



**DATA INNOVATIONS LLC  
MASTER AGREEMENT**

<b>Customer Name ("Customer"):</b>	County of Monterey for the provision of services for Natividad Medical Center
<b>Address:</b>	1441 Constitution Boulevard
<b>City:</b>	Salinas
<b>State:</b>	California
<b>Zip or Province/Postal Code:</b>	93906
<b>Country:</b>	US
<b>Type of Corporation:</b>	County Hospital

This agreement for the provision of software, maintenance and support, professional services, and/or subscription services, effective on the last date of signature below which is \_\_\_\_\_ (the "Effective Date") is by and between the Data Innovations entity indicated below ("DI"):

Data Innovations LLC, a Delaware limited liability company with principal offices at 463 Mountain View Drive, Suite 3, Colchester, VT 05446

and Customer listed above. Each of DI or Customer may be referred to as a "Party" or together the "Parties".

This agreement consists of (i) this signature page; (ii) the following General Terms and Conditions; (iii) any number of Schedules and Exhibits attached hereto; and (iv) any Quote, Statement of Work, or other written agreement entered into by the Parties (the "Master Agreement").

This Master Agreement governs each Quote or Statement of Work, and other written agreement entered into by the Parties at any time.

<b>SCHEDULES AND EXHIBITS TO MASTER AGREEMENT</b>
<b>On-Premises Software Schedule</b>
<ul style="list-style-type: none"> <li>• Exhibit to On-Premises Software Schedule; Perpetual License</li> <li>• Exhibit to On-Premises Software Schedule; Subscription License</li> <li>• Exhibit to On-Premises Software Schedule; InterSystems Corporation End User License &amp; Services Agreement</li> </ul>
<b>Cloud-Based Solution Schedule</b>
<ul style="list-style-type: none"> <li>• Exhibit to Cloud-Based Solution Schedule; Lab GPS™</li> </ul>
<b>Maintenance and Support Services Terms and Conditions Schedule</b>
<ul style="list-style-type: none"> <li>• Exhibit to Maintenance and Support Services Terms and Conditions Schedule; On-Premises Software – Perpetual License</li> <li>• Exhibit to Maintenance and Support Services Terms and Conditions Schedule; On-Premises Software – Subscription License</li> <li>• Exhibit to Maintenance and Support Services Terms and Conditions Schedule; Cloud-Based Solution                             <ul style="list-style-type: none"> <li>○ Appendix to Exhibit to Maintenance and Support Services Terms and Conditions Schedule; Cloud-Based Solution; Lab GPS™</li> </ul> </li> </ul>
<b>Professional Services Terms and Conditions Schedule</b>
<ul style="list-style-type: none"> <li>• Exhibit to Professional Services Terms and Condition Schedule; Monterey County Travel and Business Expense Policy</li> </ul>
<b>Business Associate Agreement Schedule</b>
<b>Notice and Contact Information Schedule</b>
<b>Quote Schedule – Quote #O-00153199</b>

**Existing License:**

- Customer entered into a written sublicense agreement with approved DI reseller, McKesson Medical-Surgical, Inc., (the "Prior Agreement") for the license and support of DI Software: IM-344861 production license ("Previously Licensed Instrument Manager Software"); and
- Customer now desires to: a) terminate the existing license for the Previously Licensed Instrument Manager Software, and b) re-license the Previously Licensed Instrument Manager Software directly from DI, and receive Maintenance and Support Services from DI for such Software under this Master Agreement; and
- DI is willing to grant a license to Customer for the Previously Licensed Instrument Manager Software and provide Maintenance and Support Services to Customer under the terms and conditions of this Master Agreement, as well as provide other DI Software and Services that Customer may request from time to time.
- NOW THEREFORE**, the Parties hereto, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, intending to be legally bound, agree to the following general terms and conditions.

# Master Agreement



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

DI

  
\_\_\_\_\_  
(Authorized Signature)

**Matt King**

(Printed Name)

**Chief Financial Officer**

(Title)

**December 18, 2025**

(Date)

CUSTOMER

\_\_\_\_\_  
(Authorized Signature)

(Printed Name)

(Title)

(Date)

APPROVED AS TO LEGAL PROVISIONS

Signed by:

  
696D21D44C4341D...  
Stacy Saetta

Chief Deputy County Counsel. Reviewed as to form.  
1/13/2026 | 8:21 AM PST

APPROVED AS TO FISCAL PROVISIONS

DocuSigned by:

  
E79EF64E57454F6...  
Patricia Ruiz

Auditor Controller Analyst I  
1/14/2026 | 3:12 PM PST

DI

  
\_\_\_\_\_  
(Authorized Signature)

**Matthew Wilcox**

(Printed Name)

**VP, Finance**

(Title)

**December 18, 2025**

(Date)



## GENERAL TERMS AND CONDITIONS

NOTE: Some of the following definitions may not be applicable, depending on the Software or Service licensed. The attached Schedules, Exhibits, and Appendices should be referenced for additional definitions which are specific to the Software and Service as may be applicable.

