



Contract Number  
**23-1002**

SAP Number

## Arrowhead Regional Medical Center

<b>Department Contract Representative</b>	<u>William L. Gilbert</u>
<b>Telephone Number</b>	<u>(909) 580-6150</u>
<b>Contractor</b>	<u>Abbott Rapid Diagnostics Informatics, Inc.</u>
<b>Contractor Representative</b>	<u>Kristen Bunch</u>
<b>Telephone Number</b>	<u>(434) 996-0141</u>
<b>Contract Term</b>	<u>September 12, 2023 through September 11, 2028</u>
<b>Original Contract Amount</b>	<u>Non-financial</u>
<b>Amendment Amount</b>	<u>Non-financial</u>
<b>Total Contract Amount</b>	<u>Non-financial</u>
<b>Cost Center</b>	<u></u>

**Briefly describe the general nature of the contract:** Non-financial Software System License and Support Master Agreement with Abbott Rapid Diagnostics Informatics, Inc., including non-standard terms, for software licensing and support for patient glucose testing meters, effective from September 12, 2023 through September 11, 2028.

**FOR COUNTY USE ONLY**

Approved as to Legal Form

▶ Bonnie Uphold  
Bonnie Uphold, Supervising Deputy County Counsel

Date 8-31-2023

Reviewed for Contract Compliance

▶ \_\_\_\_\_

Date \_\_\_\_\_

Reviewed/Approved by Department

▶ William L. Gilbert  
William L. Gilbert, Director

Date 8/31/23

## RALS™ SOFTWARE SYSTEM LICENSE AND SUPPORT MASTER AGREEMENT

THIS RALS™ SOFTWARE SYSTEM LICENSE AND SUPPORT MASTER AGREEMENT ("**Agreement**") is entered into as of September 19, 2023, (the "**Effective Date**"), between Abbott Rapid Diagnostics Informatics, Inc., having an address at 2000 Holiday Drive, Suite 500, Charlottesville, Virginia 22901 ("**ARDx Informatics**"), and **San Bernardino County on behalf of Arrowhead Regional Medical Center**, having an address at **400 N. Pepper Avenue, Colton, CA 92324** ("**Customer**"). Each of ARDx Informatics and Customer are individually referred to in this Agreement as a "**Party**," and collectively they are the "**Parties**."

**WHEREAS**, Customer desires to receive access to: (i) Remote Automated Laboratory System Software System described in Exhibit A to this Agreement ("**RALS**"), (ii) the ARDx Informatics device module software License as per the format in Exhibit B, as it may be updated from time to time, to this Agreement ("**Device Module License Agreement**"); (iii) the Implementation and Support Model and any additional services in the Service Bundle Agreement as per the format in Exhibit C, as it may be updated from time to time, to this Agreement that is subject to the terms and conditions of this Agreement (the "**Services**"); and (iii) any Third Party Software (as defined below) included with the foregoing (i) through (iii) or separately provided by ARDx Informatics. The foregoing (i) through (iii) are collectively referred to in this Agreement as the "**RALS System**"; and

**WHEREAS**, ARDx Informatics desires to provide access to the RALS System to Customer on the terms and conditions herein below.

**NOW THEREFORE**, in consideration of the mutual covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### 1. Definitions

- a. "**Affiliate**" means any individual, corporation or other business entity controlled by, controlling or under common control with either Party; provided however, that for this purpose "control" means direct or indirect beneficial ownership of at least 50% of the voting stock in the case of a corporation, the right to receive distributable net income in the case of any other business entity, or include local government agencies, departments and Board-governed special districts, or other local governmental body or corporation, including applicable K-12 schools and community colleges, where Customer is authorized and empowered to expend public funds for such entity located within San Bernardino County's applicable jurisdictional and geographical boundaries.
- b. "**Authorized Sites**" means the Authorized Sites that are permitted to benefit from Customer's access to the RALS System as described in an applicable Device Module License Agreement for the RALS System.
- c. "**Authorized Users**" means those users permitted by Customer to use the RALS System on behalf of Customer.
- d. "**Claim**" means any actual or threatened disputes, claims, actions, lawsuits or proceedings which arise out of or relate to this Agreement.
- e. "**Documentation**" means the applicable RALS usage guides and policies, as updated from time to time, accessible via RALS.
- f. "**Implementation and Support Model**" means the implementation and support model set forth in a Device Module License Agreement. The two Implementation and Support Models offered by ARDx Informatics as of the Effective Date are the System Support Model and the System Support Plus Server Model.
- g. "**Law(s)**" means any applicable, constitution, treaty, statute, regulation, law, administrative guidance, judgement, decision, or agreement, whether with, of, or by any legislative, administrative, judicial, or other government authority, as well as generally applicable industry guidance or self-regulatory standards.
- h. "**Losses**" means any and all losses, damages, liabilities, deficiencies, claims, actions, judgements, settlements, interest, awards, penalties, fines, costs, or expenses of any kind, including reasonable attorneys' fees, fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.
- i. "**System Support Model**" means the Model where Customer provides its own server and ARDx Informatics provides a virtual system image which includes the operating system, SQL database and associated software to run on virtual host infrastructure that is operated, maintained, and managed by Customer.
- j. "**System Support Plus Server Model**" means the Model where ARDx Informatics leases to Customer a pre-configured server with a virtual system image which includes the operating system, SQL database and associated software to run on virtual host infrastructure that is operated, maintained, and managed by Customer. Additionally, under the System Support Plus Server Model, Customer will have local administrative rights to the operating system but will not have direct access to the SQL database. ARDx Informatics will possess a local operating system user account to serve as administrator of the system provided and will retain "server administrator" level access to administer the SQL database.

k. "**Third Party**" means persons, corporations and entities other than Customer, ARDx Informatics or any of their respective Affiliates.

l. "**Third Party License Agreement**" means a Third Party's license agreement for the provision of Third Party Software to Customer that is referenced in the Documentation or the Device Module License Agreement.

m. "**Third Party Software**" means software that is proprietary to a Third Party that is provided to Customer under an applicable Third Party License Agreement.

