

DATAMARK®

Software as a Service Agreement

This Software as a Service (SaaS) Agreement (the “**Agreement**”), by and between DATAMARK, a division of Michael Baker International, Inc. (“Michael Baker”), Michael Baker is a Pennsylvania corporation with offices located at 5 Hutton Centre Drive, Suite 500, Santa Ana, CA 92707 (“**DATAMARK**”) and the County of Monterey, (“**Customer**”), a political subdivision of the State of California with offices located at 1322 Natividad Rd, Salinas, CA 93906.

WHEREAS, Customer wishes to procure from DATAMARK the access and use of Validate-Edit-Provision (VEP) software described herein, and DATAMARK wishes to provide such access and use of VEP software to Customer, each on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree that the following terms and conditions will apply to the software and Related Materials provided under this Agreement and subscriptions placed thereunder.

1. VEP Software.

- 1.1. VEP Systems. Subject to and conditioned on Customer’s and its Authorized Users compliance with the terms and conditions of this Agreement, during the Term, DATAMARK shall use commercially reasonable efforts to provide to Customer and its Authorized Users access and use of the DATAMARK VEP Software as described below, (collectively, the “**VEP Software**”), in accordance with the Related Materials and terms and conditions hereof, including to host, manage, operate, and maintain the VEP Software for remote electronic access and use by Customer and its Authorized Users.

The VEP Software is implemented using cloud native technology to provide capability for the validating, editing, and provisioning of GIS data for public safety grade GIS data (the “**VEP Systems**”). DATAMARK shall also provide to Customer and its Authorized Users, as it becomes available, materials related to the access and use of VEP Software (e.g., “**Related Materials**”). For example DATAMARK may provide Related Materials comprising specifications, documentation, other information, other data, documents, materials, works, other content, devices, methods, processes, hardware, other software and other technologies or inventions, including any deliverables, descriptions (e.g., technical, functional, etc.), requirements, plans, or reports, that are provided or used in connection with the VEP Software or otherwise comprise or relate to the VEP Software or VEP Systems. “Documentation” includes any manuals, instructions or other documents or materials that the DATAMARK provides or makes available to Customer in any form or medium and which describe the functionality, components, features or requirements of the VEP Software, such as any aspect of the installation, configuration, integration, operation, use, support or maintenance thereof.

Maintenance and support of the VEP Software for access and use by Customer and its Authorized Users will be in substantial conformity with the documentation and support based on the Service Level Agreement and Maintenance Terms provided in Appendix A.

1.2. VEP Software and System Control. Except as otherwise expressly provided in this Agreement or in the Service Level Agreement and Maintenance Terms provided in Appendix A, as between the parties:

- a) DATAMARK has and will retain sole control over the operation, provision, maintenance and management of the VEP Software and Related Materials, including the: (i) DATAMARK Systems; (ii) selection, deployment, modification and replacement of the VEP Software; and (iii) performance of support, maintenance, upgrades, corrections and repairs as described in Appendix A; and
- b) All right, title and interest in and to the DATAMARK SaaS, including the VEP System, VEP Software, and Related Materials, including all Intellectual Property Rights therein, are and will remain with DATAMARK and the respective rights holders in the Third-Party Materials. Customer has no right, license or authorization with respect to any of the DATAMARK SaaS or Related Materials except as expressly set forth in Section 2 and 3 or the applicable third-party license. All other rights in and to the VEP System, VEP Software, and the Related Materials are expressly reserved by DATAMARK and the respective third-party licensors.

1.3. Changes. DATAMARK reserves the right, in its sole discretion, to make any changes to the VEP Software and Related Materials that it deems necessary or useful.

2. DATAMARK SaaS. The specific DATAMARK internet-accessible service identified in Exhibit A that provides use and access of DATAMARK's VEP System and VEP Software that is remotely hosted by DATAMARK and/or its network provider and made available to Customer over a network on a term-use basis ("**DATAMARK SaaS**").

2.1. Authorization. DATAMARK hereby grants to Customer, during the Term, a non-exclusive, non-assignable, worldwide right to access, use, display, and execute the VEP Systems solely for the permitted Use by and through Authorized Users in accordance with the conditions and limitations set forth in this Agreement and up to the number of seats as documented in Exhibit C. DATAMARK hereby grants a non-exclusive, non-assignable, worldwide right to access, use, and display the VEP Software, and Related Materials. The grants herein are subject to and conditioned on Customer's payment of the Fees and compliance and performance in accordance with all other terms and conditions of this Agreement.

2.2. Remote Host. Customer acknowledges that this Agreement is a SaaS agreement and DATAMARK will not be delivering copies of the Software to Customer as part of this SaaS Agreement.

2.3. Customer Systems. Customer has and will retain sole control over the operation, maintenance and management of, and all access to and use of, the Customer Systems, and sole responsibility for all access to and use of the VEP Software and Related Materials by any Person by or through the Customer Systems or any other means controlled by Customer or any Authorized User, including any: (i) information, instructions or materials provided by any of them to the VEP Software or DATAMARK SaaS; (ii) results obtained from any use of the DATAMARK SaaS or Related Materials; and (iii) conclusions, decisions or actions based on such use.

- 2.4. License from Customer. Subject to the terms and conditions of this SaaS Agreement, Customer shall grant to DATAMARK a limited, non-exclusive and non-transferable license, to copy, store, configure, perform, display and transmit Customer Content, such as data and materials provided by Customer to DATAMARK for use in connection with the VEP Software, including, without limitation, customer applications, data files, and graphics, within the VEP System solely as necessary by DATAMARK to provide access and use of the VEP Software to Customer.
- 2.5. Customer Data; Resultant Data. As between Customer and DATAMARK, Customer is and will remain the sole and exclusive owner of all right, title and interest in and to Customer Data and Resultant Data, including all Intellectual Property Rights relating thereto, subject to the rights and permissions granted in Section 2.6 hereto.
- 2.5.1. Consent to Use Customer Data, Resultant Data. Customer hereby irrevocably grants all such rights and permissions in or relating to Customer Data and Resultant Data: (a) to DATAMARK, its Subcontractors and the DATAMARK Personnel as are necessary or useful to perform the DATAMARK SaaS; and (b) to DATAMARK as are necessary or useful to enforce this Agreement and exercise its rights and perform its obligations hereunder.
- 2.6. Reservation of Rights. Except as expressly set forth in Section 2.1 hereto, nothing in this Agreement grants any right, title or interest in or to, no license under any Intellectual Property Rights in or relating to, the VEP Software, VEP System, Related Materials, or Third Party Materials, whether expressly, by implication, estoppel or otherwise. Subject to Section 2.7 hereto, all right, title and interest in and to the VEP Systems, VEP Software, the Related Materials and the Third-Party Materials are and will remain with DATAMARK and the respective rights holders in the Third-Party Materials.
- 2.7. Restrictions. Customer will not and shall not permit anyone access or use of the VEP Software and Related Materials except as expressly permitted by this Agreement and, in the case of Third-Party Materials, the applicable third-party license agreement. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not: rent, lease, lend, sell, license, assign, distribute, publish, transfer or otherwise make available in whole or in any parts of the VEP System, the VEP Software, or Related Materials, to any Person or entity, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud or other technology or service; access or use the subscription, VEP System, VEP Software, or the Related Materials for purposes of competitive analysis, the development, provision or use of a competing software service or product or any other purpose that is to DATAMARK's detriment or commercial disadvantage; or otherwise access or use the VEP System, VEP Software, or the Related Materials beyond the scope of the authorization granted under the terms of the SaaS Agreement.
- 2.8. Geographic Use. Customer shall only use the VEP Software for the geographic area for which its contract applies. Any use outside the geographic area will result in additional licensing fees.
3. Service Levels. The Service Level and Maintenance Agreement for the DATAMARK SaaS, the access and use of the VEP Software and VEP Systems is provided in Appendix A.