### 1) DEFINITIONS.

- a) **“Acceptable Use Policy”** means the acceptable use terms and conditions set forth in Part B of the Cloud-Based Solution Schedule.
- b) **“Additional Software”** means third-party vendor software, licensed directly by Customer through its own suppliers and not sold or distributed by DI, whether or not it was recommended for use in connection with installation and Use of the Software.
- c) **“Affiliate(s)”** means any company controlling, controlled by or under common control with Customer.
- d) **“Aggregated and Statistical Data”** means the aggregated and statistical data derived from the operation of DI’s Lab GPS™ Software, including, without limitation, the usage history, statistics, telemetry, number of records in the Lab GPS™ Software, the number and types of transactions processed using the Lab GPS™ Software and the performance results for the Lab GPS™ Software.
- e) **“APIs”** mean any application programming interfaces.
- f) **“Applicable Taxes”** means all value-added, sales, use, import, duties, customs or other taxes applicable to the Software licensed to Customer and/or Services performed, under this Master Agreement, except for any taxes based upon DI’s net income.
- g) **“ARRA”** means Title XIII of the American Recovery and Reinvestment Act of 2009.
- h) **“Authorized User”** means the employees and authorized agents of Customer granted the right to access the Cloud Platform and Use the Subscription Services.
- i) **“Bank Fees”** means any form of payment fees (including wire transfer fees, bank fees, and credit card fees) assessed by Customer’s A/P processor or bank, or DI’s processor or bank, to DI related to payments made by Customer to DI hereunder.
- j) **“Billable Expenses”** means all actual, out-of-pocket expenses incurred by DI while delivering the Software and/or performing the Services under this Master Agreement, as further described in the Professional Services Schedule.
- k) **“Bundled Software”** means software licensed by DI from a third party to be distributed to Customer with the Software that has its own separate install process.
- l) **“Reserved”**.
- m) **“Change Management Process”** means the process set forth in the Professional Services Schedule for changing a previously agreed upon scope of Professional Services as detailed in a PS Agreement.
- n) **“Change Order”** means a written, mutually agreed upon change to the Customer’s requirements and/or the scope of the Professional Services, delivery schedule, and/or Professional Services Fees.
- o) **“Claims and Losses”** means any and all third-party claims, demands, liabilities, actions, suits, judgments, decrees, proceedings, (including reasonable attorneys’ fees incurred in connection therewith), losses, damages, and expenses.
- p) **“Cloud-Based Solution”** means a combined reference to the Software located in the cloud and the related Maintenance and Support Services that are provided and licensed together to the Customer as Subscription Services.
- q) **“Cloud Platform”** means the proprietary computer software applications, tools, APIs, connectors, programs, networks and equipment used to make the Subscription Services, and individual Software, available to Customer on an internet-hosted platform.
- r) **“Computer”** means an electronic device, owned by Customer that accepts information in digital or similar form and manipulates it for a specific result based on a sequence of instructions.
- s) **“Completed Project”** means a Professional Services project has been through the Project Closure process and has been closed as completed.
- t) **“Confidential Information”** means all non-public data or information regarding the Parties’ business or technical operations including, but not limited to, (i) all designs, models, documentation, reports, data, specifications, technical process, any device, technique, or compilation of information, formula, source code, object code, flow charts, file record layouts, databases, inventions, technical data or information know-how, patents, and Trade Secrets (as defined by the Uniform Trade Secret Act), improvements, concepts and discoveries, whether or not patentable or copyrightable, relating to the Software, Work Product, and Services, (ii) information with respect to either Party’s existing or contemplated products, product development, services, marketing plans, suppliers, business data or information, partner relationships, business opportunities, finances (including, without limitation, revenues, expenses, taxes, and contracts), operations, pricing and customers or personnel, processes, techniques or know-how, sales data, internal performance results, validation reports, or any information or data developed pursuant to the performance of the Services contemplated hereunder, (iii) any other information that is specifically designated by a Party as confidential or proprietary, (iv) information that, due to its character or nature,



a reasonable person would treat as confidential. DI hereby designates the DI Property, including any permitted copies, as DI's Confidential Information. Customer Data, including permitted copies, shall be deemed "Customer Confidential Information". Confidential Information shall not include information that (A) is in or enters the public domain without breach of this Master Agreement by the Receiving Party, (B) was demonstrably in the possession of the Receiving Party prior to first receiving it from the Disclosing Party without restrictions on disclosure, (C) the Receiving Party can demonstrate was developed by the Receiving Party independently and without use of or reference to the Disclosing Party's Confidential Information, or (D) the Receiving Party receives from a third party without restriction on disclosure and without breach of a nondisclosure obligation, or the terms and conditions of this Master Agreement and any amendments hereto.

