**DATA INNOVATIONS LLC MAINTENANCE AND SUPPORT SERVICES AGREEMENT DOC ID 1651, V16.0**

THIS MAINTENANCE AND SUPPORT AGREEMENT IS A LEGAL AGREEMENT (the "**Agreement**") by and between the company ("**Customer"**) and Data Innovations LLC ("**Data Innovations"**), a Delaware limited liability company, 463 Mountain View Drive, Colchester, Vermont, 05446, USA for the provision of maintenance and support services ("**M&S**") for certain Data Innovations software (the "**Software**") licensed by Customer under the separate 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**"). All terms appearing in capital letters or initial capitals not defined herein shall have the meaning ascribed to such terms in the EULA.

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 M&S SERVICES WILL BE DEEMED CUSTOMER'S ACCEPTANCE OF THE TERMS AND CONDITIONS SET FORTH HEREIN.

M&S includes technical support to diagnose and address Software issues which result from a failure of the properly installed Software to perform in line with the specifications set forth in the applicable Documentation for the Software (a "**Software Error**"). Support does not include training of Customer's personnel, consulting or other available services. For additional services, Data Innovations will work with Customer to understand requirements and outline an offering to meet their specific needs. Services beyond those provided under Support are billable and will be contracted for separately.

1. M&S Term:

    1.1. *Instrument Manager™*: The term of **M&S** is for twelve (12) months. The start date and accrual of the fees for the initial twelve (12) month M&S term starts immediately upon the Effective Date. The start date and accrual of the fees for M&S for all Software licensed after the Effective Date shall be thirty (30) days from the date of shipment of the Software. Upon reasonable notice, Data Innovations reserves the right to modify the terms and conditions of M&S services provided; however, no such amendment for the modification of M&S shall become effective until completion of Customer's then-current M&S term.

    1.2. *EP Evaluator®:* EP Evaluator is licensed on a twelve (12) month subscription basis ("**EP Subscription**"). M&S is provided as part of the EP Subscription. The start date of the current EP Subscription term shall be deemed the effective date of the current M&S term. Upon reasonable notice, Data Innovations reserves the right to modify the terms and conditions of M&S provided; however, no such modification of M&S shall become effective until completion of Customer's then-current EP Subscription term.

2. M&S Fee:

    2.1. *Instrument Manager™*: The initial M&S fee for the Software is eighteen percent (18%) per year of the current list price of all the Software covered, or as otherwise stated in a signed quote. Covered Software includes all Software products outlined in Data Innovations' existing and future quotes and/or proposals, which are or may be executed through the submission of purchase orders by the Customer for Software licensed or sublicensed to the Customer. All Data Innovations Software installed on a single system must be covered. The initial M&S fee is due and payable 30 days from the effective date of the agreement.

    2.2. *EP Evaluator®:* M&S for the EP Evaluator Software are included as part of the annual EP Subscription Fee, at DI's the then current list price at the time of purchase.

3. M&S Renewal: Renewals are conducted as follows:

    3.1. *Instrument Manager™*:

        3.1.1. Unless terminated as provided herein, M&S may be renewed upon mutual written agreement on an annual basis and Data Innovations will provide Customer with notice of M&S renewal terms and fees ("**Renewal Notice**") at least ninety (90) days prior to the end of the then-current M&S term.

        3.1.2. Customer will have the option to discontinue its M&S by providing notification to Data Innovations at least thirty (30) days in advance. Customer must pay the M&S fees for the renewal term prior to the expiration date of the then-current M&S term.

        3.1.3. Data Innovations reserves the right to terminate Customer's M&S if renewal fees are not paid prior to the M&S term.

        3.1.4. Data Innovations may increase its charges for M&S fees for each successive annual M&S Term by providing no less than ninety (90) advance notice of such increase before the beginning of the M&S term for which the increase is to be in effect.

    3.2. *EP Evaluator®:* Customers will be notified in advance of an upcoming expiration of an EP Subscription and will be provide with a quote to renew the EP Subscription (including M&S) for an additional twelve (12) months. Customer must pay the EP Subscription Fees for the renewal term prior to the expiration date of the then-current EP Subscription term.

4. M&S Termination:

    4.1. *Instrument Manager™*:

        4.1.1. This Agreement may be terminated immediately upon written notice by either Party upon the material breach by the other Party of its obligations under this Agreement (including nonpayment

of any M&S fees), which breach has not been cured within thirty (30) days after the breaching Party has received written notice thereof.