## 2. General

Each Party hereby represents and warrants to the other Party as follows:

a. **Legal Existence.** ARDx Informatics is duly organized, validly existing, and in good standing under the laws of the state in which it is incorporated. San Bernardino County is a political subdivision organized and existing under the laws and constitution of the State of California.

b. **Authorization and Enforcement of Obligations.** Such Party (a) has the power and authority and the legal right to enter into this Agreement and to perform its obligations hereunder, and (b) has taken all legally necessary action on its part to authorize the execution and delivery of this Agreement and the performance of its obligations hereunder. This Agreement has been duly executed and delivered on behalf of such Party, and constitutes a legal, valid, binding obligation, enforceable against such Party in accordance with its terms. If either Party permits a third party to agree to this Agreement on its behalf, this Agreement shall be binding and enforceable against such Party.

## 3. Delivery

a. **Installation, Configuration and Testing.** ARDx Informatics shall complete the installation and configuration tasks that are assigned to ARDx Informatics in the Device Module License Agreement. Customer shall provide to ARDx Informatics all complete and accurate information and specifications that are required for ARDx Informatics to complete its obligations under the Device Module License Agreement. Customer shall ensure that on all installation, configuration and testing dates agreed to by the Parties, all Authorized Sites are ready to complete all tasks. In the event that Customer requests a change in dates, ARDx Informatics shall take steps to accommodate Customer's request and suggest or accept an alternate date; provided, however, that ARDx Informatics, in its sole discretion, may charge Customer for any expenses incurred as a result of Customer modifying the confirmed date, including, but not limited to, for ARDx Informatics personnel time and travel costs.

b. **Acceptance.** Customer shall have fifteen (15) days to test the RALS System following completion by ARDx Informatics of the installation and configuration of the RALS System at the first Authorized Site. This testing period constitutes Customer's sole and exclusive acceptance testing period for the entirety of the RALS System, regardless of how many additional Authorized Sites are in-scope for the RALS System. Within such fifteen (15) day period, Customer will issue a written approval certifying its acceptance of the RALS System or provide written notice of its rejection of the RALS System. Customer only has the right to reject the RALS System in the event that the RALS System does not substantially conform to the Documentation. In the event that Customer does not provide a written acceptance or rejection within such time period, acceptance will automatically be deemed to have occurred. In the event of a valid rejection of the RALS System by Customer, ARDx Informatics will use commercially reasonable efforts to remedy the identified non-conformity. If ARDx Informatics determines in its sole discretion that it is not able to reasonably remedy the identified non-conformity, as ARDx Informatics' sole and exclusive liability and obligation and Customer's sole and exclusive right and remedy, ARDx Informatics shall issue to Customer a refund of any pre-paid, unused fees for the non-conforming component of the RALS System and, if deemed necessary by ARDx Informatics, exclude the applicable Device Software License Module from this Agreement.

## 4. Customer Responsibilities

a. **Security.** Customer understands and agrees that it is solely and fully responsible for securing the RALS System, including, without limitation, with regard to all data contained therein. ARDx Informatics disclaims all liability for (and Customer hereby releases ARDx Informatics of all liability for) the security of the RALS System.

b. **Access and Resources.** Customer will provide ARDx Informatics with reasonable access to requested resources such as: (i) Customer's personnel, facilities, equipment, hardware, software, network and information for the purposes of ARDx Informatics' timely installation, configuration, support and maintenance of RALS System, and (ii) timely decision-making, notification of relevant issues or information and the granting of approval or permissions as reasonably necessary for ARDx Informatics to perform the installation, configuration, support and maintenance of RALS System. Customer will allocate adequate resources to assist ARDx Informatics in the installation, configuration, support and maintenance of RALS in accordance with the Device Module License Agreement.

c. **Other Software.** Customer shall be solely responsible for installing, testing, implementing, supporting, maintaining and using any software that is not RALS, the Device Modules or the Third Party Software ("**Other Software**"). ARDx

Informatics is not responsible for any effects of Customer's installation, testing, implementation, support, maintenance or use of such Other Software or any interference between such Other Software and the RALS System. Customer's implementation of such Other Software shall not affect the rights and obligations of the Parties under this Agreement.

d. Network Connections and Infrastructure. Customer shall be solely responsible for the purchase or lease, installation, testing and maintenance of adequate network connections and services, including, but not limited to, all network infrastructure related hardware and software such as switching and routing equipment, name resolution systems, centralized data backup and recovery systems, virus protection systems, firewall and intrusion detection systems. Additionally, Customer shall be solely responsible for network maintenance, including, but not limited to, periodic inspections, adjustments and repair. ARDx Informatics is not responsible for the failure of any or all of the RALS System caused by Customer's network or data transmission services provided by third parties.

e. Operating Environment. Customer agrees that the Customer-provided operating environment for the RALS System (including, without limitation, hardware) is within the Customer's access-controlled facilities and on the Customer's private and secured data network. Additionally, Customer agrees that the RALS System will be hosted, installed, and/or deployed within the Customer's computer data center or server room environment with the same physical, environmental, network and technical security measures that conform to industry best practices at least as protective as measures commonly used for hospital systems that store and maintain private and protected patient information.

f. ARDx-Provided Equipment. Customer shall maintain all equipment provided by ARDx Informatics in good working order and any damage to such equipment shall be Customer's sole and exclusive responsibility.

g. Third Party Software. Conflicts with any other provision of this Agreement notwithstanding, Customer acknowledges and agrees that ARDx Informatics has no liability or responsibility for the Third Party Software and that all of Customer's rights and remedies with regard to the Third Party Software, if any, shall be between Customer and the Third Party licensor as set forth in the Third Party License Agreement.

## 5. License Grant

a. License. Subject to Customer's ongoing compliance with the terms and conditions of this Agreement, including, without limitation, the timely payment of all fees and charges due under this Agreement, ARDx Informatics grants Customer a limited, personal, non-transferable, non-exclusive and non-sublicensable license to access the RALS System in accordance with the Documentation; provided that such access must be limited to only Authorized Users and be solely be for the benefit of Customer's internal business operations at the Authorized Sites. Authorized Sites may only be added by mutual agreement of the Parties and requires payment by Customer of additional fees in accordance with ARDx Informatics' then current rates. Other than the rights expressly granted herein, nothing in this Agreement grants Customer any right, license, title, or interest in or to any intellectual property owned or controlled by ARDx Informatics. Customer shall ensure that all Authorized Users only access the RALS Services for the benefit of Customer and only for the purposes permitted by this Agreement and the Documentation.