- u) Confidential Information shall not be deemed to be in the public domain or generally known or available to the public merely because any part of said information is embodied in general disclosures or because individual features, components or combinations thereof are known or become known to the public.
- v) **"Critical Priority Software Error"** means a Software Error that renders the Software inoperable and causes a significant, time-dependent stoppage of Customer's business operations.
- w) **"Customer Data"** means all Customer data entered into, or coming in from an outside source, and captured by, the Software, including if applicable any Protected Health Information, if either are applicable, forming part of such data. Customer Data shall include Affiliate data.
- x) **"Customer Web Portal"** means the DI web portal used by customers outside of North America for logging Maintenance and Support Services Software Errors, for viewing the status of outstanding Software Errors incidents, for downloading Drivers and Documentation, for accessing a Knowledgebase of known issues and resolutions, for troubleshooting assistance and to update contact information.
- y) **"DI Property"** means the Software, Cloud Platform, Aggregated and Statistical Data, Work Product, Feedback, DI Tools, and DI's Confidential Information, including any future derivative works, enhancements or modifications thereto.
- z) **"Delivery"** means the date upon which DI has delivered the Software to a third-party shipper addressed to Customer or when DI has made the Software electronically available to Customer.
- aa) **"DI Tools"** means any tools, databases, ideas, and methodologies used by DI in providing the Professional Services and the Work Products.
- bb) **"Disclosing Party"** means the Party providing Confidential Information to the Receiving Party.
- cc) **"Discontinued Project"** means a Professional Services project that has been discontinued and closed out due to action or non-action from the Customer.
- dd) **"Disputed Fee(s)"** means an invoiced Fee that is the subject of a good faith dispute between the Parties.
- ee) **"Dispute(s)"** mean any and all disputes, controversies, differences or claims arising from or related to this Master Agreement, or the interpretation, making, performance, breach or termination thereof or transactions conducted pursuant to the rights and duties granted by this Master Agreement.
- ff) **"Dispute Notice"** means written notice given by one Party to the other Party setting forth the details of a Dispute.
- gg) **"Documentation"** means all guides, related explanatory written materials, manuals, files or on-line help, provided to Customer, for the Software, Cloud Platform and any modifications thereto.
- hh) **"Driver"** means the software developed by DI to connect laboratory devices and information systems or Additional Software to the Software.
- ii) **"Driver Update"** means updates to Drivers to correct defects, improve Software operation, add features, or provide functional corrections to the Driver that DI chooses to develop solely at its own discretion.
- jj) **"Due Date"** means thirty (30) days from the date of invoice on which all amounts billed by DI will be due and payable.
- kk) **"Embedded Software"** means software licensed by DI from a third party to be distributed to Customer with the Software that is automatically installed with the Software.
- ll) **"Emergency Maintenance and Support Services"** is defined as Critical and/or High Priority Software Errors.
- mm) **"End of Life or EoL"** means Software that has reached EoM and EoS and for which there is no successor Software. End of Life for a Software version is when DI will no longer provide Maintenance and Support Services for that Software version.
- nn) **"End of Maintenance or EoM"** defines Software or a specific Software version for which DI will no longer provide Updates.
- oo) **"End of Sale or EoS"** defines Software and Software specific versions that DI will no longer license or distribute.
- pp) **"Export Laws"** means the collective reference to the United States Export Administration Act or any other export laws, restrictions or regulations that apply to the access and Use of the Software and Services.
- qq) **"Feedback"** means all ideas, suggestions, improvements, reports, corrections and other contributions



- that Customer provides to DI, or otherwise makes with respect to the Software, Cloud Platform, and Services.
- rr) **“Fees”** means a reference to any or all of the fees due under this Master Agreement including the fees for the Software, Professional Services, Maintenance and Support Services, Subscription Services, Renewals, Bank Fees, and any Applicable Taxes.
- ss) **“Force Majeure”** means any act or condition whatsoever beyond the reasonable control of and not occasioned by the fault or negligence of the affected Party, including, without limitation, acts of God, acts of terrorism, acts of nature or of a public enemy, acts of a federal government or any state or political subdivision thereof, internet brownouts, fires, floods, explosions, wars, pandemics, or other catastrophes; freight embargoes; or delays of a supplier or subcontractor due to such causes.
- tt) **“Reserved”**.
- uu) **“Hardware”** means any third-party hardware purchased from DI by Customer.
- vv) **“High Priority Software Error”** means 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.
- ww) **“HIPAA”** means the Health Insurance Portability and Accountability Act of 1996.
- xx) **“Identity Provider” or “IdP”** means a compatible third-party online service or website that authenticates users on the Internet by means of publicly available APIs, such as Google, LinkedIn or Facebook.
- yy) **“Intellectual Property Rights”** means all patents, improvements, concepts and discoveries (whether patentable or not), copyrights, models, designs, trademarks, trade secret rights, service marks, trade names, brand names, trade dress, and other proprietary rights or applications thereof which pertain to the Software, DI Tools, Work Product, Cloud Platform and Services whether registered or not, including any future release, update, modifications, new version, release, compilation, and translation of the DI Property and Services.
- zz) **“Internal Resolution”** means the resolution of a Dispute by the assigned representatives of each Party.
- aaa) **“Low Priority Software Error”** means a Software Error incident opened when Customer has general Software questions or needs that do not impact day-to-day functionality.
- bbb) **“Maintenance and Support Services”** means DI’s standard technical support and maintenance services to diagnose and address a Software Error when the Software has been properly installed, if applicable, and is being Used to perform in accordance with the specifications set forth in the applicable Documentation. Maintenance and Support Services do not include training of Customer’s personnel, consulting, or other available Professional Services.
- ccc) **“Maintenance and Support Services Fees”** means all fees for the performance of Maintenance and Support Services, including all actual Billable Expenses.
- ddd) **“Major Release”** means a release with significant new or improved functionality within the same Software bearing the same name that DI in its sole discretion determines to release as a new Major Release.
- eee) **“Malware”** means unauthorized programming (code, scripts, active content, and other software) that is designed to, disable, erase, or otherwise harm, impede disrupt or deny Customer’s Use of the Software or Services, gather information that leads to loss of privacy or exploitation, or gain unauthorized access to system resources or the Software, or that otherwise exhibits abusive behavior, including computer viruses, worms, trojan horses, spyware, dishonest adware, scareware, crimeware, most rootkits, or other malicious or unwanted software or programs. Malware does not include the Temporary SSK delivered with On-Premises Software.
- fff) **“Mediation”** means the attempt to settle a Dispute that cannot be settled by Internal Resolution through the use of third-party mediation.
- ggg) **“Mediator”** means an independent third party trained as a mediator to act fairly and impartially, who has been nominated by the Parties to oversee Mediation.
- hhh) **“Medium Priority Software Error”** means a Software Error that 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.
- iii) **“Modification”** means any change to the terms and conditions of this Master Agreement including any of its Schedules, applicable to Customer and affecting the Subscription Services.
- jjj) **“My DI Community”** means the DI web portal used by customers located within North America, for logging Maintenance and Support Services Software Errors, for viewing the status of outstanding Software Errors incidents, for downloading Drivers and Documentation, for accessing a knowledgebase of known issues and resolutions, for troubleshooting assistance, and to update contact information.
- kkk) **“Non-Compliance”** means any Use of the Subscription Services or of any IdP by Customer or any of its Authorized Users’ that (i) does not comply with applicable law or with the Acceptable Use Policy; (ii)