4. Customer Obligations.

- 4.1. Customer Systems and Cooperation. Customer shall at all times during the Term: (a) set up, maintain and operate in good repair and in accordance with the Related Materials all Customer Systems on or through which the VEP Software is accessed or used; (b) provide DATAMARK Personnel with such access to Customer's premises and Customer Systems as is necessary for DATAMARK to perform the DATAMARK SaaS in accordance with the SLA of Appendix A and Related Materials; and (c) provide all cooperation and assistance as DATAMARK may reasonably request to enable DATAMARK to exercise its rights and perform its obligations under and in connection with this SaaS Agreement.
- 4.2. Effect of Customer Failure or Delay. DATAMARK is not responsible or liable for any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement (each, a "**Customer Failure**").
- 4.3. Corrective Action and Notice. If Customer becomes aware of any actual or threatened activity prohibited by Section 2.3, Customer shall, and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful hereto measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the DATAMARK SaaS and Related Materials and permanently erasing from their systems and destroying any data to which any of them have gained unauthorized access); and (b) notify DATAMARK of any such actual or threatened activity.
- 4.4. Audit. Customer gives DATAMARK unlimited rights to conduct an audit without advance notice to ensure that additional users that do not have licenses are not accessing the system. The DATAMARK SaaS may be suspended or terminated if DATAMARK believes, in its good faith and reasonable discretion, that: (i) Customer or any Authorized User has failed to comply with, any term of this Agreement, e.g., non-payment of fee, or accessed or used the DATAMARK SaaS beyond the scope of the rights granted, (e.g., more individuals accessing system than license paid for, etc.); (ii) Customer or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading or unlawful activities relating to or in connection with any of the DATAMARK SaaS.

5. Data Obligations.

- 5.1. Security Measures. DATAMARK will employ security measures in accordance with applicable industry practice. The VEP Software secures and restricts data access to Customer Data and/or Resultant Data through customized download and editing modules eliminating a need for additional plugins or downloads. Access to the DATAMARK SaaS is restricted to Authorized Users only and no data is made publicly available. File level access or repository browsing are transmitted through secure channels, including HTTPS security, and such capabilities are secured and not exposed to any Customer, data files used with the VEP Software are scanned for virus and malware, security performed in virtually isolated digital locations for safety from other Customer Data and Resultant Data.

- 5.2. Customer Control and Responsibility. Customer has and will retain sole responsibility for: (a) all Customer Data, including its content and use and any data that is not accurate; (b) all information, instructions and materials provided by or on behalf of Customer or any Authorized User in connection with the DATAMARK SaaS; (c) Customer's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems) and networks, whether operated directly by Customer or through the use of third-party services ("**Customer Systems**"); (d) the security and use of Customer's and its Authorized Users' Access Credentials; and (e) all access to and use of the VEP Software, VEP Systems, and Related Materials directly or indirectly by or through the customer systems or its Authorized Users' access credentials, with or without Customer's knowledge or consent, including all results obtained from, and all conclusions, decisions and actions based on, such access or use. Customer will ensure best IT security practices to prohibit any actions to bypass or breach any security or protection used by the VEP System and/or the VEP Software, by any authorized user of Customer, or those that thereby access or use the VEP System and/or the VEP Software, other than by an Authorized User through the use of his or her own then-valid Access Credentials.
- 5.3. Data Breaches. DATAMARK shall implement and maintain a program for managing unauthorized disclosure or exposure of Customer Data stored by or accessible through the VEP Systems ("**Data Breaches**"). In the event of a Data Breach, or in the event that DATAMARK suspects a Data Breach, DATAMARK shall (i) promptly notify Customer by telephone and (ii) cooperate with Customer and law enforcement agencies, where applicable, to investigate and resolve the Data Breach. DATAMARK shall give Customer prompt access to such records related to a Data Breach as Customer may reasonably request; provided such records shall be DATAMARK's Confidential Information pursuant to Section 8 (Nondisclosure), and DATAMARK shall not be required to provide Customer with records belonging to, or compromising the security of, its other customers.
- 5.4. Access and Security. Customer shall employ all physical, administrative and technical controls, screening and security procedures and other safeguards necessary to: (a) securely administer the distribution and use of all Access Credentials and protect against any unauthorized access to or use of the DATAMARK SaaS; and (b) control the content and use of Customer Data, including the uploading or other provision of Customer Data for Processing by the DATAMARK SaaS. Customer shall prohibit any actions to input, upload, transmit or otherwise provide to or through the VEP System, the VEP Software, or any of DATAMARK's computers or systems, any information or materials that are unlawful or injurious, or contain, transmit or activate any harmful code, back door or otherwise damage, destroy, disrupt, disable, impair, interfere with, attempt to damage, interfere, or impede or harm in any manner the VEP System, the VEP Software, any DATAMARK Systems or activities related to DATAMARK's provision of VEP Software to any party, in whole or in part.
- 5.5. Suspension or Termination of Services. DATAMARK may suspend, terminate or otherwise deny Customer's, or any Authorized User's access to or use of all or any part of the VEP Software or Related Materials, without incurring any resulting obligation or liability, if DATAMARK receives a judicial or other governmental demand or order that requires DATAMARK to do so.
6. Orders and Payments.

- 6.1. Orders. All DATAMARK orders are subject to the terms and conditions of this contract and the Exhibits to the contract. If there is any conflict between an order and this contract, the contract is controlling. All services acquired by Customer shall be governed exclusively by this SaaS Agreement and the applicable Exhibits. Customer contract number assigned to a SaaS Agreement will be provided to DATAMARK, in writing, prior to the start of any work.
- 6.2. Invoice and Payment. The Customer agrees to pay DATAMARK the fees set forth in Exhibit B at a rate of compensation according to the deliverable payment schedule stated in Exhibit B. DATAMARK shall invoice Customer for year one fees on the SaaS Agreement effective date. DATAMARK shall invoice customer on the anniversary date of the Effective Date for the upcoming year's annual fees. Customer shall certify all invoices, either in the requested amount or in such other amount as the Customer approves in conformity with this Agreement and shall promptly submit such invoices to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice
- 6.3. Fee Increases. DATAMARK Fees defined in Exhibit B of this Agreement are good for five (5) years. If additional users are found to be accessing the system, DATAMARK shall invoice Customer for payment by billing Customer for the additional users.
- 6.4. Payment. Customer shall make payments to the address or account specified on the invoice or such other address or account as DATAMARK may specify in writing from time to time. DATAMARK shall maintain accurate address information for payment remittance in Customer's Vendor Self Service Portal: <https://vendor-center.co.monterey.ca.us> "
- 6.5. Taxes. All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. To the extent required by applicable law, Customer is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on DATAMARK's income. Customer hereby agrees to indemnify DATAMARK should any taxes be levied against DATAMARK for which Customer is responsible under applicable law.
7. Term and Termination.
- 7.1. Initial Term. The term of this Agreement shall begin on the date of the executing signature by the County of Monterey ("Effective Date") and shall continue for five (5) years.
- 7.2. Termination. Either party may terminate this SaaS Agreement immediately upon a material breach by the other party that has not been cured within thirty (30) days after receipt of notice of such breach, or with 30 days written notice to either party with no refund of current year subscription value.
- 7.3. RESERVED
- 7.4. Effect of Expiration or Termination.