    4.1.2. Termination of M&S by either Data Innovations or Customer does not terminate the license to the Software provided under the EULA.

5. Reinstatement of Lapsed M&S:

    5.1. *Instrument Manager™*: In the event Customer allows M&S to lapse, Data Innovations may allow Customer to reinstate M&S upon Customer's performance of both of the following conditions (a) Customer agrees to install the latest version of the Software immediately upon M&S reinstatement and (b) payment of up to two (2) times all M&S fees accruing between the date in which the prior M&S term expired and the effective date of reinstatement.

    5.2. *EP Evaluator®:* Not Applicable.

6. M&S Priority Levels: Upon request for M&S where the issues being experienced by the Customer are identified as a Software Error, Customer and Data Innovations will mutually agree on the severity level of the Software Error. Data Innovations will respond to problems with the Software according to the following schedule:

    6.1. Critical Priority: System or Production Connection Down: Critical Priority shall mean a Software Error that renders the Software inoperable and causes a significant, time-dependent stoppage of Customer's business operations.

    Critical Priority instances must be reported via telephone.

    Data Innovations will acknowledge Critical Priority instances within one (1) hour of the initial contact via telephone and commence working towards a resolution at that time.

    6.2. High Priority: Significant Business Impact: High Priority shall mean a Software Error that causes the Software to fail resulting in significant revenue or operational impact on Customer's business, although certain functions of Customer's business remain in operation.

    High Priority instances must be reported via telephone.

    Data Innovations will acknowledge High Priority instance within four (4) hours of the initial contact via telephone and commence working towards a resolution at that time.

    6.3. Medium Priority: Low Impact Failure: Medium Priority shall mean a Software Error causes a feature of the Software to fail resulting in a non-critical situation which allows the Customer's business to remain in operation. A Medium Priority incident may include issues only impacting a single user or issues where the business impact under a Critical Priority or High Priority is resolved, but there is ongoing research needed to determine the root cause of the failure.

    Medium Priority instances may be reported via telephone, email or through the MY DI, MY Community portal and/or Customer Web Portal (as specified in Section 7.1 below).

    Data Innovations will acknowledge Medium Priority instances within twenty-four (24) hours of the initial contact.

    6.4. Low Priority: Assistance: Low Priority shall mean Software Error opened when Customer has general Software questions or needs that do not impact day-to-day functionality.

    Low Priority instances may be reported via telephone, email or through the MY DI, MY Community portal and/or Customer Web Portal (as specified in Section 7.1 below).

    Data Innovations will acknowledge Low Priority instances within forty-eight (48) hours of the initial contact.

7. Obtaining Support: A Customer requesting that Data Innovations provide M&S for the Software shall contact Data Innovations during the times and in the manner set forth below. While this Agreement is Active ("**Active**" being defined as the Agreement being valid and in effect and Customer having paid the applicable M&S fees due under this Agreement) Data Innovations shall provide M&S to Customer and Customer shall provide Data Innovations with (a) an accurate description of the Software Error; (b) the steps necessary to reproduce the Software Error; (c) if required, the data being processed at the time of the Software Error and associated log files; and (d) the severity of the Software Error, including the circumstances that lead to the Software Error.

    7.1. Non-Emergency Support: Non-emergency support is available Monday through Friday, excluding holidays published on www.datainnovations.com during the hours for the region listed below.

| Instrument Manager™ and EP Evaluator® | | |
|---|---|---|
| **Region** | **Support Hours** | **Technical Support Contact** |
| Asia | 8:30 am– 6:00 pm HKT Monday – Friday | Customer Web Portal* asia-support@datainnovations.com +852 2398 3182 |
| Europe | 8:00 am – 6:00 pm CET/CEST Monday – Friday | Customer Web Portal* europe-support@datainnovations.com +32 2 332 24 13 |

| Latin America | 8:30 am– 6:00 pm BRT/BRST Monday – Friday | Customer Web Portal* latinamerica-support@datainnovations.com +55 11 38013283 |
|---|---|---|
| North America | 9:00 am – 8:00 pm EST/EDT Monday – Friday | MY DI, MY Community * northamerica-support@datainnovations.com +1 802 658 1955 |

**Note(s):**
\* MY DI, MY Community and/or Customer Web Portal may be accessed via support.datainnovations.com.

7.2. <u>During Support Hours:</u> During Support Hours, Customer may log requests for M&S in the following manner:

    7.2.1. <u>Telephone:</u> Customer may log M&S requests by calling the telephone number provided in the table above. All Critical Priority and High Priority instances, as defined in *Section 6 Priority Levels*, must be logged via telephone.