- subjects DI to liability to any third party; (iii) or infringes or is alleged to infringe any third-party intellectual property rights.
- lll) **“On-Premises Software”** means Software licensed to Customer for installation on Customer's hardware at Customer's site.
- mmm) **“Open-Source Software”** means software distributed to Customer with the Software that is automatically installed with the Software that meets the definition of “Open-Source” as set forth at <https://opensource.org/osd>.
- nnn) **“Period of Performance”** means the total amount of time during which a Professional Services project shall be performed.
- ooo) **“Reserved”**.
- ppp) **“Personally Identifiable Information”** means any data that could potentially be used to identify a particular person (e.g. full name, Social Security number, driver's license number, bank account number, passport number, and email address), including Protected Health Information. For purposes of clarity, Customer's login information, such as business email addresses, is not deemed Personally Identifiable Information.
- qqq) **“Privacy Regulations”** means HIPAA and ARRA, as applicable to Customer and DI.
- rrr) **“Professional Services”** means training, implementation, installation, and/or consulting services provided by DI to Customer pursuant to this Master Agreement, and as more specifically described in a PS Agreement.
- sss) **“Professional Services Fees”** means all fees for the performance of Professional Services, including all actual Billable Expenses.
- ttt) **“Prohibited Content”** means any Customer Data that DI reasonably believes violates the law, infringes or misappropriates the rights of any third party, or otherwise violates a material term of this Master Agreement, including the Acceptable Use Policy and any Personally Identifiable Information.
- uuu) **“Project Closure”** means the process DI will follow to transition a Professional Service project from an “in-process” status to a Completed Project, which includes the handoff of the Customer environment to DI Customer Support Team.
- vvv) **“Project Closure Date”** means the date a Professional Services project is closed as either a Completed Project or a Discontinued Project.
- www) **“Protected Health Information”** means individually identifiable health information that is transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium that is protected under an applicable Privacy Regulation.
- xxx) **“PS Agreement”** means the applicable Quote or SOW executed by both Parties, setting forth the Professional Services that DI shall perform for the Customer.
- yyy) **“PS Appendix”** means an appendix to a Quote setting forth the specific details and additional terms and conditions regarding the Professional Services that DI shall perform for the Customer.
- zzz) **“Quote”** means the specific proposal prepared by DI and provided to Customer, which may include a PS Appendix, if applicable, setting forth the details of the Software and Services the Customer is purchasing.
- aaaa) **“Receiving Party”** means the Party receiving the Confidential Information of the Disclosing Party.
- bbbb) **“Renewal Fees”** means the fees charged by DI to Customer to renew Maintenance and Support Services and/or Subscription Services for an additional set term.
- cccc) **“Renewal Notice”** means the written notice provided by DI to Customer with the terms and conditions, including the applicable Fees, for renewing of Maintenance and Support Services and/or for renewing Subscription Services.
- dddd) **“Renewal Term”** means any renewal term of a Maintenance and Support Services Term or a Subscription Term.
- eeee) **“Requested Enhancement”** means new functionality or enhancements to existing functionality of the Software.
- ffff) **“Scheduled Date”** means the specific date set by the Parties to commence the Professional Services.
- gggg) **“Services”** means a reference to any of the Maintenance and Support Services, Professional Services, and/or Subscription Services provided under this Master Agreement.
- hhhh) **“Software”** means (i) all application(s), (ii) Documentation, (iii) Drivers (iv) Driver Updates, (v) Requested Enhancements, and all (vi) Updates, licensed by DI to Customer pursuant to this Master Agreement.
- iiii) **“Software Error”** means a failure of the Software, licensed hereunder to Customer, when properly installed, if applicable, and being Used to perform in accordance with the specifications set forth in the applicable Documentation.
- jjjj) **“Software Fees”** means all fees for the Software licensed by Customer under this Master Agreement.
- kkkk) **“SSK”** means the Software security activation key (a unique code, specific to the Computer the On-Premises Software is installed on), with either a perpetual term or a set term that expires at the end of



each Subscription Term, that allows Customer to activate the Software license.

