results correctly for instruments and the LIS for pass-through connectivity. The scope of this project does not include Professional Services to write rules for AV workflows in Instrument Manager, Professional Services to write rules or provide Specimen Management Workspace setup to manage any other non-AV workflows in Instrument Manager, or complex rules or setup to replace any current middleware solutions
 - Provide Introduction to Rules Writing for Instrument Manager training to Customer resource(s) for the number of seats purchased. Refer to <http://datainnovations.com/training> for syllabus
- 2.1.7. **Phase 4 – Customer Workflow Validation Testing**
- Provide remote support and guidance to Customer resource(s) while Customer validation plans are executed
- 2.1.8. **Phase 5 – Go-Live**
- Prepare Instrument Manager production servers for Go-Live
 - A customized cutover plan will be discussed and created with Customer resource(s) at least sixty (60) to ninety (90) days prior to confirmed Go-Live date
 - Production primary and failover servers must be available for Instrument Manager install at least thirty (30) days prior to confirmed Go-Live date to allow for server set up if primary build was done on the test server



- The final Instrument Manager configuration will be copied to and restored on the appropriate servers during the server setup and in preparation for Go-Live
 - Enable archiving on Instrument Manager production server based on Customer information provided during server sizing
 - Sync Instrument Manager failover server with Instrument Manager primary server if this step has not already been completed
 - Connect all instruments to Instrument Manager production server
 - Provide Go-Live support for one (1) Go-Live Events as follows:
 - Go-Live Event 1 scheduled for February 2022: One (1) resource for eight (8) hours per day for three (3) days, for a total of 24 hours of Go-Live support. Off-hours support will be provided remotely by the same resource.
 - Go-Live support can be provided on-site or remotely. Travel expenses will apply if on-site
 - Upon project closure, or 30 days post- Go-Live (whichever is earlier), all support will then be provided according to DI's Maintenance and Support agreement
- 2.2. Term of SOW.** The term of this SOW shall be as set forth below and shall continue unless earlier terminated pursuant to the termination terms and conditions set forth in the Agreement.
- Open Term: The term of this SOW shall begin upon the Effective Date and shall continue until all Professional Services are completed.
- 2.3. Professional Service Considerations.**
- Changes or additions to the scope of Professional Services outlined in this SOW or updates to the instrument list defined in Section 2.1.5. of this SOW are subject to review for the need to purchase additional Professional Services or software as applicable to the request
 - Delays in LIS build, instrument delivery, instrument readiness to connect to Instrument Manager, or server procurement if applicable will delay the start of this project
 - Incomplete build in the LIS or other delays in testing will delay the completion of this project
 - Customer IM analyst(s) are required to have appropriate access and permissions to the server for the duration of the project. Delays in obtaining appropriate access will delay the start of this project, and may cause significant delays in the overall project timeline
 - Customer must collect and document the following information necessary to build the shell configuration prior to scheduling any on-site visits or remote Functional Testing sessions
 - IP address and port information for individual Epic Beaker orders and results interfaces
 - IP address and port information or other connectivity information as needed for all instruments and middleware included in scope to be connected to Instrument Manager
 - Epic Beaker messaging identifiers for instrument methods built in Epic Beaker for all instruments included in scope
 - In order to have the most productive Functional Test for microbiology instrumentation, at least one (1) correctly formatted microbiology culture order message for organism identification and susceptibility panel testing must be received in Instrument Manager prior to scheduling any microbiology instrument Functional Testing
 - Customer is required to have at least one (1) resource that is trained and proficient in Instrument Manager identified to be an IM analyst for the duration of this project
 - For Customer IM analyst(s) without Instrument Manager experience or training, we recommend Instrument Manager Basic Training to be completed prior to the first functional testing on-site visit or prior to the start of remote testing
 - It is strongly recommended that at least one (1) of Customer's IM analyst(s) are also Epic Beaker certified to ensure better continuity between the two systems during all testing phases
 - All instruments must be able to be taken out of the legacy LIS interface environment and available to be connected to Instrument Manager during Functional Testing. Pre-scheduling in advance with lab operations around peak production times can help mitigate delays
 - It is a system requirement to have an order arrive in Instrument Manager prior to sending patient results from an instrument back to Epic Beaker. All workflows for all instruments interfaced through Instrument Manager to Epic Beaker must use a solicited orders workflow with an LIS-generated specimen ID. Unsolicited results and point of care workflows for patient samples without an LIS-assigned specimen ID cannot be interfaced through Instrument



Manager to Epic Beaker.