    7.2.2. <u>E-mail:</u> Customer may log M&S requests by sending e-mails to the appropriate Data Innovations Regional Support Office via the email address provided in the table in *Section 7.1*. All Critical and High Priority instances must be logged via telephone. E-mail is reserved for Medium and Low Priority instances as defined in *Section 6 Priority Levels*.

    7.2.3. <u>MY DI, MY Community or the Customer Web Portal (CWP):</u> Using the Data Innovations' MY DI, MY Community or the Customer Web Portal (as specified in Section 7.1 above), Customer can log Medium and Low Priority instances, view the status of outstanding instances, download Drivers, (for Instrument Manager™ only), Documentation, and access a Knowledgebase of known issues and resolutions, for troubleshooting assistance and update contact information. Data Innovations does not warrant the MY DI, MY Community or Customer Web Portal will operate without interruption or without errors.

7.3. <u>Emergency Support:</u> Emergency M&S is available 24x7x365. An Emergency M&S request may be submitted for a live Instrument Manager system where all or a portion of the system has become non-operative and is affecting a critical laboratory function. Emergency M&S is defined as Critical and/or High Priority instance(s) as defined in *Section 6 Priority Levels.*

7.4. <u>Non-Emergency Support After Hours:</u> Customers requesting that Data Innovations provide non-Emergency M&S outside of Support Hours may purchase services for 'Custom Support Services'. Such support must be scheduled and is subject to Data Innovations' resource availability and shall be provided subject to a separate, written agreement entered into between the parties.

8. <u>Customer Responsibilities:</u>

8.1. <u>Remote Access:</u> In order to assist Data Innovations in meeting the commitments above, Customer agrees to provide an approved remote method to the devices running the Software with connectivity to the Software and access that permits connectivity and administration using Software's administration tools accessing the database engine.

8.2. <u>Diagnostics Data:</u> In the event Data Innovations requests any data dumps, logs or any other documentation from Customer to resolve a reported M&S issue, such information shall be forwarded by overnight courier at Customer's expense or through electronic means such as e-mail, remote access, or FTP.

8.3. <u>Primary Technical Contact(s):</u> Data Innovations reserves the right to only provide support services for up to three (3) individuals employed or subcontracted by the Customer which have been identified and trained as the Primary Technical Contacts of the Software. As of the Effective Date of Agreement Data Innovations acknowledges individuals identified in Exhibit 1 are designated as the Primary Technical Contacts.

8.4. <u>Hardware Platform / Infrastructure:</u> Customer is responsible for the maintenance of its hardware platform and technical infrastructure. This infrastructure includes but is not limited to a reliable backup solution, networking components, virus protection and security software applications (i.e. firewalls).

9. <u>Core Software Updates:</u> Data Innovations may, at its sole discretion, develop core Software updates applicable to the Software to correct defects, improve Software operation, add features, or provide functional corrections to the Software ("**Core Updates**"). If this Agreement is Active, Customer shall have the right to receive Core Updates at no additional charge by requesting the same from the Customer's respective Data Innovations' regional support center or accessing the Core Updates from the Data Innovations' customer web site. Core Updates include electronic versions of Documentation. If Customer requests that the Core Updates are to be provided to Customer via electronic media (e.g. CD/DVD), Data Innovations may charge reasonable processing and shipping fees. Data Innovations reserves all rights to classify a Software enhancement, modification or change as a Core Update or as additional Software to be purchased by Customers.

10. <u>Core Revision Support</u>: Data Innovations will support the current major version plus one additional version of the Software. Data Innovations uses a three-place numbering scheme to identify its software releases. The format of the Software is *N.NN.PP* where *N.NN* indicates the major version, *PP* indicates the patch revision. (An example would be release v8.11.01, where the major release is 8.11 and the patch revision is 01.).