- iii) **“Statement of Work” or “SOW”** means the written form executed by both Parties, setting forth the specific details and additional terms and conditions regarding the Professional Services that DI shall perform for the Customer.
  - mmmm) **“Reserved”**.
  - nnnn) **“Subscription Fees”** means the fees due for Subscription Services.
  - oooo) **“Subscription Services”** means the license of Software and the provision of related Maintenance and Support Services to Customer on a subscription term basis.
  - pppp) **“Subscription Services Start Date”** shall have the meaning set forth in the applicable Schedule.
  - qqqq) **“Subscription Term”** means the term of Subscription Services, as set forth in the applicable Schedule or Quote.
  - rrrr) **“Support Hours”** mean the hours Maintenance and Support Services are available, as set forth in Maintenance and Support Services Schedule.
  - ssss) **“Supported Version”** is a version of Software that has not reached the state of EoS, or EoM.
  - tttt) **“Temporary SSK”** means a temporary ninety (90) day SSK provided as part of the initial Delivery of On-Premises Software licensed on a perpetual basis.
  - uuuu) **“Third-Party Software”** means a collective reference to Bundled Software, Embedded Software, or Open-Source Software.
  - vvvv) **“Update(s)”** means a Software Error correction, bug fix, modification, enhancement, improvement, new feature, functional corrections, upgrade, modified version, addition, Driver Updates, Requested Enhancements or other new releases, generally made available to purchasers of Maintenance and Support Services at no additional charge. Updates shall not include any major modifications, options or future products, Driver Updates or Requested Enhancements, that DI, in its sole discretion, determines to license separately and charge a separate license fee.
  - wwww) **“Use”, “Used,” or “Using”** means to access, install, download, execute, display or otherwise benefit from using the functionality of the Software in accordance with the Documentation.
  - xxxx) **“Work Product”** means any implementation artifacts, interfaces, or other items delivered to Customer under a SOW.
- 2) **CONSTRUCTION.** Quotes, Statements of Work, or other written agreements entered into by Customer and DI after the Effective Date (“Addenda”), will be subject to this Master Agreement. The provisions of the various Addenda and Schedules will, to the extent possible, be interpreted so as to supplement each other and avoid any conflict between them. In the event of a conflict between the terms and conditions of these General Terms and Conditions, a Schedule, Exhibit, or Addenda, the conflict will be resolved by giving precedence in the following order: (i) the General Terms and Conditions, (ii) the Schedule, (iii) the Exhibit, and then (iii) the Addenda, unless explicitly stated otherwise in the Schedule, Exhibit, or Addenda, and in that case the conflicting terms and conditions in such Schedule, Exhibit or Addenda will apply only to that Schedule, Exhibit or Addenda.
- 3) **AFFILIATES.**
- a) DI grants Customer the following rights related to its Affiliates, subject to the terms and conditions of this Master Agreement. Affiliate may, pursuant to a purchase order issued directly by the Affiliate to DI or a SOW entered into between Affiliate and DI:
    - i) connect to, access and Use the Software licensed by the Customer and installed at the Customer's site, and/or
    - ii) license Software and Work Product, and purchase Services and/or Hardware for:
      - i) connection to the Software at Customer's site, or
      - ii) installation at the Affiliate's site.
  - b) Prior to an Affiliate's i) connection, access and Use or ii) license and/or purchase, Customer agrees that it shall require each of its Affiliates to comply with the terms, conditions and restrictions contained in this Master Agreement, including, but not limited to, the use restrictions and confidentiality obligations, and that Customer remains responsible for all of the actions of the Affiliates, including a breach by Affiliate, and the actions of the Affiliates shall be deemed the actions of Customer.
  - c) In the event of termination of this Master Agreement, all **“Effects of Termination”**, as set forth in Section 12.e, that apply to Customer, shall apply in the same manner to each Affiliate.
- 4) **SOFTWARE AND SERVICES.** DI shall provide Customer the Software and Services, pursuant to the terms and conditions contained in this Master Agreement. DI's performance is dependent on Customer carrying out its obligations as set forth in this Master Agreement, and the applicable PS Agreement, and Customer acknowledges that the Professional Services Fees take into account these obligations. DI shall not be responsible for any delay in the performance of, or an inability to perform, any of its obligations contained in this Master Agreement that result from any failure or delay by Customer in the performance of its obligations contained in this Master Agreement.
- 5) **FEES, PAYMENT, AND TAXES.**

# Master Agreement



- a) In consideration of the Software and Services and any accompanying licenses provided to Customer by DI under this Master Agreement, Customer or a third party on Customer's behalf, shall pay DI the Fees and Billable Expenses set forth on each applicable Quote, SOW, or Schedule, plus all Applicable Taxes. All Fees and Billable Expenses are quoted in, and Customer shall pay in, the currency indicated below.
- Data Innovations LLC – US Dollars
- b) DI shall submit such invoice periodically or at the completion of services, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by DI for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. Customer shall certify the invoice, either in the requested amount or in such other amount as Customer approves in conformity with this Agreement and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.
- c) A Quote will be deemed to have been accepted and agreed to by Customer, either by Customer i) signing and returning an executed copy of the Quote to DI; or ii) submitting a purchase order to DI for the Software or Services detailed on the Quote, provided the purchase order specifically references the Quote number, and the value on the purchase order matches the value on the Quote.
- d) Customer agrees that it will not now, nor at any point in the future, utilize a credit card for any payments due to DI.
- e) All discounts, if any, provided under this Master Agreement are intended to comply with the federal Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b). To the extent required by 42 C.F.R. § 1001.952(h) (the Anti-Kickback Statute discount safe harbor regulations) or other applicable laws and regulations, Customer must fully and accurately reflect in cost reports or other submissions to federal healthcare programs all discounts provided under this Master Agreement and, upon request by the Secretary of the U.S. Department of Health and Human Services or a state agency, must make available information provided to Customer by DI concerning the discounts.
- f) Except for a Disputed Fee, any payments not received by DI by the Due Date will be considered past due.
- g) In the event of a Disputed Fee, Customer shall pay the undisputed amount and notify DI of the Disputed Fee in writing within thirty (30) business days of Customer's receipt of the invoice. Customer shall not be required to pay interest on any reasonable and documented Disputed Fees. If the Parties are unable to resolve the dispute themselves, the Parties agree to submit this Dispute to resolution pursuant to Section 13.o) ("Disputes").
- h) If Customer is not subject to any or all Applicable Taxes, then Customer is responsible for submitting the applicable documentation to DI. If this document is not provided prior to Delivery of the Software or completion of the Services, Applicable California Sales Tax will be calculated and included on the Customer's invoice.
- 6) **TERM.** The term of this Master Agreement shall begin on the Effective Date and shall continue until terminated by either Party as set forth in this Master Agreement.
- 7) **INTELLECTUAL PROPERTY.** The Parties acknowledge and agree that:
- a) DI, or its licensors, own all exclusive right, title, and interest in and to the Intellectual Property Rights in the DI Property. Customer shall not take any action inconsistent with such title and ownership. All title rights and Intellectual Property Rights may be protected by applicable copyright or other intellectual property laws and treaties.
- b) This Master Agreement is not a sale of the DI Property, and Customer does not acquire any ownership rights or title or any Intellectual Property Rights in the DI Property. Customer acquires only the restricted right to Use the DI Property subject to the license grants herein.
- c) DI may utilize all Feedback without any obligation to Customer.
- d) Customer shall notify DI of any unauthorized access to the DI Property and all infringements, limitations, illegal use, or misuse of the Intellectual Property Rights that come to Customer's attention.
- e) Customer will not remove, alter, or obscure any copyright notices, proprietary legends, trademark or service mark attributes, patent markings or other indicia of ownership contained on or in the DI Property or any portion thereof and Customer will reproduce all such notices on all copies permitted to be made by Customer under this Master Agreement.
- f) Customer agrees not to use trademarks or other business names of DI for any purpose or to take any actions which are harmful to or inconsistent with the rights of DI in its trademarks, service marks, and trade names.
- g) The Software (i) was developed at private expense and is the proprietary information of DI or its licensors; (ii) was not developed with government funds; (iii) is a trade secret of DI or its licensors, for all purposes of the Freedom of Information Act; (iv) is a commercial item and thus, pursuant to Section 12.212 of the Federal Acquisition Regulations (FAR) and DFAR Supplement Section 227.7202, Government's use, duplication, or disclosure of the Software is subject to the restrictions set forth by DI and the restrictions set forth in subparagraph c(1) and c(2) of Commercial Computer Software - Restricted Rights at 48 C.F.R. 52.227-19, as applicable. Furthermore, if the Software is being licensed to U.S. Government end users,