- 7.4.1. Upon any expiration or termination of this Agreement, DATAMARK shall immediately cease providing the VEP Software and all usage rights granted under this SaaS Agreement shall terminate.
- 7.4.2. If DATAMARK terminates this SaaS Agreement due to a breach by Customer, then Customer shall immediately pay to DATAMARK all amounts then due under this SaaS Agreement and to become due during the current annual term of this SaaS Agreement, but for such termination. If Customer terminates this SaaS Agreement due to a breach by DATAMARK, then DATAMARK shall immediately repay to Customer all pre-paid amounts for any unperformed DATAMARK SaaS scheduled to be delivered after the termination date.
- 7.4.3. DATAMARK agrees to preserve and back up Customer's entire database as it would have had the Agreement not been terminated. Customer shall make arrangements for the transfer of such data back to Customer at Customer's costs within thirty (30) days of any termination unless such termination is a result of Customer's failure to pay DATAMARK any amounts due hereunder, in which case, Customer is not entitled to any such data until its account is made current. In all events, DATAMARK shall preserve Customer's data for no more than five years following termination of this Agreement.

8. Confidentiality.

- 8.1. Definition. "Confidential Information" means any information disclosed by a party to the other party, directly or indirectly, which, (a) if in written, graphic, machine-readable or other tangible form, is marked as "confidential" or "proprietary," (b) if disclosed orally or by demonstration, is identified at the time of initial disclosure as confidential and is confirmed in writing to the receiving party to be "confidential" or "proprietary" within 30 days of such disclosure, (c) is specifically deemed to be confidential by the terms of this SaaS Agreement, or (d) reasonably appears to be confidential or proprietary because of the circumstances of disclosure and the nature of the information itself, including trade secrets, secret designs, research and development disclosures, or proprietary information. Confidential Information will also include information disclosed by third parties to a disclosing party under an obligation of confidentiality. Subject to the display of Customer Content as contemplated by this SaaS Agreement, Customer Content is deemed Confidential Information of Customer. DATAMARK Software and Documentation are deemed Confidential Information of DATAMARK.
- 8.2. Confidentiality. During the term of this SaaS Agreement and for 5 years thereafter, each party shall treat as confidential all Confidential Information of the other party, shall not use such Confidential Information except to exercise its rights and perform its obligations under this SaaS Agreement, and shall not disclose such Confidential Information to any third party. Without limiting the foregoing, each party shall use at least the same degree of care, but not less than a reasonable degree of care, it uses to prevent the disclosure of its own confidential information to prevent the disclosure of Confidential Information of the other party. Each party shall promptly notify the other party of any actual or suspected misuse or unauthorized disclosure of the other party's Confidential Information. Neither party shall reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the other party's Confidential Information, and which are provided to the party hereunder. Each party may disclose

Confidential Information of the other party on a need-to-know basis to its contractors who are subject to confidentiality agreements requiring them to maintain such information in confidence and use it only to facilitate the performance of their services on behalf of the receiving party.

8.3. Exceptions. Confidential Information excludes information that: (a) is known publicly at the time of the disclosure or becomes known publicly after disclosure through no fault of the receiving party, (b) is known to the receiving party, without restriction, at the time of disclosure or becomes known to the receiving party, without restriction, from a source other than the disclosing party not bound by confidentiality obligations to the disclosing party, or (c) is independently developed by the receiving party without use of the Confidential Information as demonstrated by the written records of the receiving party. The receiving party may disclose Confidential Information of the other party to the extent such disclosure is required by law or order of a court or other governmental authority, provided that the receiving party shall use reasonable efforts to promptly notify the other party prior to such disclosure to enable the disclosing party to seek a protective order or otherwise prevent or restrict such disclosure. Each party may disclose the existence of this SaaS Agreement and the relationship of the parties, but agrees that the specific terms of this SaaS Agreement will be treated as Confidential Information; provided, however, that each party may disclose the terms of this SaaS Agreement to those with a need to know and under a duty of confidentiality such as accountants, lawyers, bankers and investors.

9. Representations and Warranties.

9.1. Mutual Representations and Warranties. Each party represents and warrants to the other party that:

- a) it is duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization;
- b) it has the full right, power and authority to enter into and perform its obligations and grant the rights, licenses, consents and authorizations it grants or is required to grant under this Agreement;
- c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such party; and
- d) when executed and delivered by both parties, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.

9.2. Additional Customer Representations, Warranties and Covenants. Customer represents, warrants and covenants to DATAMARK that Customer owns or otherwise has and will have the necessary rights and consents in and relating to the Customer Data so that, as received by DATAMARK and processed in accordance with this Agreement, they do not and will not infringe, misappropriate or otherwise violate any Intellectual Property Rights, or any privacy or other rights of any third party or violate any applicable Law.

9.3. Warranty and Disclaimer. DATAMARK shall use reasonable efforts consistent with prevailing industry standards to maintain the DATAMARK SaaS in a manner which minimizes errors and interruptions in the DATAMARK SaaS and shall provide access and use of the VEP Software and perform implementation of VEP Systems in a professional and workmanlike manner. The DATAMARK SaaS may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by DATAMARK or by third-party providers, or because of other causes beyond DATAMARK's reasonable control, but DATAMARK shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service interruption. HOWEVER, COMPANY DOES NOT WARRANT THAT THE DATAMARK SAAS WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE VEP SOFTWARE. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE VEP SOFTWARE AND VEP SYSTEMS ARE PROVIDED "AS IS" AND COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

9.4. Insurance: Beginning at the start of DATAMARK's performance under this Agreement, and ending when DATAMARK is no longer providing services or software to CUSTOMER, DATAMARK shall maintain in force the following insurance coverages and provide Customer with an annual certificate of insurance naming Customer as an additional insured under the Commercial General Liability and Automobile policies, and provide for thirty (30) days' notice of cancellation to Customer:

Commercial General Liability Insurance, including but not limited to premises and operations, including for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad Form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Business Automobile Liability Insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Workers' Compensation Insurance, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident, and \$1,000,000 each disease.

Professional Liability Insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, DATAMARK shall, upon the expiration or earlier termination of this Agreement, obtain extending reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

Cyber Liability Insurance –DATAMARK shall carry and maintain cyber liability insurance with limits of not less than \$1,000,000 per claim and aggregate of \$2,000,000 covering claims involving privacy violations, record holder breach notification costs, privacy breach remediation costs, fines and penalties, theft of confidential or protected information, intentional and/or unintentional release of private or confidential information, ransomware, extortion and network security. DATAMARK shall carry and maintain cyber liability insurance with a sublimit of \$500,000 for claims involving privacy regulatory actions. Cyber Liability Insurance shall name the County of Monterey, its officers, agents, and employees as additional insured with respect to liability arising out of DATAMARK's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by Customer and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by DATAMARK's insurance.