- It is required to have functional Epic Beaker barcode printers available prior to starting Mapped Record Testing. Delays in procuring or implementing barcode printers will delay the start of Mapped Record Testing, and may delay the overall Epic Beaker timeline
- Laboratory technologist(s) are required to be available as needed during testing sessions to maintain, operate, configure, and troubleshoot instruments, set up assays, and otherwise assist with testing
- Validation of all IM rules is the responsibility of Customer. This includes creating and executing a validation plan. DI will resolve any issues identified during the validation that are related to the scope of this project
- Upon completion of Go-Live support, emergency technical support will be provided by DI's Customer Support, according to DI's Maintenance and Support agreement
- If needed for complex instruments, the file type input and output from the DI Advanced Configurable Delimited Instrument Driver (diicfgdi) is required to be txt or csv. Excel and pdf file types are unable to be processed by this driver. Instrument platforms using this driver must be able to produce a consistent file format. Additional connections may need to be purchased to accommodate multiple file types using this driver
- The scope of this project does not include Professional Services for molecular plate mapping from Epic Beaker to DI, or Professional Services to set up pooling convolution or deconvolution in Instrument Manager
- The scope of this project does not include Professional Services to set up pooling convolution or deconvolution in Instrument Manager
- Performance of the Professional Services requires that Customer is current on all Maintenance and Support Services fees for all existing and new DI Software licenses. DI will not be able to schedule the start of the Professional Services until the current/active status of Customer's Maintenance and Support Services has been confirmed.

Additional tasks may be required based on Customer's specific installation. DI and Customer will discuss and mutually agree in writing to any additional tasks prior to performance by DI.

2.4. Work Product.

- Instrument Manager installed on production, failover, and test servers
- All instruments in scope are integrated with Instrument Manager and LIS
- Support provided to Customer resources during all testing phases
- Instrument Manager production server(s) configured prior to Go-Live
- All instruments are connected to Instrument Manager production servers at Go-Live
- Go-Live support provided as described in Section 2.1.8. of this SOW

2.5. Estimated Chronology.

**Note: The IM timeline and phases will be integrated with the overall Epic timeline and tasks prior to the project kick off as part of the Pre-implementation tasks. Exact dates will be coordinated as mutually agreeable to Customer, Epic, and DI prior to project initiation.*

IM PHASE	DEPENDENCIES
Kick-Off	✓ Customer Key Project Stakeholders identified
Pre-Implementation	✓ Instrument List finalized ✓ Customer registered/scheduled for Basic Training class if purchased
Phase 1 Connectivity	✓ Servers Ready for IM installation ✓ Shell Configuration setup scheduled ✓ Minimum of one (1) test panel ("Beaker OVT") and test component ("Beaker LRR") built in Epic Beaker for LIS Connectivity Test ✓ Epic Bridges setup complete ✓ Connectivity between Epic Beaker and IM established on orders and results ✓ Messaging identifier setup in Epic Beaker (ensure order is triggering to transmit)
Phase 2 Functional Testing	✓ Complete Basic Training if purchased ✓ Minimum of one (1) Beaker OVT and Beaker LRR built for all instruments



	<ul style="list-style-type: none"> ✓ Interface and Method (MAC) records and event triggers setup in Beaker for each instrument ✓ Beaker container ID changed to minimum of six (6) characters ✓ Lantronix devices configured and attached to network or confirmation of use of existing connectivity
Phase 3 Mapped Record Testing	<ul style="list-style-type: none"> ✓ Beaker build complete ✓ Beaker accessioning logic complete such that order route to instruments at appropriate locations ✓ Functional label printers available in all necessary locations to print Epic Beaker barcodes for testing
Phase 4 Customer Workflow Validation Testing	<ul style="list-style-type: none"> ✓ Super Users trained in Beaker ✓ Customer validation plan complete
Phase 5 Go-Live	<ul style="list-style-type: none"> ✓ Testing Complete ✓ Go-Live Support for one (1) Go-Live event