the Software and related Documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.211 through 12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation is licensed (A) only as Commercial Items and (B) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

- h) Customer owns all exclusive right, title and interest, including Intellectual Property Rights in the Customer Data. DI shall not take any action inconsistent with such title and ownership. DI hereby agrees to assign any such right to Customer.
- i) Customer grants to DI during the term of this Master Agreement, a non-exclusive, non-transferable, non-sublicensable right to use the Customer Data, solely as necessary to perform the Services and as otherwise may be agreed in writing by the Customer.

**8) CONFIDENTIAL INFORMATION.**

- a) **Confidentiality.** Each Party shall maintain the Confidential Information of the other Party in strict confidence until such time as the Confidential Information falls under one of the exceptions listed in Section 1.s) (A) – (D) ("**Confidential Information**") above. Each Party shall exercise no less than reasonable care with respect to the handling and protection of such Confidential Information, using the same protective precautions as such Party uses to protect its own Confidential Information. Each Party shall use the Confidential Information of the other Party only during the term of this Master Agreement and as expressly permitted herein, and shall not disclose such Confidential Information to any other person or third party without prior written consent of the Disclosing Party, except to its employees and independent contractors who are subject to written use and disclosure restrictions at least as protective as those set forth herein and only as is reasonably required in connection with the exercise of its rights and obligations under this Master Agreement. Notwithstanding the above, the Receiving Party may disclose Confidential Information of the Disclosing Party pursuant to a valid order or requirement of a court or government agency, provided that the Receiving Party gives prompt notice to the Disclosing Party upon receiving the order or learning of the requirement so that it may seek a protective order or other appropriate remedy. Any such disclosure by the Receiving Party of the Confidential Information of the Disclosing Party, shall not be deemed a breach of this Master Agreement and shall, in no way, be deemed to change, affect, or diminish the confidential status of such Confidential Information. Customer acknowledges and agrees that it will not permit any third party, nor any employee, representative, or agent thereof, that develops, markets, or licenses computer programs with functionality similar to the functionality of the Software to have access to DI's Confidential Information, which includes the Software.
- b) **Privacy Regulations.** The Parties agree to abide by the terms and conditions of the applicable Privacy Regulations and agree to enter into the necessary separate privacy and security agreements to facilitate compliance with the Privacy Regulations.

**9) GENERAL WARRANTIES AND DISCLAIMERS.**

- a) **Customer Warranty.** Customer represents and warrants that, prior to uploading any Customer Data into the Software, it owns or has obtained all necessary consents, licenses, approvals, and rights in the Customer Data necessary so that the use of such Customer Data by DI to provide Services to Customer does not violate any intellectual property rights or other rights (e.g. privacy) of a third party.
- b) **DI Warranties.**
  - i) DI warrants that it owns, or has the right to, license the Software.
  - ii) DI Software and Services warranties are set forth in the applicable Schedules.
- c) **Hardware Warranty.** Any Hardware purchased from DI is covered by the manufacturer's warranty. Hardware warranty coverage begins on the date of DI's initial purchase from the manufacturer.
- d) **Mutual Warranty.**
  - i) The Parties each have the power and the authority to enter into and perform this Master Agreement.
  - ii) The Parties warrant that they shall comply with all applicable laws and regulations governing the provision, access and Use of the Software and Services.
- e) **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY PROVIDED IN THIS MASTER AGREEMENT, THE SOFTWARE IS PROVIDED "AS IS" AND DI MAKES NO WARRANTY, REPRESENTATION, CONDITION OR AGREEMENT WITH RESPECT TO THE SOFTWARE, SERVICES OR WORK PRODUCTS. DI EXPRESSLY DISCLAIMS AND EXCLUDES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ALL IMPLIED AND EXPRESS WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. DI DOES NOT REPRESENT NOR WARRANT THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED, ERROR FREE, MALWARE FREE, OR THAT CUSTOMER WILL BE ABLE TO ACCESS AND USE OR OPERATE THE SOFTWARE WITHOUT PROBLEMS OR INTERRUPTIONS. SUBJECT TO THE TERMS AND CONDITIONS OF THIS MASTER AGREEMENT AND PROVIDED THE SOFTWARE IS PERFORMING SUBSTANTIALLY IN ACCORDANCE WITH THE DOCUMENTATION, CUSTOMER IS RESPONSIBLE FOR THE RESULTS TO BE ACHIEVED FROM USING THE SOFTWARE AND WORK PRODUCT AND RECEIVING THE