All coverages shall be issued by companies which hold a current policy holder's alphabetic and finance size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal or financial stability that is approved by the Customer's Purchasing Manager.

All insurance required by this Agreement shall be with a company acceptable to Customer and issued and executed by an insurer admitted or authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date DATAMARK completes its performance of services under this Agreement.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of DATAMARK's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self- insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by DATAMARK's insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99 or an acceptable equivalent.

Any Subcontractors under this Agreement shall be required to provide a separate certificate of insurance to the Customer meeting the provisions of this section 9.4.

9.5. Indemnification.

9.5.1. Indemnification by DATAMARK. DATAMARK shall indemnify, defend, and hold harmless the Customer, its officers, agents, employees, or subcontractors from any claim, liability, loss, injury or damage arising out of, or in connection with, a negligent act, error, omission, or willful misconduct in the performance of this Agreement by DATAMARK and/or its officers, agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of Customer and/or its officers, agents, employees and subcontractors. . DATAMARK shall pay all losses, damages and expenses (including reasonable attorneys' fees) finally awarded against such parties or agreed to in a written settlement agreement signed by DATAMARK, to the extent arising from the claim. DATAMARK shall have no liability, duty to defend, or indemnify for any claim based on (a) the Customer Content, (b) modification of the DATAMARK SaaS not authorized by DATAMARK, or (c) use of the DATAMARK SaaS other than in accordance with the Documentation and this SaaS Agreement. DATAMARK may, at its sole option and expense, procure for Customer the right to continue use of the SaaS Services, modify the SaaS Services in a manner that does not materially impair the functionality, or terminate the Subscription Term and repay to Customer any amount paid by Customer with respect to the Subscription Term following the termination date.

9.5.2. Indemnification by Customer. The Customer shall indemnify, defend, and hold harmless DATAMARK, its officers, agents, employees, and subcontractors from any claim, liability, loss, injury or damage arising out of, or in connection with, a negligent act, error, omission, or willful misconduct in the performance of this Agreement by the County and/or its officers, agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of the Contractor and/or its officers, agents, employees and subcontractors.

9.5.3. Conditions for Indemnification. A party seeking indemnification under this section shall (a) promptly notify the other party of the claim, (b) give the other party sole control of the defense and settlement of the claim, and (c) provide, at the other party's expense for out-of-pocket expenses, the assistance, information and authority reasonably requested by the other party in the defense and settlement of the claim.

9.5.4. DATAMARK may, if threatened with infringement or an injunction, at its option and sole cost and expense: by written notice to Customer, terminate this Agreement with respect to all or part of the VEP Software and Related Materials, and require Customer to immediately cease any use of the VEP Systems and Related Materials or any specified part or feature thereof.

9.6. No Other Rights. Customer has no title to or ownership of, any intellectual property rights with respect to the Software including, without limitation, any related copyrights, trademarks, patents, trade secrets, or inventions performed with the VEP Software, DATAMARK VEP computer source code, descriptions of the VEP Software, and other intellectual property rights in the underlying functions, look, and feel of the VEP Systems. Customer has only the granted rights with respect to the Software that are expressly set forth in this Agreement. Customer has no other rights, implied or otherwise. Customer acknowledges and agrees that the Software is being

licensed, not sold, and that rights to access the Software are acquired only under this license from DATAMARK. The source code of the Software constitutes valuable trade secrets of, and confidential and proprietary information to, DATAMARK and its suppliers, and (a) may not be distributed, disclosed or otherwise provided to third parties, and (b) may be used only internally and only in conjunction with and for Customer's own authorized internal use of the Related Materials.

10. Limitations of Liability.

NEITHER PARTY (NOR ANY SERVICE, LICENSOR OR OTHER SUPPLIER OF DATAMARK) SHALL BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST BUSINESS, PROFITS, DATA OR USE OF ANY SERVICE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY IN CONNECTION WITH THIS SAAS AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM (INCLUDING NEGLIGENCE), EVEN IF FORESEEABLE OR THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER PARTY'S AGGREGATE LIABILITY FOR DAMAGES UNDER THIS SAAS AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM (INCLUDING NEGLIGENCE), SHALL EXCEED FIVE (5) TIMES THE FEES PAID OR PAYABLE BY CUSTOMER UNDER THIS SAAS AGREEMENT DURING THE 12 MONTHS PRECEDING THE DATE THE CLAIM AROSE

The foregoing limitations shall not apply to the parties' obligations (or any breach thereof) under Sections entitled "Restriction", "Indemnification", or "Confidentiality".

11. General Provisions.

11.1. Non-Exclusive Service. Customer acknowledges that SaaS Services are provided on a non-exclusive basis. Nothing shall be deemed to prevent or restrict DATAMARK's ability to provide the SaaS Services or other technology, including any features or functionality first developed for Customer, to other parties.

11.2. Independent Contractors. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating other relationships between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. Except as provided in this SaaS Agreement, neither party shall be responsible for the acts or omissions of the other party or the other party's personnel.

11.3. Publicity. DATAMARK may include Customer's name and/or logo in its customer lists and on its website. Upon signing, DATAMARK may issue a high-level press release announcing the relationship and the manner in which Customer will use the DATAMARK Software and System solution. DATAMARK shall coordinate its efforts with appropriate communications personnel in Customer's organization to secure approval of the press release.

11.4. Export Regulations. Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the SaaS Services. Customer agrees that such export control laws govern its use of the DATAMARK SaaS (including technical data) and any SaaS deliverables provided under this Agreement, and Customer agrees to comply with all such export laws and regulations. Customer agrees that no data, information, software programs

and/or materials resulting from services (or direct product thereof) will be exported, directly or indirectly, in violation of these laws.

- 11.5. Notices. Except as otherwise permitted in this SaaS Agreement, notices under this SaaS Agreement shall be in writing and shall be deemed to have been given (a) five (5) business days after mailing if sent by registered or certified U.S. mail, (b) when transmitted if sent by facsimile or email, provided that a copy of the notice is promptly sent by another means specified in this section, or (c) when delivered if delivered personally or sent by express courier service. All notices for DATAMARK shall be sent to the address set forth on the cover page of this SaaS Agreement. All notices for the Customer shall be sent to the address listed below:
Director of Emergency Communications
1322 Natividad Road
Salinas, CA 93906
- 11.6. Interpretation. The parties intend this SaaS Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, attachments and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.
- 11.7. Headings. The headings in this SaaS Agreement are for reference only and do not affect the interpretation of this Agreement.
- 11.8. Force Majeure. Each party will be excused from performance for any period during which, and to the extent that, such party or any subcontractor is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond its reasonable control, and without its fault or negligence, including without limitation, acts of God, strikes, lockouts, riots, acts of terrorism or war, epidemics, communication line failures, and power failures.
- 11.9. Entire Agreement. This SaaS Agreement (including the exhibits and appendices) constitute the entire, fully integrated agreement between the parties with respect to the subject matter hereof. Standard or printed terms contained in any purchase order or sales confirmation are deemed rejected and shall be void unless specifically accepted in writing by the party against whom their enforcement is sought; mere commencement of work or payment against such forms shall not be deemed acceptance of the terms. No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each party.
- 11.10. DATAMARK Personal Data Obligations. In performing the SaaS Agreement, DATAMARK will comply with the Michael Baker, International (Michael Baker) Privacy Policy, which is available at <https://mbakerintl.com/privacy-policy/>, and incorporated herein by reference. The Michael Baker Privacy Policy is subject to change at Michael Baker's discretion; however, Michael Baker's policy changes will not result in a material reduction in the level of protection provided for Customer data during the period for which fees for the VEP Software have been paid. The policies referenced in this SaaS Agreement specify our respective responsibilities for maintaining the security of Customer data in connection with the SaaS Agreement. DATAMARK will only process Customer Personal Data in a manner that is reasonably

necessary to provide a VEP System and/or VEP Software and will only process Customer Personal Data for the purpose of delivering DATAMARK SaaS.