2.6. Site Readiness Checklist.

2.6.1. Prior to Install and LIS Connectivity Testing:

- Production, failover, and test servers are ready to install Instrument Manager
- Epic Beaker is ready to send an order to Instrument Manager for at least one (1) test component on at least one (1) instrument to establish connectivity between Epic Beaker and Instrument Manager (LIS Connectivity Testing)
- Connectivity information and Epic Beaker messaging identifiers are documented and available to complete the Shell Configuration build in Instrument Manager

2.6.2. Prior to Functional Testing

- All instruments are ready to connect to Instrument Manager
- Instruments are available during scheduled Functional Testing Sessions
- Customer confirms all instruments in scope can transmit an order with at least one (1) test component to Instrument Manager to complete Functional Testing
- Beaker container ID changed to at least eight (8) characters
- Correctly formatted microbiology order message received in Instrument Manager

2.6.3. Prior to Mapped Record Testing

- Epic Beaker build completed for all tests on all instruments in scope
- Instruments available during scheduled Mapped Record Testing sessions
- Functional label printers available in all necessary locations to print Epic Beaker barcodes for testing

2.6.4. Prior to Customer Workflow Validation Testing

- Workflow Validation Testing plans are created by Customer and approved by all applicable Customer leadership
- Instruments are available during scheduled Customer Workflow Validation Testing sessions

2.6.5. Prior to Go-Live

- All instruments ready to permanently connect to Instrument Manager production server
- System validation (Customer Workflow Validation Testing) completed by Customer

2.7. Change in the Scope of Professional Services.

- DI has scoped the Professional Services in this SOW based on Customer provided information and projected Customer technical skills and time commitment required for the performance of such Professional Services. If after the Effective Date of the SOW i) DI determines that the information provided was not accurate, ii) the information changes, and/or iii) Customer is not able to provide personnel at the technical level, or time-commitment level originally contemplated in the scope of Professional Services, an adjustment to the scope of Professional Services may have to be made by DI, and such adjustment may require an increase in the Professional Services Fees.
- DI and Customer shall enter into a written change order, executed by both parties, to document any such changes to this SOW ("Change Order"). DI shall have no obligation to



begin work on any additional Professional Services prior to the Change Order being in place.

3. **CUSTOMER RESPONSIBILITIES.** Customer will be responsible for the following:
 - 3.1. Customer will be responsible for providing the following personnel:
 - Project Manager – develops and coordinates timelines, set milestones and adjusts resources as necessary
 - LIS Analyst(s) – Responsible for the LIS build, maintenance, and troubleshooting as applicable to the project
 - IM Analyst(s) – Responsible for Instrument Manager system configuration and maintenance of the Instrument Manager system
 - Interface Analyst(s) – Responsible for any Interface Engine(s) used, including Epic Bridges
 - Laboratory Technologist(s) – Responsible for instrument configuration and running test specimens
 - Network/IT Resource(s) – Responsible for Customer server and network troubleshooting and maintenance
 - Leadership Resource – Designated point of contact for project related escalations
 - NOTE: Some personnel may fulfill more than one role (example: A Laboratory Technologist can also fulfill the IM Analyst role if qualified)
 - 3.2. Customer is responsible for all testing and validation of the Instrument Manager system.
 - 3.3. Customer will develop validation plans for testing the system to include all mapping and applicable workflows.
 - 3.4. Customer is responsible for maintaining adequate and complete documentation for any changes to be applied to instrument settings for all instruments in scope at Go-Live if changes are applicable.
 - 3.5. Customer is responsible for IT support on all Instrument Manager servers.
 - 3.6. Customer is responsible for network support and troubleshooting for all networks with Instrument Manager servers and/or networks with instruments included in scope to be connected to the Instrument Manager servers.
 - 3.7. Customer will designate one (1) individual to act as the Customer's primary point of escalation for issues, risks, and other project related escalations, and provide sufficient contact information for the individual to be reached during Customer's business hours.
 - 3.8. Customer will assign one (1) individual to act as the Customer's primary point of contact with respect to the Professional Services.
 - 3.9. A purchase order for estimated Billable Expenses must be issued to DI from customer, or a third-party on their behalf, in advance of any agreed upon travel or expenditure.
 - 3.10. Customer shall provide DI with reasonable workspace, administrative support, computer facilities, computer time on customer's computers, if necessary, and other support as necessary for DI to perform the Professional Services.
 - 3.11. Customer shall perform and/or provide in a timely fashion the tasks and personnel set forth in this section.
 - 3.12. Customer personnel assigned to work on the matters related to the Professional Services will be qualified for the tasks for which they are assigned.
 - 3.13. Customer shall cooperate with DI in providing prompt and timely information, notices, and feedback as is necessary or desirable hereunder.
4. **DI RESPONSIBILITIES.** DI will be responsible for the following:
 - 4.1. Provide a resource to perform the Professional Services and tasks outlined in **Section 2** of this SOW.
5. **FEES, INVOICING AND PAYMENT TERMS.** As consideration for the Professional Services provided by DI to Customer under this SOW, DI shall invoice Customer for the Professional Service Fees set forth in quote #Q12358 (the "Quote") and Customer, or a third-party on their behalf, will compensate DI, on the following basis:
 - 5.1. **Fixed Fee Basis:** DI will provide the Professional Services on a milestone basis. DI will invoice Customer upon completion of each of the following milestone:

Milestones:

 - *Milestone 1:* 50% as of the Effective Date of this SOW
 - *Milestone 2:* 25% due at 6 months from the Effective Date of this SOW
 - *Milestone 3:* 25% due at 12 months from the Effective Date of this SOW
 - 5.2. **Change in Professional Services Fees, Invoicing and Payment Terms:** Each applicable Change Order to this SOW shall document any changes to the Professional Services Fees and related invoicing and payment terms.
 - 5.3. **Billable Expenses:** All travel and living expenses will be billed monthly at actual costs.



5.4. **Payment Terms:** All invoices are due as of the Due Date.

6. **AUTHORITY.** Each person executing this SOW on behalf of any entity hereby represents and warrants that he or she is duly authorized and has full authority to execute and deliver this SOW.

IN WITNESS WHEREOF, Customer and DI have executed this SOW as of the dates of signature below.

Data Innovations LLC

Arrowhead Regional Medical Center

Signature

Signature

Premila Peters

Curt Hagopian

Printed Name

Printed Name

President

Chairman, Board of Supervisors

Title

Title

August 19, 2021

SEP 14 2021

Date

Date

The terms of this SOW shall remain valid and in effect only through the period ending 10/19/2021, after which date the terms and conditions offered herein shall expire if this SOW has not been duly executed by the parties.

The Professional Services set forth herein shall be scheduled to commence upon receipt of this SOW signed by Customer and Customer's purchase order, or a purchase order from a third-party on Customer's behalf.

Return this signed SOW to Mike Devergilio at mdevergilio@datainnovations.com in .pdf format as an email attachment or via mail to:

Data Innovations LLC
463 Mountain View Drive
Colchester, VT 05446
Attention: Mike Devergilio

Quote

Quote Number: Q-12358

Data Innovations
 463 Mountain View Drive
 Colchester, VT 05446

Prepared For:
 Cindie Watkins
 Arrowhead Regional Medical Center
 w0588@armc.sbcounty.gov

Bill To:
 Arrowhead Regional Medical Center
 400 North Pepper Ave
 Colton, CA 92324-1801

Ship To:
 Arrowhead Regional Medical Center
 400 North Pepper Ave
 Colton, CA 92324-1801