11. <u>Core Software Development and Enhancements</u>: If this agreement is Active, the Customer may request development of new functionality or enhancements to existing functionality of the core Software ("**Requested Enhancement**"). Data Innovations may, at its discretion, develop the requested new functionality and/or develop the enhancements requested to the existing functionality in full, in part, and/or with variations to the request.

12. <u>Driver Updates</u>:

    12.1. *Instrument Manager™*: Data Innovations may, at its discretion, develop driver updates applicable to the Software to correct defects, improve Software operation, add features, or provide functional corrections to the Software ("**Driver Updates**"). If this Agreement is Active, Customer shall have the right to receive Driver Updates at no additional charge by requesting the same from the Customer's respective regional Data Innovations' support center or accessing the Driver Updates from the Data Innovations customer web site. If Customer requests that the Driver Updates be provided to Customer via electronic media (e.g. CD/DVD), Data Innovations may charge reasonable processing and shipping fees.

    12.2. *EP Evaluator®:* Not Applicable 13. <u>Driver Development and Enhancements</u>:

    13.1. *Instrument Manager™*: If this Agreement is Active, the Customer may request development of a new driver or enhancements to an existing driver. Data Innovations may, at its discretion, develop the requested new driver and/or enhance the existing driver in full, in part, and/or with variations to the request ("**Driver Enhancement**").

    13.2. *EP Evaluator®:* Not Applicable.

14. <u>License Grant</u>: Customer acknowledges and agrees that all Core Updates, Driver Updates, Requested Enhancements and Driver Enhancements ("**M&S Updates**"), along with any associated Documentation provided to Customer under this Agreement are licensed to Customer pursuant to the EULA, and as such are subject to all of the terms and conditions of the EULA, including but not limited to terms of ownership, confidentiality, export control, and warranties.

15. <u>No Liability for Inaccurate Diagnostics</u>: Data Innovations will attempt to provide accurate advice and information to Customer's employees requesting telephone or web-based, e-mail support with respect to the Software; however, the Parties acknowledge that Data Innovations cannot guarantee that such advice and information will be error free and accurate in all instances as such advice and information is dependent upon Customer's presentation and interpretation of the support needed as well as complete disclosure of the circumstances leading up to the request and, as such, Data Innovations will not be liable to Customer for any damages sustained by Customer as a result of incorrect or inaccurate advice by Data Innovations unless such damages were directly caused by the gross negligence or willful misconduct of Data Innovations.

16. <u>Installation of Third Party Software and Updates</u>: Customer should not install any version, update, or upgrade of any third party software ("**Third-Party Software**") on shared platform with the Software, whether sublicensed through Data Innovations or licensed directly by Customer through its own suppliers, unless Customer understands the impact and necessity of the Third-Party Software version, update, or upgrade with the Software. Customers must understand and assume the risk to the Software for the application of Third- Party Software versions, updates, or upgrade.

17. <u>M&S Exclusions</u>: Data Innovations will not be obligated to provide M&S if: (a) Customer fails to provide Data Innovations all information, technical assistance and access to the computing device on which the Software is installed and any other equipment and personnel necessary to assist Data Innovations; (b) the Software is not used in accordance with the applicable Documentation; (c) any error, malfunction or defect reported by Customer is found by Data Innovations to be due to a cause other than the Software or modifications as delivered by Data Innovations; (d) Customer has not installed the Software Updates in a timely manner (see Core Software Updates section and Driver Updates section above); or (e) Software error, malfunction, or defect cannot be reproduced. If any such non-Software error, malfunction, or defect may reasonably be corrected by Data Innovations, Data Innovations may correct it at Customer's request, subject to resource availability, for reasonable service charges, agreed to by Customer and Data Innovations. Examples of non-Software errors, malfunctions, defects, associated materials, or services outside the scope of M&S include but are not limited to the following:

    17.1. Issues regarding installation in the event Customer chooses to install or implement the Software on its own;

    17.2. Troubleshooting of Customer's computer hardware, operating system, system monitoring software, virus/malware software, or network;

    17.3. Database management including but not limited to database backups, database archiving, database disk utilization monitoring, database patching, database upgrades;

    17.4. Set up of Customer-provided equipment;

17.5. Troubleshooting Third-Party Software not sold/distributed by Data Innovations;

17.6. Troubleshooting Third-Party Software sold by Data Innovations, but the Customer does not have separate Third-Party Software maintenance and support agreement through Data Innovations;