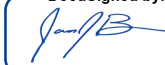
- 11.11. Assignment. Neither party may assign this SaaS Agreement or any right under this SaaS Agreement, without the consent of the other party, which consent shall not be unreasonably withheld or delayed; provided however, that either party may assign this SaaS Agreement to an acquirer of all or substantially all of the business of such party to which this SaaS Agreement relates, whether by merger, asset sale or otherwise. This SaaS Agreement shall be binding upon and inure to the benefit of the parties' successors and permitted assigns. Either party may employ subcontractors in performing its duties under this SaaS Agreement, provided, however, that such party shall not be relieved of any obligation under this SaaS Agreement.
- 11.12. No Third-party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or because of this Agreement.
- 11.13. Severability. If any term of this SaaS Agreement is held to be invalid or unenforceable, that term shall be reformed to achieve as nearly as possible the same effect as the original term, and the remainder of this SaaS Agreement shall remain in full force.
- 11.14. Surviving Terms. Sections 1, 2, and 7 through 11 of this SaaS Agreement shall survive the expiration or termination of this SaaS Agreement for any reason.
- 11.15. Governing Law. This Agreement is governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of California. The Court venue shall always be Monterey County California.
- 11.16. Compliance with Laws. DATAMARK shall comply with all applicable local, state, national in connection with its delivery of the DATAMARK SaaS, including those laws related to data privacy, and the transmission of technical or personal data.
- 11.17. Dispute Resolution. Customer's satisfaction is an important objective to DATAMARK in performing its obligations under this SaaS Agreement. Except with respect to intellectual property rights, if a dispute arises between the parties relating to the interpretation or performance of this SaaS Agreement or the grounds for the termination hereof, the parties agree to hold a meeting within fifteen (15) days of written request by either party, attended by individuals with decision-making authority, regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute prior to pursuing other available remedies. If, within 15 days after such meeting, the parties have not succeeded in resolving the dispute, either party may protect its interests by any lawful means available to it.
- 11.18. Signatures. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy

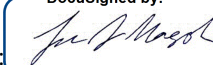
of this Agreement delivered by facsimile, e-mail or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Software as a Service Agreement as of the provided effective date: 7/22/2022 | 8:54 AM PDT.


**MICHAEL BAKER
INTERNATIONAL, INC.**

County of Monterey

DocuSigned by:

Signature: _____
Name: Jason Bivens
Title: Vice President
Date: 6/28/2022 | 9:44 AM PDT

DocuSigned by:

Signature: _____
Name: Lee Ann Magoski
Title: Director of Emergency Communications
Date: 7/22/2022 | 8:54 AM PDT

Approved As Legal Form:

DocuSigned by:

Signature: _____
Name: Marina Pantchenko
Title: Deputy County Counsel
Date: 6/27/2022 | 5:03 PM PDT

Approved As Fiscal Provisions:


DocuSigned by:

Signature: _____
Name: Jennifer Forsyth
Title: Auditor-Controller Analyst II
Date: 6/28/2022 | 2:33 PM PDT

EXHIBIT A: SOFTWARE SCOPE OF WORK

DATAMARK VEP (Validate, Edit, and Provision)

VEP is a cloud-native software solution for public safety GIS data aggregation, preparation, analysis, and maintenance. VEP provides a highly configurable user-friendly interface for GIS and non-GIS personnel to perform location data validation, editing, and quality control in alignment with NENA Next Generation 9-1-1 (NG9-1-1) data standards and GIS industry best practices. VEP supports data from local and regional GIS data providers and neighboring 9-1-1 authorities.

VEP is designed to support the most current NENA NG9-1-1 GIS Data Model and to provide the flexibility to incorporate custom fields and additional schema requirements from our clients' GIS datasets. As Monterey County implements the NENA NG9-1-1 GIS Data Model, VEP will become an integral tool for validating, editing, and aggregating GIS data from multiple sources that will be provisioned into the NG9-1-1 GIS Core Services (NGCS) solution.

DATAMARK's technical team, comprised of experts in NG9-1-1 requirements and public safety data workflows, is ready to support Monterey County by providing:

- Highly configurable GIS data management solutions for novice to expert level GIS users
- Dedicated technical support of the VEP system
- Comprehensive data QC and validations to prepare data for NG9-1-1
- Platform agnostic design supporting existing public safety systems including CAD, CAD mapping, and AVL

Software as a Service (SaaS) Solution

VEP is a true SaaS solution that provides end users with a secure, web-based system for collecting, preparing, maintaining GIS data. VEP streamlines and optimizes editing and validation processes for provisioning data in 9-1-1 systems and other systems reliant on accurate, reliable GIS information. VEP requires no additional investment in specialized hardware or software.

Cloud-Native GIS Data Management Software

VEP leverages the benefits of cloud-native application development including on-demand access to powerful computing resources, modern data and application services, and dynamic coordination of development activities. This enables DATAMARK to effectively stay ahead of changes to industry processes and standards and bring meaningful product innovations to market faster than traditionally developed software platforms.

VEP Software Subscription

VEP is offered in two subscription models, VEP Validator and VEP Editor, to address the broad range of requirements of local, regional, and state GIS stakeholders. Additionally, VEP Aggregator provides purpose-built solutions to regional and state organizations for aggregating and managing consolidated GIS datasets used in legacy 9-1-1, NG9-1-1, and other applications.

VEP Validator

Validation is the process of validating and aggregating GIS, MSAG, and ALI data using VEP's data validations. VEP Validator is used to perform a broad range of validations across dozens of categories, configured for each

client's specific GIS data management requirements. Validation results are downloadable as markup tables for use within Monterey County's GIS environment. VEP's validation features are included in all subscription types.

Validator subscription includes Administrator and Validator user roles; the number of users is based on client population. Additional Validator and Administrator users can be added for additional fees. Validator subscription does not include Editor, Observer, or Aggregator functionality. VEP's user roles are defined in detail in the VEP User Roles section, below.

GIS Data Validation

VEP's validation engine includes a comprehensive suite of tools used to validate and aggregate GIS, MSAG and ALI data which meets and exceeds NENA validation standards. The validation engine enables administrators to run unique QC checks on demand, including DATAMARK's unique Fishbone Analysis.