b. Benchmarking Use and Access License. Customer permits ARDx Informatics and grants ARDx Informatics a non-exclusive, royalty-free license to access and use Customer's point-of-care data transmitted via RALS solely to create de-identified data ("De-identified Data") for the following purposes: (i) aggregating Customer's data with data provided by other customers to permit analysis for benchmarking, (ii) development and production of future benchmarking and analysis services provided by ARDx Informatics, and (iii) billing or invoicing. ARDx Informatics agrees that De-identified Data shall only be used for the purposes set forth above, and that the individual results of the benchmarking of Customer's performance as contemplated herein shall not be shared, published or distributed to any party other than Customer. The access license granted to ARDx Informatics pursuant to this Section 5(b) shall be coterminous with the Term of this Agreement; and the use license granted to ARDx Informatics pursuant to this Section 5(b) shall survive any termination of this Agreement.

c. Purposes. Customer may only access the RALS System for purposes stated in RALS Documentation.

d. Suspension. ARDx Informatics has the right to suspend access to the RALS System at any time in order to preserve the integrity or security of the RALS System or in the event of any reasonably suspected violation by Customer of this Agreement.

e. ARDx Data. Customer acknowledges and agrees that all de-identified data analytics generated by using the RALS System is the sole and exclusive property of ARDx Informatics ("ARDx Data"). By way of example only and without limitation, ARDx Informatics may use RALS performance data for benchmarking or to improve products and services or for billing purposes.

f. Audit. ARDx Informatics has the right to audit Customer's use of the RALS System at any time to confirm Customer's compliance with this Agreement. In the event that ARDx Informatics identifies that Customer is under-licensed, Customer shall promptly pay to ARDx Informatics all additional Fees due as a result of Customer's usage.

g. Copies of RALS and RALS Modules. ARDx Informatics shall provide Customer one (1) executable copy (in object code form only) of RALS and the applicable Device Modules as well as associated Documentation. Customer shall not copy the executable files (except for one (1) software archival copy utilized for back up purposes only) or the associated Documentation without the express written permission of ARDx Informatics. Additional copies of the Documentation may be purchased at ARDx Informatics' standard rates in effect at the time of ordering such Documentation.

## 6. Restrictions

Customer and its Authorized Users shall not and shall not permit or encourage any other person to directly or indirectly:

- 1) disassemble, decompile, decrypt, extract, reverse engineer or otherwise attempt to obtain or create the source code of the RALS System;
- 2) alter, revise, enhance, customize or otherwise change or modify the RALS System;
- 3) access SQL database as a service administrator;
- 4) upload, post, e-mail, transmit or otherwise make available any content that is unlawful, harmful, threatening, abusive, harassing, fraudulent, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;
- 5) alter headers or otherwise manipulate identifiers in order to disguise the origin of any content transmitted hereunder;
- 6) upload, post, e-mail, transmit or otherwise make available any content that Customer does not have a right to make available under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
- 7) upload, post, e-mail, transmit or otherwise make available any content that infringes any patent, trademark, trade secret, copyright or other proprietary rights of any party;
- 8) upload, post, e-mail, transmit or otherwise make available any unsolicited or unauthorized advertising, promotional materials, "junk mail," or "spam";
- 9) upload, post, e-mail, transmit or otherwise make available any material that contains software viruses, or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;
- 10) intentionally or unintentionally violate any applicable local, state, national or international law;
- 11) interfere with security-related features of the RALS Service or equipment provided by ARDx Informatics, including, without limitation, by disabling or circumventing features that prevent or limit use or copying of any content;
- 12) use or access the RALS System or equipment provided by ARDx Informatics (i) from a jurisdiction where such use or access is not authorized, (ii) for any illegal purpose, or (iii) in violation of any local, state, national, or international law;
- 13) collect or store data about other users without their consent or as otherwise permitted by applicable law or in connection with the prohibited conduct and activities set forth in paragraphs (1) through (14) above; and
- 14) export or re-export the RALS System without the appropriate United States or foreign government license.

Customer is responsible for all activities that occur from the use of the RALS System, user accounts and equipment provided by ARDx Informatics to Customer, including, without limitation, the activities of Authorized Users, regardless of whether the activities are authorized by Customer.

## 7. Term and Termination

a. Term. This Agreement shall take effect upon the Effective Date and shall remain in effect for five (5) years, unless sooner terminated as provided for under this Agreement (the "Term").

b. Termination by ARDx Informatics. ARDx Informatics has the right to terminate this Agreement and/or any Device Module License Agreement under this Agreement, in whole or in part, upon the occurrence of any of the following events of default ("Default") by Customer: (i) Customer's failure to assume direct payment obligations in the event such obligations arise; (ii) Customer's failure to pay any fee or charge to ARDx Informatics within thirty (30) days after the due date; (iii) the breach by Customer of any of the term or condition of this Agreement; (iv) if Customer becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors; and (v) if Customer is subject to a change in control in favor of a direct competitor of ARDx Informatics or its Affiliates.

c. **Termination by Customer:** Customer has the right to terminate this Agreement and/or and Device Module License Agreement under this Master Agreement in whole or in part, upon occurrence of any of the following events of default ("Default") by ARDx Informatics: (i) ARDx Informatics breach of any of the terms or conditions of this Agreement, or (ii) if ARDx Informatics becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. . This Agreement may be terminated by Customer upon thirty (30) days' prior written notice if Customer does not receive funds sufficient to continue payments set forth in this Agreement. In the event of termination due to a lack of appropriations, Customer will pay ARDx for all due and past due fees and expenses related to the software and/or services incurred prior to the acceptance of termination.

d. **Opportunity for Cure.** ARDx Informatics may terminate this Agreement upon the occurrence of a Default only when: (i) such Default remains uncured more than thirty (30) days after ARDx Informatics provides Customer with written notice of such Default, or (ii) if such Default is of a nature as not to be curable within a thirty (30) day period, as solely determined by ARDx Informatics.

e. **Effect of Termination.** Upon termination of this Agreement for any reason, all rights granted to Customer under this Agreement shall automatically terminate. Upon termination of a Device Module License Agreement for any reason, all rights granted to Customer under such Device Module License Agreement shall automatically terminate, however, the Master Agreement and other Device Module License Agreement shall continue to be in force for the term. In the event of termination of this Agreement or any Device Module License Agreement, Customer shall pay ARDx Informatics for all Fees incurred under this Agreement or any Device Module License Agreement up to the date of termination. In addition, upon termination of this Agreement or an applicable Device Module License Agreement, Customer shall promptly return any hardware leased to Customer by ARDx Informatics.