17.7. Software recovery or data manipulation and recovery due to Hardware failure caused by circumstances such as lightning strikes, floods or other Acts of God, neglect, power surges, power failures, or air conditioning or humidity control issues;

17.8. Database modifications or alterations made by non-Data Innovations personnel;

17.9. Data modification caused by Customer error or host computer system error;

17.10. Promotion to production of any modifications to the Software, Software Updates or Third Party Software versions, updates, or upgrades;

17.11. Customer-requested modifications to the Documentation;

17.12. Server maintenance including disk management, hardware operation, operation system updates, virus software management, removal of Customer-introduced viruses; and

17.13. Troubleshooting or defect resolution if Customer performs its modifications or enhancements to the Software and/or system changes ("**Customer Modifications and Enhancements**"), unless such Customer Modifications and Enhancements were performed on behalf of Customer by Data Innovations or an authorized implementation partner of Data Innovations. For those Customer Modifications and Enhancements that were not performed by Data Innovations or an authorized implementation partner of Data Innovations, Data Innovations will Support the same only if Customer documents its Customer Modifications and Enhancements and pays Services fees to Data Innovations (on a time-and-material basis) for Data Innovations to conduct a design review and quality assurance (QA) process and to transition the Customer Modifications and Enhancements to Data Innovations' Worldwide Support.

18. <u>Operating Systems</u>: The Software has been validated for operation on a variety of operating systems and hardware platforms. Minimum system specifications and supported operating systems can be provided per version of Software.

19. <u>M&S Services Warranty and Disclaimer:</u> Data Innovations warrants that M&S will be performed with reasonable skill and care by competent and trained personnel, and in accordance with applicable and reasonable industry standards and practices. As Customer's exclusive remedy and Data Innovations' sole obligation for breach of this warranty, Data Innovations shall use commercially reasonable efforts to correct defective M&S at no additional charge to Customer, provided that Customer gives Data Innovations specific written notice of the defective M&S within thirty (30) days after the M&S are performed. THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, AND NO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

20. <u>Insurance:</u>

20.1. Data Innovations shall secure and maintain throughout the term, including any renewal term, the types of insurance with limits as shown and with the requirements set forth in Exhibit 2, as attached hereto and incorporated herein.

21. <u>Confidential:</u>

21.1. "**Confidential Information**" means all data and information of a confidential nature, including know-how and trade secrets, relating to the Software, M&S Updates and/or the business or affairs of Data Innovations and Customer.

21.2. In order to protect the rights of both parties, in their Confidential Information, each party agrees to take all reasonable steps and the same protective precautions to protect the Confidential Information from disclosure to third parties as it does with its own proprietary and confidential information. Except as required by law, each party agrees that it shall not, without the prior written consent of the other party, disclose, provide, or make available the Confidential Information in any form to any person, except to bona fide employees, officers, directors, or third parties whose access is necessary to enable such party to exercise its rights hereunder.

21.3. Each party acknowledges that Confidential Information is unique property of extreme value to the disclosing party and that unauthorized use or disclosure by thereof would cause the disclosing party irreparable harm. If the receiving party fails to abide by its obligations of confidentiality under this section, the disclosing party shall be entitled to seek immediate injunctive relief, in addition to any other rights and remedies available to it at law or in equity.

21.4. Upon termination of this Agreement for any reason, the receiving party agrees to immediately cease using the Confidential Information of the disclosing party and either deliver to the disclosing party or destroy all such Confidential Information together with all copies thereof (including erasing such Confidential information from all memory or data storage apparatus) and certify to the disclosing party such destruction / return within ten (10) days of such termination, except that if either party determines that returning or destroying the confidential information is infeasible or prohibited by law, the receiving party shall provide to the disclosing party notification of the conditions that make return or destruction

infeasible. The receiving party shall extend the protections of this Agreement to such confidential information and limit further uses and disclosures of such information to those purpose that make return or destruction infeasible, for so long as the receiving party maintains such confidential information.

21.5. Privacy Regulations. The parties agree that in the performance of their obligations hereunder, the parties must meet the requirements of certain regulations related to the use and protection of personal information. Therefore, if applicable, the parties agree to abide by applicable privacy laws, and 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 a separate Business Associate Agreement for the provision of M&S to Customers.

