THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY

SAN BERNARDINO COUNTY

Contract Number 21-303

SAP Number

County Administrative Office

Department Contract Representative	Stephenie Shea
Telephone Number	387-4919
Contractor	Salesforce
Contractor Representative	
Telephone Number	
Contract Term	Effective upon date of last execution until terminated by either party.
Original Contract Amount	N/A-Non-Financial
Amendment Amount	
Total Contract Amount	
Cost Center	

Briefly describe the general nature of the contract:
Approve a non-financial Government Cloud Compliance Information Non-Disclosure Agreement (Government Cloud NDA) with Salesforce.com, Inc. to facilitate the County's assessment of Salesforce's information security and privacy controls and establish appropriate cyber security incident response management protocols under the exemptions provided by CA Gov. Code §6254.19 as it relates to the Board of Supervisors Customer Relationship Management system, effective upon the date of last execution until terminated by either party. The Board of Supervisors approved a Mutual NDA agreement with Salesforce on March 23, 2021 (Item No. 4) which was required before the Government Cloud NDA was released to the County.

FOR COUNTY USE ONLY

Approved as to Legal Form	Reviewed for Contract Compliance	Reviewed/Approved by Department
► Michelle Blakemore, County Counsel	►	►
Date 4-28-2021	Date	Date

GOVERNMENT CLOUD COMPLIANCE INFORMATION NON-DISCLOSURE AGREEMENT

Other Party's Full Legal Name	County of San Bernardino
Other Party's Address	385 North Arrowhead Avenue, Fifth Floor, San Bernardino, CA 92415-0110

This Confidentiality Agreement (**"Agreement"**) is entered into and effective as of the last date of execution below (the **"Effective Date"**) by and between **salesforce.com, inc.**, having its principal place of business at The Landmark @ One Market, Suite 300, San Francisco, California 94105 (**"SFDC"** or **"Discloser"**), and the party named above (**"Recipient"**).

Subject to the terms of this Agreement, SFDC wishes to disclose to the Recipient Confidential Information (as defined below) related to the following "**Business Purpose**": evaluation of SFDC Government Cloud compliance documentation and information.

1. Definition of Confidential Information. "**Confidential Information**" means all confidential information received by Recipient or any of its Affiliates, as defined below, from the Discloser or any of its Affiliates, whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure including but not limited to system inventories, system security plans, security assessment plans, security assessment reports, plans of action and milestones (**"POA&M"**) as well as any other documentation including or describing the security policies, security architecture and/or security controls implemented by the SFDC Government Cloud. **"Affiliate"** means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. **"Control"** (as used in the preceding sentence) means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

Confidential Information does not include information that: (i) is at the time of disclosure, or later becomes, generally known to the public through no fault of Recipient; (ii) is or becomes available to Recipient on a non-confidential basis and is verifiably from a source which, to the knowledge of Recipient, is entitled to disclose it to Recipient; or (iii) is at any time verifiably developed independently by Recipient. If, regarding information under (ii), Recipient becomes aware at any time that the source was not entitled to disclose the information, then such information shall be deemed Confidential Information from that time forward.

2. Use Obligations. If Recipient is a government organization, to the extent Recipient must download any Confidential Information in order to view it, Recipient shall only do so on government furnished equipment and devices, and shall delete any copy (copies) immediately after viewing. Except as described in the previous sentence, Recipient shall not save, print, email, post, publish, or reproduce (including making copies) any Confidential Information in any form, including all electronic methods.

3. Non-Use and Nondisclosure Obligations. Recipient shall not, in any way, use or disclose any Confidential Information of Discloser except as necessary in connection with the Business Purpose or with Discloser's prior written consent. Recipient shall not reverse engineer, disassemble or decompile any software or tangible objects embodying any Confidential Information of Discloser. Recipient shall not disclose or otherwise make available any Confidential Information of Discloser to anyone except those of its employees, attorneys, agents and consultants who need to know the Confidential Information in connection with the Business Purpose and who have previously agreed to be bound by confidentiality obligations no less stringent than those in this Agreement. Recipient shall safeguard all Confidential Information of the Discloser with at least the same degree of care (but no less than reasonable care) as it uses to safeguard its own Confidential Information. Discloser shall not disclose any information to the Recipient in violation of any confidentiality obligations to, or proprietary rights of, any third party. Recipient's obligations under this Agreement with respect to any Confidential Information shall remain in effect (a) in the case of Confidential Information which constitutes a trade secret within the meaning of applicable law, for as long as such Confidential Information remains a trade secret, or (b) for Confidential Information that is not a trade secret, five (5) years from the date Recipient first received such Confidential Information hereunder.