## 8. Payments

Customer shall pay ARDx Informatics the fees and other charges set forth in the Device Module License Agreement ("**Fees**") within sixty (60) days of the invoice date. ARDx Informatics may withhold delivery of the RALS System to Customer until full payment of Fees is made to ARDx Informatics as specified in the applicable Device Module License Agreement. Invoices unpaid for greater than sixty (60) days, except those which are reasonably contested, will be charged one and a half percent (1.5%) per month, up to eighteen percent (18%) per annum, not to exceed the highest rate allowed by law. Licensee shall be responsible for all cost of collection of unpaid invoices, including ARDx Informatics' attorneys' fees. All Fees are non-cancellable and non-refundable.

## 9. Intellectual Property

Subject to the limited rights expressly granted hereunder, ARDx Informatics, and its Affiliates reserve all of their right, title and interest in and to the RALS System, the Documentation and the ARDx Data, including, without limitation, all of their related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

## 10. Defects

ARDx Informatics shall use commercially reasonable efforts to deliver the RALS System in substantial conformity with the Documentation. In the event that ARDx Informatics determines in its sole discretion that it is unable to remedy a non-conformity of the RALS System with the Documentation within a reasonable amount of time, as ARDx Informatics' sole liability and obligation and Customer's sole right and remedy, ARDx Informatics shall terminate the Device Module License Agreement that is the subject of the non-conformity and issue a refund to Customer of all pre-paid, unused Fees paid under the Device Module License Agreement that are attributable to the non-conforming portion of the RALS System.

## 11. Compliance with Law

Each Party shall comply with all Laws applicable to the operation of its business. ARDX INFORMATICS ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY VIOLATION OF LAW ARISING FROM OR RELATING TO CUSTOMER'S USE OF THE RALS SYSTEM.

## 12. Warranties and Disclaimers

a. **General.**- Intentionally deleted.

b. **Notice of Defects or Security Incident.** Customer shall promptly report to ARDx Informatics any significant defects, problems, or non-conformance with the RALS System observed by Customer. Customer shall immediately report to ARDx Informatics any confirmed security incident involving the RALS System (including loss or compromise of log-in credentials) that Customer becomes aware of, and Customer will fully cooperate with ARDx Informatics, law enforcement and/or other applicable regulatory body in addressing the incident. If there is a violation of any of the security requirements under this Agreement by Customer or its users, that violation may be considered a breach of this Agreement, and ARDx Informatics shall have the immediate right to terminate Customer's access to the RALS System.

c. Disclaimers. EXCEPT FOR ANY WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, ARDX INFORMATICS PROVIDES THE RALS SYSTEM AND DOCUMENTATION "AS IS," WITH NO OTHER EXPRESS OR IMPLIED WARRANTY OF ANY KIND. ARDX INFORMATICS SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES UNDER THIS AGREEMENT TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF NON-INFRINGEMENT, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE OR FITNESS FOR ANY PARTICULAR PURPOSE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ARDX INFORMATICS, ITS AGENTS OR EMPLOYEES SHALL CREATE A WARRANTY.

ARDX INFORMATICS IS NOT ENGAGED IN RENDERING MEDICAL, CLINICAL OR OTHER PROFESSIONAL SERVICES OR ADVICE. IF MEDICAL OR OTHER EXPERT ASSISTANCE IS REQUIRED, THE SERVICES OF A COMPETENT PROFESSIONAL SHOULD BE SOUGHT. NO WARRANTIES ARE MADE REGARDING THE RESULTS OBTAINED FROM THE RALS SYSTEM, THAT ALL ERRORS IN THE RALS SYSTEM WILL BE CORRECTED, THAT THE RALS SYSTEM WILL BE UNINTERRUPTED, OR THAT THE FUNCTIONALITY OF THE RALS SYSTEM WILL BE SECURE, MEET CUSTOMER'S REQUIREMENTS OR ACHIEVE AN INTENDED OUTCOME. CUSTOMER IS SOLELY RESPONSIBLE FOR DECISIONS MADE AND ACTIONS TAKEN BASED ON ITS USE OF THE RALS SYSTEM. ARDX INFORMATICS ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY LOSS, DAMAGE OR INJURY TO AN INDIVIDUAL ARISING FROM CUSTOMER'S USE OF THE RALS SYSTEM. ARDX INFORMATICS SHALL NOT BE LIABLE FOR ANY LOSS OR CORRUPTION OF CUSTOMER'S DATA CAUSED BY USE OF OR ACCESS TO THE RALS SYSTEM.

### 13. Limitations and Exclusion of Certain Damages

a. Exclusions. NEITHER PARTY NOR ITS AFFILIATES, LICENSORS, OFFICERS, AGENTS, EMPLOYEES OR REPRESENTATIVES SHALL BE LIABLE TO THE OTHER PARTY FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OR PENALTIES (INCLUDING DAMAGES FOR LOST PROFITS, LOST BUSINESS, LOST DATA, LOSS OF USE, BUSINESS INTERRUPTION, AND THE LIKE), HOWEVER IT ARISES, WHETHER FOR BREACH OF CONTRACT OR IN TORT, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

b. Limitation of Liability. CUSTOMER AGREES THAT ARDX INFORMATICS' AGGREGATE AND TOTAL LIABILITY IN CONNECTION WITH THE RALS SYSTEM AND THIS AGREEMENT, WHETHER ARISING IN CONTRACT, STRICT LIABILITY IN TORT, WARRANTY, SHALL NOT EXCEED THE TOTAL AMOUNTS PAID OR PAYABLE BY CUSTOMER TO ARDX INFORMATICS UNDER THIS AGREEMENT. THE FOREGOING LIMITATION ON LIABILITY SHALL APPLY IN THE AGGREGATE TO ALL CLAIMS MADE BY CUSTOMER UNDER THIS AGREEMENT AND NOT ON A PER CLAIM BASIS. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, THE LIMITATION OF LIABILITY SHALL NOT APPLY TO LOSSES, DAMAGES, OR CAUSES OF ACTION RELATED TO: (1) ARDX INFORMATICS' OBLIGATION TO INDEMNIFY CUSTOMER AS PROVIDED FOR IN PROVISION 17; (2) BREACH OF CONFIDENTIALITY, INCLUDING ANY IMPROPER USE OR DISCLOSURE OF CUSTOMER'S PATIENT HEALTH INFORMATION BY ARDX INFORMATICS OR AN AGENT OR EMPLOYEE OF ARDX INFORMATICS; (3) VIOLATION OF LAW BY ARDX INFORMATICS OR AN AGENT OR EMPLOYEE OF ARDX INFORMATICS; OR (4) GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY ARDX INFORMATICS OR AN AGENT OR EMPLOYEE OF ARDX INFORMATICS.

c. ARDx Informatics Not Insurer. ARDX INFORMATICS IS NOT AN INSURER WITH REGARD TO ITS PERFORMANCE OR THE PERFORMANCE OF ANY ASPECT OF THE RALS SYSTEM. THE LIMITATION OF WARRANTIES, LIABILITIES AND REMEDIES IN THIS AGREEMENT ARE A REFLECTION OF THE RISKS ASSUMED BY CUSTOMER TO OBTAIN ACCESS TO THE RALS SYSTEM AT THE SPECIFIED FEE.