22. Limitation of Liability: IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER, SUFFERED BY THE OTHER PARTY, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST DATA, BUSINESS INTERRUPTIONS OR OTHER ECONOMIC LOSS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY USE OF OR FAILURE TO BE ABLE TO USE THE M&S UPDATES, OR M&S. DATA INNOVATIONS SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR RELATED TO (i) THE ACCURACY OR COMPLETENESS OF CUSTOMER/PATIENT INFORMATION; OR (ii) FOR TRANSACTIONS PERFORMED USING THE M&S UPDATES; OR (iii) MODIFICATIONS TO THE M&S UPDATES OR M&S BY CUSTOMER, WHETHER SUFFERED BY CUSTOMER OR ANY THIRD PARTY. A parties' total aggregate liability for any damages arising out of or related to this Agreement will not exceed Five Hundred Thousand Dollars ($500,000.00). The existence of one or more claims will not enlarge this limit. Customer acknowledges that Data Innovation'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 specified in this Agreement fails of its essential purpose.

23. Termination: This Agreement may be terminated immediately upon written notice by either party upon the material breach by the other party of its obligations under this Agreement (including nonpayment of any fees), which breach has not been cured within thirty (30) days after the breaching party has received written notice thereof. This Agreement will terminate automatically if all or a substantial portion of the assets of the other party 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 other party for relief under bankruptcy or similar laws and such proceeding is not dismissed within sixty (60) days, or the other party is adjudged bankrupt.

24. Publicity: Customer agrees that Data Innovations may publicize the fact that Customer is a user of M&S in a mutually agreed upon initial press release. Thereafter, Data Innovations shall use Customer name only in a list of other M&S customers. Any additional publicity concerning Customer shall require Customer's prior written consent.

25. Relationship of the Parties: The parties are independent contractors and nothing in this Agreement shall be construed to create a partnership, joint venture or employment relationship between the parties.

26. Assignment: Neither party may assign, transfer, sublicense, timeshare this Agreement or delegate any rights or duties under this Agreement to any other person or legal entity without the other party's prior written consent, which will not be unreasonably withheld. Notwithstanding the foregoing, either party shall have the right to assign its rights and obligations hereunder without prior consent, upon change of control, or by sale of assets, reorganization, merger, consolidation or otherwise provided such assignment: a) is not to a direct competitor of the other party; (b) does not interfere with a party's performance obligations under this Agreement; (c) does not change the scope of the Maintenance and Support Services and the intent contemplated by the parties under this Agreement; (d) is not pursuant to bankruptcy proceeding; and the assigning party provides the other party with prompt written notice upon any such assignment. Further, upon any assignment of this Agreement the receiving must accept the terms and conditions of this Agreement. Any assignment or transfer in violation of the above is void. This Agreement will be binding on the parties, their successors and permitted assigns.

27. Notice: No notice required to be provided in this Agreement shall be effective unless it is in writing; is delivered to the other party by either reputable overnight courier, by U.S. mail (registered, certified or overnight delivery service, with all postage prepaid and return receipt requested), or by personal delivery to the address set forth in this Agreement or any more recent address of which the sending party has been apprised. All notices shall be deemed received on the date of receipt.

28. Entire Agreement; Amendment and Waiver: This Agreement, together with all exhibits and schedules referenced herein, supersedes all prior oral or written agreements and understandings between the parties relating to the subject matter hereof, constitutes the entire agreement between the parties. This Agreement may not be amended, superseded, or otherwise modified except by an agreement in writing executed by both parties that specifically defines the amendment as a modification to this Agreement. 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 required herein 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.

29. Section Headings: Section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning and interpretation of this Agreement.

30. Governing Law and Venue: This Agreement will be governed by and construed in accordance with the substantive laws in force in the State of California, United States. This Agreement will not be governed by the conflict of law rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. 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. If any action or claim concerning this Contract is brought by any third party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, County of San Bernardino, 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 Insurance Requirements.

31. Language: The text of this Agreement herein written in the English language is the authentic text and any difficulties or uncertainties in the interpretation arising shall be resolved by reference to this text.

32. Waiver: Failure on any occasion by either party to enforce any term of this Agreement shall not prevent enforcement on any other occasion.

33. Counterparts; Execution: This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same Agreement. 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.