QTY	PRODUCT CODE	PRODUCT NAME	UNIT PRICE	TOTAL
1.00	IM-B07	Instrument Manager Base Software with High Availability	USD 3,400.00	USD 3,400.00
Instrument Manager Base software with High Availability provides licensing for primary and additional systems to operate in parallel in the event of a primary system failure. Includes software and licensing for Disaster Recovery system in all IM versions, for v8.15 or above includes an optional independent Arbiter for automatic failover.				
18.00	IM-CX-07	Instrument Manager Interface Connection with High Availability 2,725.00	USD	USD 49,050.00
Adds one connection license to the Instrument Manager Primary and High Availability system.				
3.00	IM-EU-07	End User Software Connection with HA/DR	USD 2,575.00	USD
Includes End User Software connection license with installation software for Instrument Manager Primary and High Availability/Disaster Recovery systems. Enables customers to concurrently access the Instrument Manager system from any remote network location.				
1.00	IM-SM-01	Specimen Management	USD 6,700.00	USD 6,700.00
Adds specimen and data management functionality to the Instrument Manager base software. Includes Rules Processing.				
1.00	IM-QC-BI	Peer & Daily QC Integration for Bio-Rad Unity Real Time	USD 3,350.00	USD 3,350.00
Provides real-time, bi-directional integration of QC application, Bio-Rad Unity Real Time, with Instrument Manager.				
1.00	CS-MAS-01	Instrument Manager Maintenance and Support	USD 12,640.50	USD 12,640.50
1.00	IM-B02-TEST	Instrument Manager Base Software for Test	USD 264.00	USD 264.00
Instrument Manager Base software for test system.				
3.00	IM-CX-01-TEST	Instrument Manager Interface Connection for Test 880.00	USD	2,640.00
Adds one connection license to the Instrument Manager base software for test system.				

2.00	IM-EU-01-TEST	End User Software Connection for Test	USD 820.00	USD 1,640.00
Includes End User installation software and one End User Connection for test system. Enables customers to concurrently access the Instrument Manager system from any remote network location.				

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QTY	PRODUCT CODE	PRODUCT NAME	UNIT PRICE	TOTAL
1.00	IM-SM-01-TEST	Specimen Management for Test	USD 2,680.00	USD 2,680.00
Adds specimen and data management functionality to the Instrument Manager base software for test system. Includes Rules Processing.				
1.00	IM-QC-BI-TEST	Peer & Daily QC Integration for Bio-Rad Unity Real Time for Test	USD 1,340.00	USD 1,340.00
Provides real-time, bi-directional integration of QC application, Bio-Rad Unity Real Time, with Instrument Manager for test system.				
1.00	CS-MAS-01-TEST	Instrument Manager Maintenance and Support for Test	USD 1,541.52	USD 1,541.52
1.00	IM-SVC-01-04	New Implementation Services	USD 52,000.00	USD 52,000.00
See SOW for details.				
3.00	TR-RULE-11	Instrument Manager Rules Overview	USD 2,000.00	USD 6,000.00
<p>Rules Training is an intensive, hands-on course that teaches the use of Instrument Manager Rules Engine functionality and how to write and test rules which can be used for various purposes including flagging results to be reviewed, adding to test orders and evaluating results against critical ranges. The class covers instrument request and result rules, testing rules and managing rules within the rules engine.</p> <p>All AV workflow service packages require the purchase of this instructor-led program. The classes include attendees from other customer sites, providing an excellent forum for networking.</p>				
3.00	TR-IMB-11	Instrument Manager Fundamentals	USD 2,000.00	USD 6,000.00
<p>This instructor-led course provides instruction on the setup and operation of an Instrument Manager™ system. Participants will learn use of Instrument Manager (IM), to edit or add configurations and connections; troubleshoot and resolve communication issues between IM and connected devices. They will be introduced to options and user access controls set up in the Security menu.</p> <p>The classes include attendees from other customer sites, providing an excellent forum for networking.</p>				
18.00	IM-C01	Serial Cable	USD 65.00	USD 1,170.00
Up to 50-foot serial cable to connect the Instrument Manager system to an instrument				
1.00	Billable Expenses	Billable Expenses	USD 15,000.00	USD 15,000.00
1.00	Shipping	Shipping Fees	USD 140.00	USD 140.00
18.00	IM-TS-EDS-1P-T	Lantronix EDS Device Server TAA Compliant (1 Port)	USD 210.00	USD 3,780.00
1 DB25 (RS-232/RS-485/RS-422) serial port, 1 RJ45 (10BASE-T/100BASE-TX) network port. Supports TCP/IP Protocol. Supports secure transmission using SSL encryption. TAA compliant.				