VEP Validator identifies schema inconsistencies and incompleteness and identifies spatial anomalies and discrepancies within the various datasets. VEP's validations evaluate attribute, topological, and spatial accuracy within each layer and performs cross-feature validations. These validations meet and exceed the NENA standards and include additional checks that support GIS industry best practices for quality control assessments. VEP Validator delivers a comprehensive series of reports on anomalies and changes over time.

Fishbone Analysis

VEP's fishbone analysis compares the placed address point to its geolocated location on the road centerline. This process creates a line between the two locations which provides a powerful dataset for analysis. In clean GIS data, this typically resembles a 'fishbone' with no crossed lines. Where lines cross, a potential anomaly may exist in the GIS data. Data with crossed fishbone lines may be marked as an exception in VEP, following review, to avoid being flagged in future validations.

This analysis reveals anomalies such as address points on the wrong side of the road, out of order address points, or a range of other anomalies.

Fishbone analysis will show an address point that maps to multiple road centerlines and shows attributes duplicated on multiple road segments, or where ranges overlap, causing the address point to be placed on both segments.

Where traditional address point comparison methods may produce false positive results, VEP Validator's fishbone analysis draws a line from the address point to where it falls on its street centerline range as shown in the figure below.

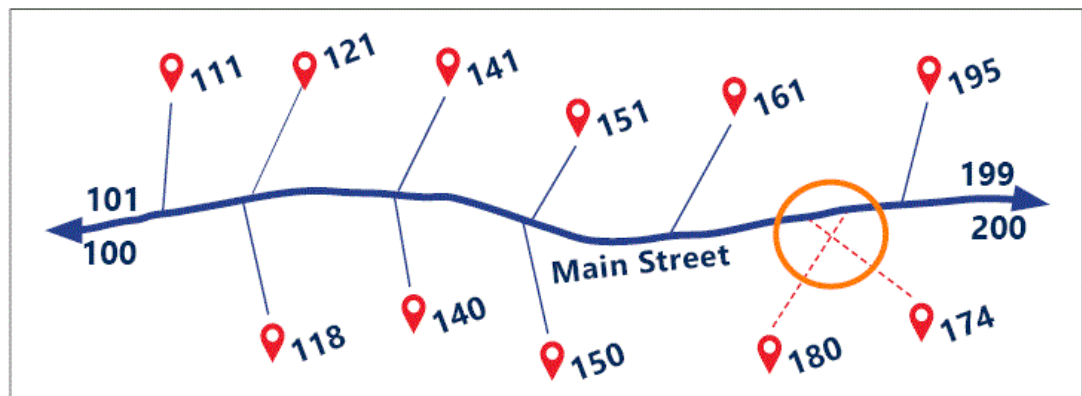


Figure1: Fishbone Analysis

Example: If the address range of Main Street is 100-200, 150 Main Street will draw to the center of that Main Street centerline segment. In clean GIS data, the visual analysis typically resembles a fishbone along the 100-200 range of Main Street. The crossed lines for 174 and 180 Main Street show a potential anomaly in the GIS data to be reviewed and resolved.

VEP Editor

VEP Editor provides a web-based editing interface that enables users to create, maintain, update, validate, and export public safety GIS data. VEP's editing environment includes a comprehensive suite of tools and becomes a force multiplier for GIS departments with limited resources. Editor subscription also includes VEP's Observation features, described below.

Editor subscription includes VEP's validation, editing, and provisioning features. The number of end users who can access the system is based on client population; access for additional Administrator, Editor, Validator, and Observer end users is available for additional fees. VEP's user roles are defined in detail in the VEP User Roles section, below.

Web-Based GIS Editing

VEP Editor's secure web-based editing environment supports experienced GIS users and can be accessed by non-GIS personnel who have been provided with access credentials without requiring separate expensive GIS desktop software, plug-ins, or extensions. This reduces operating costs, reduces the time spent administering standalone GIS solutions, and enables non-GIS users such as dispatchers, fire inspectors, and other authorized personnel to make meaningful contributions to the State's 9-1-1 and public safety GIS data.

Observation

VEP Editor subscription includes observation features which enable non-editors to drop a point on the map and record observations which will be reviewed and processed by GIS editors. The Observation function's ability to provide GIS data feedback from creates operational transparency, increases communication between public safety and GIS professionals, and improves the quality of the 9-1-1 and NG9-1-1 GIS data in real-time.

Example: A fire engine misrouted to an incorrect location will inform the dispatcher of the routing issue. The dispatcher, who is not a GIS data editor, can use VEP's Observer features to create an observation point and report the routing error. This will send a notification to the GIS authority's GIS data editors, creating an audit trail the editor can use to investigate the issue, resolve any problems in the GIS data, and report how the reported observation was processed.

GIS Data Provisioning with VEP

Editor subscription includes VEP's GIS data provisioning functions and features. Implementation of VEP includes provisioning to Monterey County's native GIS schema and to the NENA NG9-1-1 GIS schema. VEP is platform-agnostic and capable of provisioning GIS data into the DATAMARK Spatial Interface and into other Spatial Interface (SI) systems.

VEP's download function offers the ability to effectively field map the default database into a custom schema of choice. This functionality enables the client to support multiple public safety and government enterprise systems without needing to change business practices, systems, and data schemas. Examples of relevant output schemas include:

- CAD systems (to potentially include regional stakeholders)

- Transportation
- Asset Management
- Permitting
- Mobile data collection application

VEP User Roles

Each VEP subscription model provides clients with specific numbers and types of end user subscription. Access to VEP is based on user role and subscription level, to ensure each user of the system has the features, functions, and tools necessary to perform the tasks that meet Monterey County's goals while maintaining security and access control.

VEP user roles are described below:

The **Administrator** role is included in each VEP subscription type and provides users the access to review and approve edits, provisions users and permissions, limits configuration capabilities for display and web service content of the Editor map, and more. This is the highest permission level assigned in the VEP system.

The **Validator** role provides access to VEP's upload, validate, and download functions used to perform data validation and quality control.

The **Editor** role provides access to the VEP dashboard and to the map interface used to perform geometry and attribute edits and validation markups.

The **Observer** role provides access to the map interface to create observations. Observers do not have access to VEP's editing functions.

This proposal includes VEP Editor subscription and the following user roles:

User Role	Number of Users
Administrator	2
Editor	4
Validator / Observer	4

Table 1: User Roles and Number of Users

VEP SaaS Agreement

This proposal includes VEP subscription provided to Monterey County for a period of up to five (5) years.

VEP is sold through an annual subscription and is subject to an annual fee. VEP is provided as a software subscription and contracted through the execution of DATAMARK's SaaS Agreement

VEP Implementation – Onboarding and Training

The DATAMARK team will provide virtual onboarding and training services to Monterey County to support the use of the VEP software. Monterey County shall provide a suitable location, computer equipment, and internet connectivity required for the DATAMARK team to provide remote virtual onboarding and training services.

VEP Onboarding

The DATAMARK team will load Monterey County addressing data into VEP and conduct a virtual onboarding session for VEP users to review native data schema mapping into the VEP software. Administrator user accounts will be set up during Onboarding, other user accounts will be set up by Monterey County’s VEP Administrator user(s). Administrator training is included as part of the combined training of Validator and Editor.