34. Severability: If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of this Agreement, which shall remain valid and enforceable according to its terms

**IN WITNESS WHEREOF**, Customer and Data Innovations have each caused this Agreement to be subscribed by its respective duly authorized officers, on its behalf.

| SAN BERNARDINO COUNTY | DATA INNOVATIONS LLC |
|---|---|
| | *(Print or type name of corporation, company, contractor, etc.)* |
| ► | By ► *(Authorized signature - sign in blue ink)* |
| Curt Hagman, Chairman, Board of Supervisors | |
| Dated: | Name Premila Peters |
| SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD | (*Print or type name of person signing contract*) |
| | Title President |
| Lynna Monell | *(Print or Type)* |
| Clerk of the Board of Supervisors of San Bernardino County | |
| By | Dated: August 19, 2021 |
| Deputy | Address 463 Mountain View Drive |
| | Colchester, VT 05446 |

**Exhibit 1**

The following individuals have been identified as the Primary Technical Contacts for the Customer as defined in the M&S Agreement, Section 8.3 – Customer Responsibilities: Primary Technical Contacts.


**Primary Technical Contact 01**                          **Primary Technical Contact 02**


_____          _____
**Name**                                                  **Name**


_____          _____
**Primary Telephone Number**                              **Primary Telephone Number**


_____          _____
**Secondary Telephone Number**                            **Secondary Telephone Number**


_____          _____
**email**                                                 **email**


**Primary Technical Contact 03**


_____
**Name**


_____
**Primary Telephone Number**


_____
**Secondary Telephone Number**


_____
**email**

**EXHIBIT 2**

**INSURANCE REQUIREMENTS**

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

1. Without in anyway affecting any indemnity obligations provided and in addition thereto, Data Innovations shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

    a. 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 Data Innovations and all risks to such persons under this contract. If Data Innovations 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.

    b. Commercial/General Liability Insurance – Data Innovations shall carry General Liability Insurance covering all operations performed by or on behalf of Data Innovations 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:
        i. Premises operations and mobile equipment.
        ii. Products and completed operations.
        iii. Broad form property damage (including completed operations).
        iv. Explosion, collapse and underground hazards.
        v. Personal injury.
        vi. Contractual liability.
        vii. $2,000,000 general aggregate limit.

    c. 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 Data Innovations 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 Data Innovations owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

    d. 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.

    e. 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

    f. 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 protect the involved Customer entities and cover breach response cost as well as regulatory fines and penalties.

    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 contract work. The claims made insurance shall be maintained or "tail" coverage provided for a minimum of five (5) years after contract completion.

2. **Additional Insured.** All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements including Customer and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The Additional Insured endorsement will be ISO CG 2010 most current edition.

3. **Waiver of Subrogation Rights**. Data Innovations 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 Data Innovations and Data Innovations' employees or agents from waiving the right of subrogation prior to a loss or claim. Data Innovations hereby waives all rights of subrogation against Customer.

4. **Policies Primary and Non-Contributory**. All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by Customer.

5. **Severability of Interests**. Data Innovations 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 Data Innovations and Customer or between Customer and any other insured or additional insured under the policy.

6. **Proof of Coverage**. Data Innovations 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, such insurance coverage shall not be terminated or expire without thirty (30) days written notice to the Department from Data Innovations, and Data Innovations shall maintain such insurance from the time Data Innovations commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, Data Innovations shall furnish a copy of the certificate and required endorsements immediately upon request.

7. **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".

8. **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.

   General Liability has self-insured retention of $200,000; Auto liability has deductible of $250,000; Work Comp has deductible of $350,000; Professional and Cyber has self-insured retention of $150,000. However, Roper Technologies, Inc. ("ROP") has adequate financial resources to cover these deductibles / self-insured retentions. Data Innovations is a subsidiary of ROP, a constituent of the S&P 500, Fortune 100, and the Russell 1000 indices. As a publicly traded company, ROP provides ready access to their financial statements through the following link, which includes the most recent Annual Report, Quarterly Reports and SEC filings: http://investors.ropertech.com/.

9. **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 to cancel the contract or obtain insurance if it deems necessary and any premiums paid by Customer will be promptly reimbursed by Data Innovations or Customer payments to Data Innovations will be reduced to pay for Customer purchased insurance.

10. **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. Data Innovations agrees to execute any such amendment within thirty (30) days of receipt. 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.