Terms & Conditions

1) About this Quote

Attached is the requested quote (the "Quote"). The Quote includes all of the items in which an interest was indicated. The included pricing proposal is intended to provide a price guarantee for a period of 60 days. Execution of this Quote, submission of a purchase order or payment of the fees set forth on this Quote will be deemed purchaser's acceptance of the pricing, specific time frames and terms and conditions set forth herein.

2) Sales Tax

Sales tax (if applicable) will be invoiced upon acceptance of the terms of this quote. 3

3) Tax ID

Data Innovations Tax ID #: 47-3734097

4) Invoice and Payment Terms

All pricing is in US Currency, FOB Shipping Point. Prices are subject to change without notice. Unless otherwise set forth in a written agreement between the parties, Data Innovations LLC will invoice for the fees set forth in this Quote as of date of signature. Payment terms are 100% due and payable net 45 days from the date of invoice.

5) Software Licenses

All Software licenses will be provided pursuant to the terms and conditions of the end user license agreement that was entered into between The County of San Bernardino on behalf of Arrowhead Regional Medical Center and Data Innovations LLC on October 27, 2020 ("EULA").

6) Maintenance and Support

Maintenance and Support Services will be provided pursuant to Data Innovations LLC's current Maintenance and Support Services terms and conditions, as attached hereto and incorporated herein.

7) Professional Services

Professional Services will be provided pursuant to Data Innovations LLC's current Professional Services terms and conditions, as attached hereto and incorporated herein.

8) Shipping Terms

Customers within the 48 contiguous States and the District of Columbia may use a UPS or FedEx account to cover the shipping fees or choose Data Innovations' flat-rate shipping. Data Innovations LLC's flat-rate shipping method is UPS Ground. For orders shipping outside of the 48 contiguous States and/or expedited shipping, customer must provide UPS or FedEx account. **For orders shipping Internationally customer must provide UPS or FedEx account and Customs Broker contact information.**

9) Entire Agreement

This Quote and the applicable terms and conditions referenced herein represent the entire agreement between the parties and supersedes all other representations, proposals, discussions, undertakings, communications, agreements, advertisements, and understandings, whether oral or written, between the parties and shall govern and control with respect to the subject matter herein. Any terms or conditions appearing on the face or reverse side of any purchase order, acknowledgement, or confirmation that are different from or in addition to those described herein are hereby expressly rejected and shall not be binding on the parties, even if signed and returned, unless both parties hereto expressly agree, in an instrument separate from and in addition to the purchase order, acknowledgement, or confirmation, to be bound by such separate or additional terms and conditions.

Services Cancellation or Rescheduling Policy

If services are cancelled, customer is responsible for any expenses utilized up to the date of cancellation including pre-arranged travel expenses. If services are rescheduled, customer is responsible for any expenses associated with rescheduling, including transportation change fees.

Training Cancellation or Rescheduling Policy:

- Requests to cancel or reschedule training must be made to your DI Sales or Consulting representative at least fifteen (15) business days prior to scheduled training start date.
- If training reschedule requests are received at least fifteen (15) business days prior to start date, trainees can be rescheduled for an available seat in a comparable program either in person or virtually. Data Innovations cannot guarantee seat availability for training in the original site for which trainee had been scheduled.

Reschedule requests or cancellations made less than fifteen (15) business days prior to start date, or no shows, are subject to a rescheduling fee up to the full price of the training seat.

This Quote may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same agreement. The parties shall be entitled to sign and transmit an electronic signature of this Quote (whether by facsimile, PDF or other email transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed agreement upon request.

IN WITNESS WHEREOF, the San Bernardino County and Data Innovations LLC have each caused this Quote to be subscribed by its respective duly authorized officers, on its behalf.

SAN BERNARDINO COUNTY



Curt Hagman, Chairman, Board of Supervisors

Dated:

SEP 14 2021

DATA INNOVATIONS LLC



By

(Authorized signature - sign in blue ink)

Name

Premila Peters

(Print or type name of person signing contract)

Title

President

(Print or Type)

Dated:

August 19, 2021

Address

463 Mountain View Drive

Colchester, VT 05446

Sales Rep: Mike Devergilio
mdevergilio@datainnovations.com
(802) 497-8334
Quote Expiration: 9/19/2021