### 14. Maintenance and Support Services

a. Scope of Maintenance and Support Services. During the Term, ARDx Informatics will provide the maintenance and support services set forth in the Device Module License Agreement.

- (i) Corrections of substantial defects in RALS and/or Device Module(s) so that RALS and/or Software Module(s) will operate in accordance with ARDx Informatics's Documentation;
- (ii) Periodic updates to RALS and/or Software Module(s);
- (iii) Telephone support twenty-four (24) hours per day, seven (7) days per week, to assist Customer in using RALS/Software Module(s) and troubleshooting issues;
- (iv) Remote system support to permit training, diagnostic troubleshooting and delivery of periodic updates; provided, however that such remote support can only be provided if Customer retains a technical method of remote access that is fully supported by ARDx Informatics (i.e. site-to-site VPN with the ability to use a remote

console access such as Remote Desktop). Qualification of remote access and support technology options shall be determined by current ARDx Informatics standard support practices and are subject to change.

- (v) Support of all ARDx Informatics-supplied components, including repair, replacement, or exchange of components that are not functioning properly. For those customers with the System Support Plus Server Model, and only those customers, hardware supplied by ARDx Informatics shall be supported and the standard service provided includes next business day response, and overnight shipment of needed repair and/or replacement parts. Enhanced hardware support options are available, if applicable. All other ARDx Informatics-supplied hardware components will be repaired, replaced, or exchanged with shipment to Customer within an estimated one (1) business day of ARDx Informatics receiving the returned defective component.

**b. Services Not Included.** Maintenance and support services do not include:

- i. Any changes to the configuration post acceptance and delivery, following acceptance of the RALS System by Customer that would cause additional work by ARDx Informatics to re-configure and/or re-test the RALS System to meet the proposed changes to the configuration.
- ii. Work performed by ARDx Informatics, following acceptance of RALS by Customer, to accommodate: (1) changes or modifications to Customer's systems which affects its operation or interaction with the RALS System; (2) changes to Customer's computer or network systems that affects the RALS System's performance; (3) interference between Customer-implemented third-party software and RALS; (4) Customer-specified or requested additions or changes to ARDx Informatics' internal network infrastructure, security standards, or software made to permit remote support to Customer; (5) support and maintenance, including without limitation for training, diagnostic troubleshooting and the provision of periodic updates, when no fully supported and mutually agreeable technical method of secure remote access is available.
- iii. Customer-initiated enhancements to RALS System. For the sake of clarity, this exception includes but is not limited to: configuration and testing, additional on-site support and/or training and maintenance and support of Customer-supplied hardware, third-party software and associated software components.
- iv. The repair, correction, or replacement of the RALS System or any part thereof when such repair, correction or replacement is due, directly or indirectly, to: (a) Customer's failure to follow operation or maintenance instructions as set forth in the Documentation; (b) the use of media, supplies, or consumable supplies which are not compatible with RALS; (c) the repair, maintenance, modification or alteration of the RALS System without ARDx Informatics' written authorization; (d) hardware or software not supplied or authorized by ARDx Informatics; (e) the abusive or negligent acts or omissions of Customer; (f) power failure, surges or electrical damage, lightning, fire or water damage, accident or disruptive events; (g) air conditioning failure, humidity control failure, or a corrosive atmosphere harmful to electronic circuitry; (h) damage during transportation by Customer; (i) failure of Customer to maintain any site specifications specified by ARDx Informatics; (j) changes in Customer's operation standards that would require ARDx Informatics to modify its standard configurations or procedures, or (k) other causes clearly external to RALS and clearly not attributable to ARDx Informatics, including but not limited to any acts of nature.
- v. Work performed on any data backup systems, hardware, software or processes for the storage and retrieval of data to/from systems or devices other than the RALS System.

**15. Updates and Resolving Non-Conformance**

a. RALS Updates. From time to time, at ARDx Informatics' sole discretion, ARDx Informatics may make available to Customer periodic updates to the RALS System at no additional fee. ARDx Informatics reserves the right to introduce new RALS features, upgrades or next generation technology that Customer may license from ARDx Informatics upon payment of an additional fee. Additionally, if the RALS System licensed hereunder cease to substantially conform to the Documentation, ARDx Informatics shall make reasonable efforts to resolve the non-conformance; provided, however, that ARDx Informatics is not required to resolve the non-conformance, free of charge, if the non-conformance is a direct or indirect consequence of Customer's actions. Customer acknowledges that any upgrades to the Device Modules will be subject to availability applicable interface code and licenses as provided by the manufacturers or licenses of the applicable devices. Accordingly, ARDx Informatics does not warrant or represent that ARDx Informatics will provide continued support to Device Modules.

b. Customer Upgrades. Customer agrees that the implementation of RALS System updates and upgrades may require upgrades to Customer's hardware or software. In such cases, the cost of any such required upgrades shall be the sole responsibility of Customer.



c. On-Site Support Following RALS Updates. If on-site support is required for configuration of upgrades, Customer will be responsible for all costs associated with additional on-site support and/or training, including charges for (i) ARDX Informatics' personnel, (ii) charges for travel, lodging and miscellaneous expenses (if applicable), and (iii) taxes.

d. RALS Version. Notwithstanding license granted under this Agreement, (a) any version of the RALS System that is two (2) years or older is considered a "Retired Version" of the RALS System and Customer will be required to upgrade to the most recent version to fix any non-conformance and continued use of the functionalities, and (b) ARDX Informatics shall not be responsible for the performance of or servicing of a Retired Version of the RALS System.