## SERVICES.

**10) INDEMNIFICATION****a) By Customer.**

- i) The County of Monterey (hereinafter "Customer") shall indemnify, defend, and hold harmless DI, its officers, agents, employees, and subcontractors from any claim, liability, loss, injury or damage arising out of, or in connection with, the performance of this Agreement by Customer and/or its officers, agents, employees or sub-contractors, excepting only loss, injury or damage caused by the negligence or willful misconduct of DI and/or its officers, agents, employees and subcontractors. Customer shall reimburse DI for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which Customer is obligated to indemnify, defend and hold harmless the DI under this Agreement.

**b) By DI.**

- i) DI shall indemnify, defend, and hold harmless the County of Monterey (hereinafter "DI"), its officers, agents, employees, or subcontractors from any claim, liability, loss, injury or damage arising out of, or in connection with, the performance of this Agreement by DI 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. DI shall reimburse the Customer for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which DI is obligated to indemnify, defend and hold harmless the Customer under this Agreement.

- 11) LIMITATION OF LIABILITY.** EXCEPT AS REQUIRED BY LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST DATA OR CONTENT, BUSINESS INTERRUPTIONS, LOSS OF INCOME, LOSS OF GOOD WILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, DAMAGES DUE TO FORCE MAJEURE, OR OTHER ECONOMIC LOSS, ARISING OUT OF OR RELATED TO THIS MASTER AGREEMENT, OR ANY USE OF OR FAILURE TO BE ABLE TO USE THE SOFTWARE, WORK PRODUCT, OR SERVICES, REGARDLESS OF (A) WHETHER SUCH DAMAGES WERE FORESEEABLE, (B) WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, (C) WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE, AND (D) THE LEGAL OR EQUITABLE THEORY (CONTRACT, TORT, OR OTHERWISE) UPON WHICH THE CLAIM IS BASED. DI SHALL NOT BE LIABLE FOR (A) DISTURBANCES AND FAILURE OF INTERNET CONNECTIONS, OR (B) CUSTOMER'S DATA INPUT IN THE SOFTWARE, OR DI'S USE OF CUSTOMER DATA. A Party's total aggregate liability for any damages arising out of or related to this Master Agreement, for any and all causes whatsoever, and the other Party's maximum remedy, regardless of the form of action, whether in contract, tort, or otherwise, will not exceed the insurance policy limits stated herein Section 14 of this Agreement, for the portion of the Software, Work Product or Services that is the subject of the action, for the six (6) months immediately preceding the breach for which the damages are claimed. The existence of one or more claims will not enlarge this limit.

**12) TERMINATION.**

- a) Without Cause.** Customer may terminate this Master Agreement without cause upon sixty (60) days written notice to DI.
- b) Termination of all Subscription Services.** If Customer is only licensing Subscription Services from DI under this Master Agreement, this Master Agreement will automatically terminate at such time as Customer has terminated, or Customer has allowed to expire without renewal, all Subscription Services.
- c) Termination for Bankruptcy.** This Master Agreement, and any effective PS Agreement, will terminate automatically if all or a substantial portion of either Party's assets are transferred to an assignee for the benefit of creditors, to a receiver or to a trustee in bankruptcy, a proceeding is commenced by or against the Party for relief under bankruptcy or similar laws and such proceeding is not dismissed within sixty (60) days, or a Party is adjudged bankrupt.
- d) Termination with Cause.**
- i) This Master Agreement may be terminated immediately if either Party violates the confidentiality obligations set forth herein (including the Business Associate Agreement), or the license grants and restrictions set forth herein; or
- ii) This Master Agreement may be terminated upon written notice upon the material breach by the other Party of its obligations (including nonpayment of Fees or Billable Expenses), when such breach has not been cured within thirty (30) days after the breaching Party has received written notice thereof.
- e) Effects of Termination.** Upon any termination of this Master Agreement:
- i) DI shall cease performing the Services and except for termination by DI for the uncured material breach of Customer pursuant to Section 12.d) ("**Termination with Cause**") above, all fully paid Software and Work Product licenses shall remain in effect. In case of termination by DI pursuant to Section 12.d) above, all licenses granted herein, and under any applicable PS Agreement, if any, shall immediately terminate, and Customer shall immediately cease using any delivered Software and Work Product and Customer shall promptly return all Software and Work Product to DI.
- ii) The Receiving Party agrees to immediately cease using the Confidential Information of the



Disclosing Party and each Party shall promptly return to the Disclosing Party or destroy all Confidential Information of the other Party that it may have in its possession or control 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. Notwithstanding the foregoing, if the Receiving Party determines that returning or destroying the Confidential Information is infeasible, 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 Master Agreement to such Confidential Information and limit further uses and disclosures of such Confidential Information to those purposes that make return or destruction infeasible, for so long as the Receiving Party maintains such Confidential Information.