4. Compelled Disclosure. If Recipient is compelled by law (including state open records laws) to disclose Confidential Information of the Discloser, it shall provide the Discloser with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at Discloser's cost, if the Discloser wishes to contest the disclosure. Recipient shall use commercially reasonable efforts to limit any such disclosure, to the extent required and to obtain confidentiality protections to the extent reasonably practicable.

5. Ownership of Confidential Information and Other Materials. As between Discloser and Recipient, Discloser shall be the sole and exclusive owner of all of its Confidential Information and any Derivatives (as defined below) thereof, whether created by Discloser, Recipient or any third party, and no license or other rights to the Confidential Information or Derivatives are granted or implied hereby. "**Derivatives**" means: (i) for copyrightable or copyrighted material, any translation, abridgment, revision or other form in which an existing work may be recast, transformed or adapted; (ii) for patentable or patented material, any improvement thereon or modification thereof; or (iii) for trade secret material, any new material derived from such trade secret material, including new material that may be

protected by copyright, patent and/or trade secret. All tangible materials furnished to Recipient by the Discloser shall remain the property of the Discloser and shall be returned to the Discloser promptly upon its reasonable request.

6. No Warranty. ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS" AND WITHOUT ANY WARRANTY, EXPRESS, IMPLIED OR OTHERWISE, REGARDING ITS ACCURACY, COMPLETENESS OR PERFORMANCE.

7. Term and Termination. The term of this Agreement shall commence on the Effective Date and continue until this Agreement is terminated as provided in this Section. Either party may terminate this Agreement upon five (5) days' written notice of such termination to the other party. Notwithstanding the foregoing, all rights of a Recipient to use or disclose Confidential Information of Discloser shall automatically terminate upon any merger, stock acquisition, or corporate reorganization of Recipient, or sale of all or substantially all of Recipient's assets, where the surviving or controlling entity after the transaction is a direct competitor of the Discloser. Upon any termination of this Agreement and at the Discloser's written request, Recipient shall return to Discloser or destroy (at the option of Discloser) all materials embodying Confidential Information of Discloser disclosed to Recipient pursuant to this Agreement and, at the Discloser's written request, Recipient shall provide written certification that all Confidential Information has been destroyed. Recipient's obligations under Section 2 shall survive any termination for the period described in that Section.

8. General Provisions.

8.1 Waiver and Cumulative Remedies. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

8.2 Severability. Should any provision of this Agreement be held by a court to be unenforceable, such provision shall be modified by the court and interpreted so as to best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in full force and effect.

8.3 Assignment. Recipient shall not assign or transfer, by operation of law or otherwise, any rights or obligations under this Agreement without the prior written consent of the Discloser, except in connection with a merger, acquisition, corporate reorganization or sale of all or substantially all of its assets, or public sector equivalent, not involving a direct competitor of the other Discloser.

8.4 Governing Law and Venue. This Agreement shall be governed exclusively by the internal laws of the State of California, without regard to its conflict of laws provisions. The state and federal courts located in San Francisco, California shall have exclusive jurisdiction to adjudicate any dispute relating to this Agreement. Each party consents to the jurisdiction of those courts.

8.5 Injunctive Relief. The parties acknowledge that a breach of any of the provisions contained in this Agreement may result in irreparable and continuing harm for which there will be no adequate remedy at law and that the non-breaching party shall be entitled to seek injunctive relief and/or a decree for specific performance, and such other relief as may be proper (including monetary damages if appropriate).

8.6 Export Control Laws. Each party shall comply with all United States and foreign export control laws or regulations applicable to its performance under this Agreement.

8.7 Entire Agreement and Construction. This Agreement constitutes the entire agreement between the parties as to its subject matter and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. This Agreement takes precedence over existing confidentiality agreements, if applicable, for this subject matter. No modification, amendment or waiver of any provision of this Agreement shall be effective unless in writing and signed by both parties. This Agreement does not supersede or amend any existing agreement between the parties for the purchase or use of either party's products or services.

8.8 Counterparts. This Agreement may be executed in counterparts which, taken together, shall form one legal instrument. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (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.

Acknowledged and Agreed:

SALESFORCE.COM, INC.		**COUNTY OF SAN BERNARDINO**	
By:		By:	
Print Name:	Phillip Carter	Print Name:	Curt Hagman
Title:	Senior Director, Legal	Title:	Chairman
Date:	29 April 2021	Date:	MAY 04 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 the County of San Bernardino

By _____ Deputy