## 16. Additional On-Site Support and Training

ARDX Informatics, upon receipt of a written request from Customer, may provide Customer with additional on-site support and/or training at a mutually agreed time and location. Customer agrees to pay ARDX Informatics all costs associated with additional on-site support and/or training, including charges for (i) ARDX Informatics' personnel, (ii) charges for travel, lodging and miscellaneous expenses (if applicable), and (iii) taxes.

## 17. Indemnity and Insurance

a. Indemnification Obligations. Intentionally omitted.

ARDX INFORMATICS, AT ITS OWN EXPENSE, WILL DEFEND ANY ACTION BROUGHT AGAINST CUSTOMER TO THE EXTENT THAT IT IS BASED ON A CLAIM THAT RALS AND/OR SOFTWARE MODULE(S) INFRINGES ANY PATENTS, COPYRIGHTS, LICENSE OR OTHER PROPERTY RIGHTS, PROVIDED THAT ARDX IS IMMEDIATELY NOTIFIED IN WRITING OF SUCH CLAIM. ARDX INFORMATICS SHALL HAVE THE RIGHT TO CONTROL THE DEFENSE OF ALL SUCH CLAIMS, LAWSUITS AND OTHER PROCEEDINGS. IN NO EVENT SHALL CUSTOMER SETTLE ANY SUCH CLAIM, LAWSUIT OR PROCEEDING WITHOUT ARDX INFORMATICS' PRIOR, WRITTEN APPROVAL, PROVIDED THAT ARDX INFORMATICS UNDERTAKES ITS DEFENSE OBLIGATIONS.

b. Indemnification Procedures. Intentionally omitted..

c. ARDX Informatics agrees to provide insurance set forth in accordance with the requirements herein. If ARDX Informatics uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, ARDX Informatics agrees to amend, supplement or endorse the existing coverage to do so.

d. Without in anyway affecting the indemnity herein provided and in addition thereto, ARDX Informatics shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

- i. Workers' Compensation/Employer's Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of ARDX Informatics and all risks to such persons under this contract. If ARDX Informatics has no employees, it may certify or warrant to Customer that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by Customer's Director of Risk Management. With respect to contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.
- ii. Commercial/General Liability Insurance – ARDX Informatics shall carry General Liability Insurance covering all operations performed by or on behalf of ARDX Informatics providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include: (a) premises operations and mobile equipment; (b) products and completed operations; (c) broad form property damage (including completed operations); (d) Explosion, collapse and underground hazards; (e) personal injury; (f) Contractual liability; (g) \$2,000,000 general aggregate limit.
- iii. Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence. If ARDX Informatics is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence. If ARDX Informatics owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.
- iv. Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a "dropdown" provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

- v. **Professional Liability** –Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim and two million (\$2,000,000) aggregate limits; or **Errors and Omissions Liability Insurance** – Errors and Omissions Liability Insurance with limits of not less than one million (\$1,000,000) and two million (\$2,000,000) aggregate limits.
- vi. **Cyber Liability Insurance** - Cyber Liability Insurance with limits of no less than \$1,000,000 for each occurrence or event with an annual aggregate of \$2,000,000 covering privacy violations, information theft, damage to or destruction of electronic information, intentional and/or unintentional release of private information, alteration of electronic information, extortion and network security. The policy shall cover breach response cost as well as regulatory fines and penalties.

e. If insurance coverage is provided on a "claims made" policy, the "retroactive date" shall be shown and must be before the date of the start of the Agreement work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after Agreement completion.

f. **Additional Insured.** All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability and Cyber Liability policies shall contain additional endorsements including Customer and its officers, employees, agents and volunteers as additional insureds on a primary and non-contributing basis with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for Customer to vicarious liability but shall be at least as broad as Additional Insured endorsement form ISO, CG 2010.11 85.

g. **Waiver of Subrogation Rights.** ARDX Informatics shall require the carriers of required coverages to waive all rights of subrogation against Customer, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit ARDX Informatics and ARDX Informatics' employees or agents from waiving the right of subrogation prior to a loss or claim.

h. **Severability of Interests.** ARDX Informatics agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between ARDX Informatics and Customer or between Customer and any other insured or additional insured under the policy.

i. **Proof of Coverage.** ARDX Informatics shall furnish Certificates of Insurance to Customer Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder and ARDX Informatics shall maintain such insurance from the time ARDX Informatics commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, ARDX Informatics shall furnish a certificate of insurance and will provide complete copies of the required endorsements immediately upon request.

j. **Acceptability of Insurance Carrier.** Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

k. **Deductibles and Self-Insured Retention.** Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

l. **Failure to Procure Coverage.** In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, Customer has the right but not the obligation or duty, after providing ten (10) days advance written notice of the specific non-compliance with this paragraph and Customer is not able to comply within such notice period, to cancel the contract or obtain insurance if it deems necessary and any premiums paid by Customer will be promptly reimbursed by ARDX Informatics or Customer payments to ARDX Informatics will be reduced to pay for Customer purchased insurance.

m. **Insurance Review.** Insurance requirements are subject to periodic review by Customer. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of Customer. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against Customer, inflation, or any other item reasonably related to Customer's risk. Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Any failure, actual or alleged, on the part of Customer to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of Customer.

## 18. Confidentiality

a. **Definition of Confidential Information.** In the course of their relationship, the Parties acknowledge that a Party (the "**Disclosing Party**") may provide its Confidential Information to the other Party (the "**Receiving Party**"). "**Confidential Information**" means all nonpublic information, whether disclosed by a party or its Affiliates or their respective employees or contractors, or should reasonably be understood to be confidential given the nature of the information and circumstances of disclosure or is designated in writing 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 7920.005). Confidential Information includes: all data, information, procedures, and know how relating to ARDx Informatics; products, services, and business operations, technical documentation and specifications as may be embodied, without limitation, in specifications, design sheets, engineering data, software, object codes, procedure codes, file layouts, flow charts, source listings, ideas, concepts, systems, designs, programs, structures, logic flows, file contents and algorithms, manuals, and supporting documentation. Without limiting the generality of the foregoing, ARDx Informatics' Confidential Information shall include the RALS System, the ARDx Data, the Documentation and all information relating thereto. The "Confidential Information" of Customer is limited to all information labeled in writing by Customer as Customer's Confidential Information and all information that ARDx Informatics accesses as a result of its implementation or support of the RALS System, excluding the ARDx Data.