Training – Validator

Following VEP Onboarding, DATAMARK will conduct one four-hour virtual training session for the users identified in Table 1. Validator training will cover:

- Overview of VEP’s functions and features
- Accessing the VEP system
- Navigating VEP using the system dashboard
- Uploading and downloading data using VEP
- Data validation and reporting with VEP

Training – Editor

Following VEP Validator training, DATAMARK will conduct one four-hour virtual training session for the Editor users identified in Table 1. Editor training covers additional VEP functions and features provided to Editor and Observer roles, including:

- Navigating the map section of the VEP interface to view and edit data
- Using VEP’s Observation Tool to identify locations with outstanding data issues
- Reviewing and resolve observations submitted using the Observation Tool
- Reviewing editing sessions, validation anomalies, and observations

VEP Software Support

Software support for VEP is included in the annual SaaS subscription and provided through the term of the SaaS Agreement with Monterey County.

VEP’s annual subscription includes access to an online support and self-service knowledge center. The DATAMARK VEP Support Center is the first stop for questions about VEP workflow, functionality, and enables users to request support, report issues, and search an online library of videos and articles for information about the system.

DATAMARK VEP Support Center

Monterey County’s VEP users will be provided with access to the Support Center through the VEP user interface. The VEP Support Center includes an online support ticket system, a knowledge center to query common issues and system documentation, and a module-based library of user guides, how-to articles, FAQs, video workflow tutorials, and video tips and tricks.

VEP Support Tickets

VEP provides users with secure access to the Support Center ticket system. This system is used to submit, review, and track the status of support tickets. The DATAMARK VEP Technical Support team responds to Support tickets, users can track the status of support tickets directly from the VEP Support Center.

CLIENT

- Participate in a review of client GIS data field mapping for upload into VEP
- Provide a space, computers, and internet connections for virtual training

DATAMARK

- Conduct the review of GIS data field mapping for upload into VEP with Client
- Provide user access to VEP and the knowledge base/ticketing system
- Conduct VEP end-user training

Additional Cloud Storage for Map Roll

Map roll packages will be stored in the DATAMARK cloud and will require a nominal fee.

Project Invoicing

The project manager will provide invoices to Monterey County for Software subscriptions which will be billed on an annual basis, at the beginning of the term.

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EXHIBIT B: COMPENSATION AND PAYMENT

Annual subscription for DATAMARK VEP and additional Cloud Storage will begin and be invoiced upon execution of the VEP SaaS agreement. **The maximum amount payable by the County of Monterey to Michael Baker through this Agreement shall not exceed one hundred fifty-four thousand two hundred fifty dollars (\$154,250.00).**

YEAR 1	
Products	Price
DATAMARK VEP Editor Subscription	\$30,000
Database Setup Fee (non-recurring)	\$1,750
Additional Cloud Storage for Map Roll	\$500
Year 1 Total	\$32,250
YEAR 2	
Products	Price
DATAMARK VEP Editor Subscription	\$30,000
Additional Cloud Storage for Map Roll	\$500
Year 2 Total	\$30,500
YEAR 3	
Products	Price
DATAMARK VEP Editor Subscription	\$30,000
Additional Cloud Storage for Map Roll	\$500
Year 3 Total	\$30,500
YEAR 4	
Products	Price
DATAMARK VEP Editor Subscription	\$30,000
Additional Cloud Storage for Map Roll	\$500
Year 4 Total	\$30,500
YEAR 5	
Products	Price
DATAMARK VEP Editor Subscription	\$30,000

Additional Cloud Storage for Map Roll	\$500
Year 5 Total	\$30,500
YEARS 1-5 SOFTWARE GRAND TOTAL	\$154,250

In recognition of a five-year commitment, DATAMARK is pleased to honor 2021 pricing and apply the following discounts which have been incorporated into the above pricing:

Software Discount Applied	Value
Year 1 – Honoring 2021 Pricing	\$4,750
Year 2 – No Price Escalation	\$8,328
Year 3 – No Price Escalation	\$10,632
Year 4 – No Price Escalation	\$13,052
Year 5 – No Price Escalation	\$15,594
Total Discount	\$52,356

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Exhibit C**CUSTOMER USE AUTHORIZATION**

Subscriber Name	VEP Type	Tier	A	E	V/O	Specified Rights for Identified Use
Monterey County	Editor	4	2	4	4	N/A

Key: A – Administrator; E – Editor; V – Validator; O – Observer

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Appendix A

SAAS SERVICE LEVEL AND MAINTENANCE AGREEMENT

The purpose of this SaaS Service Level and Maintenance Agreement (SLA) is to define the Service Level for the maintenance and support of the DATAMARK SaaS (“VEP Software”). The VEP Software shall be accessible 24 hours per day, 365 days per year subject to routine maintenance and unexpected outages.

Service Level Agreements are used as a tool to measure and guide DATAMARK and Customer in achieving the goals for effective delivery of all DATAMARK SaaS to the Customer. DATAMARK is providing Customer with the capability to run the VEP Software in a hosted environment. DATAMARK may choose to work with other Internet or Application service providers in providing its SaaS to Customer.

The following SLA shall outline DATAMARK's service level commitment:

1. The VEP Software

Specifically, DATAMARK will provide the following:

- **Application Administration**
Software installation and software updates (patches, upgrades, support, and maintenance)
- **Technical Support**
Online email support during coverage hours, 24x7 access to support portal
- **SaaS Management**
Client activation, security monitoring, change control, problem management, and escalation procedures
- **System Administration**
System configuration, deployment, support, monitoring, response, repair, tuning and capacity planning
- **Network Administration**
Network provisioning, monitoring, response, repair, security, utilization management and capacity planning
- **Data backup and retention**
Backups of Customer data

Customer is responsible for purchase and maintenance of its own equipment, hardware and access, including but not limited to network and data connection, to establish a connection to the Internet.

2. Server Environment

2.1 Cloud Services

The VEP Software is hosted in a secure Amazon Web Services (AWS) cloud environment. Note: AWS ensures data centers are equipped with back-up power supply to ensure power is available to maintain operations in the event of an electrical failure for critical and essential loads in the facility. Dedicated compute power for RDS may be allocated to Customers upon request with additional fees.

2.2 Security

DATAMARK ensures that Customer data is protected with data encryption, user authentication, application security, and more. The VEP Software adheres to the following security measures and

plans:

- NIST SP 800-53
- Data encryption at TLS
- Proactive Intrusion Detection and Prevention
- Amazon Web Service backup and recovery procedures

Specific measures include:

- All servers are located behind the firewall with only essential ports enabled.
- All firewalls have Intrusion Detection enabled.
- SSL encryption

3. Service Measures

3.1 Availability

The following availability will be maintained:

Measurement	Definition	DATAMARK SLA
Software Availability	The periods of time that the Software is available for use by the Customer not including scheduled downtime.	24 x 7 x 365, 99.5% average over a month not including scheduled downtime.
User Response Time	The time it takes for the Software to complete a user request and return a response.	Because of many external factors involved in this measurement, the response time cannot be specified.
Backups	Customer data as well as application installation backups	Full database backups of Customer Data are performed routinely every evening. Backup files will be retained for 2 days.
Restoration of SaaS	In the event of a major disaster event, such as flooding of the hosting facility or an earthquake that destroys the infrastructure.	DATAMARK will restore VEP Software at one or more alternate locations within 3 business days.
Maximum Restore Age	It is the maximum age of the data should we need to restore production data from backup.	No more than 48 hours.
Problem Response Time	Provision of user support. Primary Coverage will be 8am- 8pm Eastern time Monday through Friday, excluding statutory holidays. Response time will be calculated by dividing the numbers of issues responded to in one hour or less divided by the total number of issues received for the month.	90% of issues responded to in one hour or less during primary coverage. We are targeting a 90% compliance rate that every issue will be responded to in one hour or less during primary coverage. To calculate this, we take: # of issues responded to in 1 hr or less / total number of issues. For example, if a customer logs 10 issues in 1 month and 9 of them were responded to in 1 hour, we have a 90% compliance rate which means we hit our target.