b. **Safeguards.** During the Term and after expiration or termination of this Agreement, each Party agrees to safeguard the other's Confidential Information against unauthorized use or disclosure with measures at least as stringent as those it employs to safeguard its own most proprietary and confidential information, and in no event with less than reasonable means. Each Party acknowledges that the other Party's Confidential Information constitutes such Party's valuable proprietary information and trade secrets. Each Party expressly agrees that it is entering into this Agreement and providing the other Party copies of its Confidential Information hereunder, in reliance upon the other Party's foregoing promise of confidentiality as provided for herein.

c. **Nondisclosure.** Neither Party shall use, disclose, make or have made any copies of the other Party's Confidential Information in whole or in part, except as necessary to perform its obligations under this Agreement, without the prior express written authorization of the other Party. A Party may disclose the other Party's Confidential Information, including necessary copies thereof, to those of its employees, contractors, representatives, or agents only to the extent necessary for that Party to perform its duties and authorized activities under this Agreement.

d. **Compelled Disclosure.** 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.

e. **Exceptions.** Confidential Information does not include: (a) information already known to the Receiving Party prior to disclosure by the Disclosing Party; (b) information that is or becomes generally known to the public, other than as a result of misappropriation or breach of confidentiality; (c) information that is learned from a third party holding the same lawfully and not under an obligation of confidentiality; (d) information that is independently developed, without any direct or indirect reliance, reference to or benefit from the Disclosing Party's Confidential Information; and (e) information that is required by valid subpoena or other applicable law to be disclosed, but only to the extent of such requirement and only in the event where possible, the Disclosing Party has complied with Section 18.d.

## 19. Taxes

Customer represents that it is an entity exempt from taxation. To the extent Customer may be required to pay any taxes hereunder, Customer shall, in addition to the other amounts payable under this Agreement, pay all applicable sales and other applicable taxes, federal, state, or otherwise, however designated, which are levied or imposed by reason of the transactions contemplated by this Agreement. Without limiting the foregoing, Customer shall promptly pay to ARDx Informatics an amount equal to any such taxes actually paid, or required to be collected or paid by ARDx Informatics in connection with this Agreement.

## 20. ALTERNATIVE DISPUTE RESOLUTIONI. Intentionally omitted.

## 21. Miscellaneous

a. **Notices.** All notices under this Agreement shall be in writing and shall be deemed given when delivered personally, by overnight delivery upon written verification of receipt, by facsimile transmission upon electronic acknowledgment of delivery or receipt, or by certified or registered mail, return receipt requested, upon verification of receipt. Notices shall be sent to the applicable address/facsimile number provided hereunder:

**If to ARDx Informatics:**

**Abbott Rapid Diagnostics Informatics, Inc.**  
2000 Holiday Drive  
Charlottesville, VA 22901 USA  
Attn: VP Sales & Operations  
Telephone: (434) 971-7953

and

**Abbott Rapid Diagnostics Legal**  
100 Abbott Park Road  
Attn: DVP & Assoc. General Counsel, ARDx Legal  
Abbott Park, IL 60064, USA

**If to Customer:**

San Bernardino County on behalf of Arrowhead Regional Medical Center  
400 N. Pepper Avenue  
Colton, CA 92324  
Attn : Hospital Director

- b. **Assignment.** Neither party may assign this Agreement or any Device Module License Agreements without the prior, written permission of the other party.
- c. **Succession and Assignment.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns.
- d. **Waiver.** The delay or failure of either Party to enforce at any time any of the provisions hereof shall not be a waiver of such provisions, or any other provision, or of the right of such Party thereafter to enforce any provision hereof.
- e. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be unenforceable, invalid or illegal, it shall be severed, and the remainder of the Agreement shall remain in full force and effect.
- f. **Governing Law: Venue.** The rights and obligations of the parties under this Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is hereby expressly excluded. This Agreement is to be construed in accordance with the substantive law of the State of California, without regard to conflict of laws principles. Venue as to any action arising out of the subject matter hereof shall be exclusively in the Superior Court of California, San Bernardino County, San Bernardino District. If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Indemnity and Insurance.
- g. **U.S. Government Restricted Rights.** RALS is provided with RESTRICTED AND LIMITED RIGHTS. Use, duplication, or disclosure by the Government is subject to restrictions as set forth in sub-paragraph (c)(1)(ii) of the Rights in Technical Data and Computer RALS clause at DFARS 52.227-7013 or sub-paragraph (c)(1) and (2) of the Commercial Computer RALS-Restricted Rights clause at 48 CFR 52.227-19, as applicable. Contractor/Manufacturer is ARDx Informatics, 2000 Holiday Dr., Charlottesville, Virginia 22901 USA.
- h. **Entire Agreement, Order of Precedence and Modifications or Amendments.** As of the Effective Date of this Agreement, any existing License Agreements currently entered into under the RALS Software System and License and Support Master Agreement dated June 21, 2018 ("Existing License Agreements") shall be governed by the terms and conditions of this Agreement for the duration of such Existing License Agreements. This Agreement, including its attached Exhibits and any Existing License Agreements, constitutes the entire Agreement of the parties with respect to the subject matter hereof, and supersedes any and all prior agreements and understandings of the parties, whether written or oral, with respect to the subject matter. In the event of a conflict between any provision set forth in this Agreement and a provision of any Exhibit, the relevant portion of this Agreement shall govern. Any pre-printed or other standard terms set forth on any Customer order, acknowledgment or other form shall be deemed void and of no force or effect, irrespective of whether such form is countersigned by a representative of Customer. Subject to the foregoing, any modification, extension or amendment to this Agreement or to an Exhibit must be in writing and signed by a duly authorized representative of each of the parties.
- i. **Force Majeure.** Neither Party shall be liable for damages for any delay or failure of delivery arising out of causes beyond their reasonable control and without their fault or negligence, including, but not limited to, Acts of God, criminal acts, intentional acts by a non-Party acts of civil or military authority, fires, riots, wars, or embargoes.
- j. **Relationship between Parties.** In performing any or all of the services under this Agreement, ARDx Informatics, its employees and contractors, shall at all times and for all purposes be and remain an independent contractor of Customer.
- k. **No Third-Party Beneficiaries.** There are no third-party beneficiaries under this Agreement.
- l. **No Publicity/Trademarks.** Nothing in this Agreement grants either Party any rights in the trademarks, trade names or service marks of the other Party. Neither Party shall make any use of the trademarks, trade names or service marks of the other Party without such other Party's prior express written consent. Neither Party shall issue any press release or make any other public disclosure relating to this Agreement or the performance of services hereunder without such other Party's prior express written consent.