3.2 Priority Levels

Priority Level	Definition	Expected Response	Communication Intervals

Priority 1	Critical System Issue – Complete System Outage	Support Team takes ownership of Problem – Implements emergency plan. System Monitoring is initiated internally.	4 hour maximum
Priority 2	Major Impact – Impact to the Customer’s Business with no work around	Problem is worked on continuously until it is resolved, or a reasonable workaround is applied, during normal business hours.	8 hour maximum
Priority 3	Large impact – Significant inconvenience to customers where a workaround might be implemented	Work is expected to continue on a workday basis until a more permanent solution is in place.	24 hour maximum
Priority 4	Small to Minor Impact – Minor to Small Inconvenience	Resolution is worked into a planned project list and schedule or it can be deferred until there is time allowed in the project schedule.	Initial response within 72 hour maximum, ongoing weekly updates
Priority 5	Reported bugs or requested enhancements	Bugs are fixed if they are impacting clients’ business. Enhancements are evaluated if approved at DATAMARK’S sole discretion added to the development roadmap as prioritized.	Quarterly unless bug fix is critical to clients’ business

3.3 Downtime / Maintenance

DATAMARK periodically adds, repairs, and upgrades the data center hardware and the Software and shall use its best efforts to accomplish this without affecting the Customer’s access to any Software; however, repairs of an emergency or critical nature may result in the VEP Software not being available for the Customer’s usage during the course of such repairs. DATAMARK reserves the right to take down the server(s) at the data center in order to conduct routine maintenance to both software and hardware according to the following protocols:

Item	Description	Commitment
Standard Maintenance Window	Monday - Sunday: 1 am – 4 am Pacific Time	
Scheduled Upgrades & Maintenance	Regular planned uploads of new functionality will take place during the release schedule window. The release schedule includes four (4) quarterly releases and other hotfixes, patch releases and maintenance upgrades.	-Minimum of 5-day Notice prior to the upload going into the production environment. -A message will be displayed on the main site stating DATAMARK is down during scheduled upgrades.
Non-Scheduled/Emergency Maintenance	May be performed outside the maintenance window and will be counted as unscheduled downtime.	-Customer will be notified immediately providing Customer as much prior notice as is commercially practicable of all such emergency maintenance to be performed on the VEP Software. -A message will be displayed on the main site stating DATAMARK VEP Software is down.

		-Provide a general description of all such emergency maintenance performed no more than ten (10) calendar days following completion of such emergency maintenance.
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4. Compatibility with New Software

- 4.1 Customer consents and acknowledges that prior to upgrading customer's third-party software, the Customer is solely responsible to verify and ensure that such third-party software is compatible with their current or future versions of Software. The most significant applications which the Customer should carefully check for compatibility before upgrading any other third-party tools used with, by, or integrated with the Software. DATAMARK will not be responsible for any failures or malfunctions' resulting from such upgrade and reserves the right not to provide support for such installations.

5. Limitation of the SLA

- 5.1 DATAMARK agrees to maintain uptime of at least 99.5% ("Minimum Uptime Level") excluding Routine and Minor Outages. To the extent that DATAMARK fails during any calendar month to provide the Minimum Uptime Level, it shall provide, upon request of Customer, a pro-rated credit to Customer to compensate for the amount of downtime that exceeds the permitted downtime pursuant to this paragraph. Credits granted hereunder shall be determined within a reasonable amount of time.
- 5.2 DATAMARK will use commercially reasonable efforts to make the Hosted VEP Software available during the applicable Service Windows (except during Force Majeure events) and in accordance with generally recognized industry Service Level Standards for non-mission-critical SaaS applications, excluding unavailability as a result of any of the Exceptions described below in this this Section. "Service Level Failure" means a material failure of the DATAMARK SaaS to meet the Availability Requirement. "Available" means the DATAMARK SaaS is available for access and use by Customer and its Authorized Users over the Internet and operating in material accordance with the Specifications.
- 5.3 Customer must inform DATAMARK's Technical Support Department by email (a "Credit Request") within ten (10) days from the end of the month in which the Customer believes that DATAMARK did not satisfy the Availability Commitment, in each instance, and the Credit Request must include a listing of the date(s), time(s) and duration of the downtime experienced during the applicable month. Failure to do so, in any instance, will forfeit Customer's right to seek a credit from DATAMARK for the failure to achieve the Availability Commitment during the month at issue. Customer's right to receive a credit for a failure to meet the Availability Requirement for a given month shall be Customer's exclusive remedy in connection with the Outage(s) giving rise to the credit. The aggregate maximum value of credits to be issued by DATAMARK to Customer for any and all Outages that occur in a single month will not exceed twenty percent (20%) of the Monthly Annual Fees.
- 5.4 The SLA expressly excludes, and neither the DATAMARK SaaS will be considered un-

Available nor any Service Level Failure be deemed to occur in connection with any failure to meet the Availability Requirement or impaired ability of Customer or its Authorized Users to access or use the DATAMARK SaaS that is due, in whole or in part, to any of the following:

- a) Scheduled Downtime, or disabling, suspension and/or termination of the DATAMARK SaaS pursuant to the SaaS agreement;
- b) Installation, configuration and technical support for DATAMARK SaaS;
- c) Technical support, consultation or problem resolution pertaining to software applications other than those supplied by DATAMARK and described in this Agreement including access to or use of the VEP Software by Customer or any Authorized User, or using Customer's or an Authorized User's Access Credentials, that does not strictly comply with the SaaS Agreement, Customer Failure, Customer's Internet connectivity, failure, interruption, outage or other problem with any software, hardware, system, network, facility or other matter not supplied by DATAMARK pursuant to this Agreement;
- d) Resolution of problems resulting from negligence of the system user. Including specifically the incorrect data entry, the use of altered data or source code and the failure to use the Software according to the instructions provided in the user guide;
- e) Support for development (SDK, Web pages, etc.), integration and custom reports, whether developed by Customer or any party other than DATAMARK;
- f) Any alterations or additions, performed by parties other than DATAMARK, except for programs using product interfaces provided by DATAMARK;
- g) Use of the Software on an Operating Environment other than that for which such Software was designed, except as expressly prescribed in the user guide;
- h) Maintenance and support for non-production environments and sand boxes; and
- i) Data migration.

5.5 If Customer requires that a member of DATAMARK's staff provide services pertaining to any of the above exclusions which are not included as part of the SLA, Customer hereby agrees to pay DATAMARK for these services according to the daily support service rate then in effect, prorated hourly.

(Remainder of this page intentionally left blank)