m. Headings. This Agreement contains headings only for convenience and the headings do not constitute or form any part of this Agreement and should not be used in the construction of this Agreement.

n. Counterparts. This Agreement may be executed electronically, in two (2) or more counterparts, each one of which shall be deemed an original, but all of which shall constitute one and the same instrument.. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail 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.

o. Survival. All provisions protective of ARDx Informatics' intellectual property and either party's Confidential Information shall survive termination or expiration of this Agreement as well as the limitations on liability and indemnification obligations set forth herein. In addition, all payment obligations of Customer shall survive termination or expiration of this Agreement.

p. Recitals. The recitals at the beginning of this Agreement are hereby incorporated into this Agreement by reference for all purposes.

q. Disclosure. Any discounts, rebates or other price reductions (collectively referred to herein as "discounts") issued by ARDx Informatics to Customer constitute a discount under applicable law (42 U.S.C. Section 1320a-7b(3)(A)). Upon Customer's written request, ARDx Informatics shall provide detail pertaining to such discounts and the allocation of total net purchase dollars for products, equipment, services, and miscellaneous purchases, as applicable. Customer may have an obligation to report such discounts to any State or Federal program that provides reimbursement to Customer for the items to which the discount applies, and, if so, Customer must fully and accurately report such discounts. Further, Customer should retain invoices and other price documentation and make them available to Federal or State officials upon request.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by duly authorized representatives effective as of the Effective Date.

**Abbott Rapid Diagnostics Informatics. Inc.**

**CUSTOMER: San Bernardino County on behalf of Arrowhead Regional Medical Center**

DocuSigned by:  
Jessica Bishop  
Signature: D58B9CD7D5A2402  
Name: Jessica Bishop  
Title: Senior Financial Analyst  
Date: 7/24/2023

Dawn Rowe  
Signature: \_\_\_\_\_  
Name: Dawn Rowe  
Title: Chair, Board of Supervisors  
Date: SEP 12 2023

DocuSigned by:  
Michael Kulpa  
Signature: 975CC95AA962476  
Name: Michael Kulpa  
Title: National Sales Director  
Date: 7/24/2023

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD, LYNN MONELL, Clerk of the Board of Supervisors of the County of San Bernardino

By \_\_\_\_\_  
Deputy  


## **Exhibit A**

### **Remote Automated Laboratory System Software System**

RALS™ SYSTEM is a data management system for use with data from point-of-care (POC) devices. The system accepts information from the POC devices and delivers it to a client/server application via the hospital's network for laboratory personnel (e.g., lab manager, point of care coordinator, medical technologist) review. Here, the laboratory personnel can track data coming from multiple devices, ensure that quality control specimens have been run, detect duplicate analyses and perform other data management functions. The product is not intended for the diagnosis, screening, monitoring or treatment of patients. Further, ARDx Informatics, Inc. is not engaged in rendering medical, clinical or other professional services. If medical or other expert assistance is required, the services of a competent professional person should be sought.

### Sample Exhibit B-1 Device Module License Agreement

This Device Module License Agreement ("License Agreement") incorporates, by reference, the applicable terms and conditions in the RALS Software System License and Support Master Agreement ("Master Agreement") dated \_\_\_\_\_, 2022, between Abbott Rapid Diagnostics Informatics, Inc. ("ARDx Informatics"), and (customer name) (Customer).

ARDx Informatics Quote Number:

Licensed Device Module:

Term:

**Term Extension:** This License Agreement is effective as of the date of execution of this Exhibit by Customer. Following the License Agreement Term.

Notwithstanding the foregoing, any additional meters to the existing Licensed Device Module referenced above ("Additional Meters") shall be deemed incorporated into this exhibit until the License Agreement Term End Date. For the sake of clarity, Customer acknowledges and agrees that it shall pay ARDx Informatics for any costs associated with the Additional Meters.

**TOTAL Price:** \$  
(Breakdown Below)

Description	Cost
License Total	\$
Implementation Fee	\$

**Payment Schedule:**

**Authorized Site(s):**

**IN WITNESS WHEREOF**, the parties have caused this License Agreement to be executed by duly authorized representatives effective as of the License Agreement Term Effective Date.

**Abbott Rapid Diagnostics Informatics, Inc.**

**Customer:**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name:  
Title:

**Effective Date:** \_\_\_\_\_

### Exhibit C Service Bundle License Agreement

This Service Bundle License Agreement ("SBLA") incorporates, by reference, the applicable terms and conditions in the RALS Software System and Support Master Agreement ("Master Agreement") dated \_\_\_\_\_, 2022, between Abbott Rapid Diagnostics Informatics, Inc. ("ARDx Informatics"), and \_\_\_\_\_ ("Customer").

License Agreement Term: \_\_\_ Years. License Agreement will commence on Effective Date below.

Total Price: \$ \_\_\_\_\_

Payment Schedule: \_\_\_\_\_

Authorized Site(s): \_\_\_\_\_

**SBLA TERMS AND CONDITIONS:**

- A. **CONFLICT.** If there is a conflict between the terms of this SBLA and the Master Agreement, the terms of this SBLA shall prevail. To the extent applicable, this SBLA replaces the Service Level Agreement.
- B. **SUPPORT AND MAINTENANCE.** ARDx Informatics agrees to perform the following support and maintenance functions for the duration of the Term of this SBLA:

ARDx Informatics Quote Number	RCS Server #	Opportunity #	Contract #	License Service	QTY

- C. **DISCLOSURE.** Any discounts, rebates or other price reductions (collectively referred to herein as "discounts") issued by ARDx Informatics to Customer constitute a discount under applicable law (42 U.S.C. Section 1320a-7b(3)(A)). Upon Customer's written request, ARDx Informatics shall provide detail pertaining to such discounts and the allocation of total net purchase dollars for Products, equipment, services, and miscellaneous purchases, as applicable. Customer may have an obligation to report such discounts to any State or Federal program that provides reimbursement to Customer for the items to which the discount applies, and, if so, Customer must fully and accurately report such discounts. Further, Customer should retain invoices and other price documentation and make them available to Federal or State officials upon request.

**IN WITNESS WHEREOF**, the parties have caused this SBLA to be executed by duly authorized representatives effective as of the Effective Date.

**Abbott Rapid Diagnostics Informatics, Inc.**

**Customer:**

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Print: \_\_\_\_\_  
Title: \_\_\_\_\_

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