- iii) Except for Disputed Fees, any applicable Fees and Billable Expenses owed by Customer shall become immediately due and payable.
  - f) **Survival.** The provisions of this Master Agreement and any Open PS Agreement (as defined in the Professional Services Schedule), and the related obligations of the Parties, which by their nature should survive termination or expiration, shall survive and remain in full force and effect, but this shall not imply or create any continued right to use the Software and Work Products after termination of this Master Agreement and all Open PS Agreements if such termination is for Customer's material breach.
- 13) **GENERAL TERMS.**
- a) **Third-Party Software.**
    - i) **Open-Source Software and Bundled Software:** Open-Source Software and Bundled Software are licensed for use by Customer, directly by the third-party vendors of such software, and DI makes no representation or warranty of any kind regarding such software, and shall have no liability associated with its use. Customer is to look to the license agreements of such software vendors for terms and conditions of use, warranties and liabilities.
    - ii) **Embedded Software:** Embedded Software is licensed for Use by Customer subject to terms and conditions set forth in this Master Agreement for the Software.
  - b) **Professional Judgment.** The Software is provided as an aid in the practice of healthcare and is not intended as a substitute for professional judgment. Customer acknowledges and agrees that DI is not engaged in the practice of medicine and that DI shall not be responsible for any medical practice management and patient care decisions made using the Software and Services. The Customer is responsible for the supervision, management, and control of its use of the Software including, but not limited to, ensuring that proper controls are in place to validate content input into the Software, and the data and results obtained through its use. Customer acknowledges that all processes, forms, and reports contained within the Software or Services may be subject to errors and are not a substitute for the exercise of professional judgment.
  - c) **Subcontracting.** DI may (i) assign and reassign personnel as it deems appropriate in its discretion to perform the Services and (ii) subcontract the performance of Services, provided DI remains liable for the Services to the same extent as if such Services had been performed by DI's employees.
  - d) **Audit Right.** During normal business hours and at any time during which the Software and/or Services are being utilized, DI, or its authorized representative or licensors, shall have the right, with a minimum of ten (10) days advanced notice one time per year, either remotely or at Customer's premises, to audit and inspect Customer's Use of the Software or Services, in order to verify compliance with the terms of this Master Agreement. If Customer is found to not be in substantial compliance with its obligations, Customer shall work with DI on a practical solution and will promptly take measures to come into compliance.
  - e) **Force Majeure.** Except with regard to payments due DI, neither Party shall be liable for any delays or failures in its performance due to an event of Force Majeure.
  - f) **Hiring.** During the term of this Master Agreement and for a period of one (1) year thereafter, neither Party shall hire any employee of the other without prior written approval. The foregoing notwithstanding, neither Party will be deemed to have breached this section by (a) hiring personnel responding to non-targeted job postings or (b) hiring personnel of the other Party that have been terminated or notified of pending termination by the other Party.
  - g) **Reserved.**
  - h) **Export.** Customer agrees that the Software will not be shipped, transferred, or exported into any country in any manner prohibited by the Export Laws. Nor will Customer allow the Software or Services to be accessed and Used in in any manner prohibited by the Export Laws. In addition, if the Software is identified as export controlled items under the Export Laws, Customer represents and warrants that Customer is not a citizen, or otherwise located within, an embargoed nation and that Customer is not otherwise prohibited under the Export Laws from receiving the Software. All rights to Use the Software are granted on condition that such rights are forfeited if Customer fails to comply with the terms of this Master Agreement.
  - i) **Notices.**
    - i) **General.** Notwithstanding the foregoing, all general correspondence regarding the basic, day-to-day performance and general operations under this Master Agreement, including notices that relate to

# Master Agreement



changes/updates to the Notice and Contact Information Schedule, Updates, the availability or interoperability of the Software or Services or Modifications, may be made by email, or by DI through its website and/or via the My DI Community, or Customer Web Portal.

- ii) **Legal.** All legal notices required under this Master Agreement, and any PS Agreement, shall be (a) in writing, (b) deemed to have been duly made and received when (i) personally served, (ii) delivered by commercially established courier service, or (iii) ten (10) days after deposit in mail via certified mail, return receipt requested. All legal notices to Customer shall be to the address noted for Customer on the Notice and Contact Information Schedule this Master Agreement. All legal notices to DI shall be to the address noted for DI on the first page of this Master Agreement to the attention of the "Office of President and Chief Executive Officer".
- j) **Equitable Relief.** The Parties agree that any breach of a Party's confidentiality obligations or a breach of the license grant and restrictions set forth in this Master Agreement, and any PS Agreement, may result in irreparable injury to the other Party for which there is no adequate remedy at law. Therefore, notwithstanding the Disputes section set forth herein, in the event of any breach or threatened breach of such obligations, the non-breaching Party will be entitled to seek immediate and/or permanent injunctive relief as well as equitable relief in addition to its other available legal remedies.
- k) **Assignment.** Neither Party may assign (whether by operation of law or otherwise), sublicense, share, pledge, rent, or transfer any of its rights under this Master Agreement without the prior written consent of the other Party, which will not be unreasonably withheld. Notwithstanding the foregoing, either Party shall have the right, without acquiring consent from the other Party, to assign its rights and obligations hereunder (including any PS Agreements) 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 Master Agreement; (c) does not change the scope of the Services nor the fees owed per this Agreement and the intent contemplated by the Parties under this Master Agreement and any PS Agreement; or (d) is not pursuant to bankruptcy proceeding. Further, any assignment by Customer: (x) must include the assignment of all the Software and all other software or Hardware bundled or pre-installed with the Software, including all copies, Updates, and prior versions, to such person or entity; (y) must not retain any copies of the Software, including backups and copies stored on a Computer; and (z) the receiving party accepts the terms and conditions of this Master Agreement and any other terms and conditions upon which Customer legally licensed the Software. Any assignment or transfer in violation of the above is void. This Master Agreement will be binding on the Parties, their successors, and permitted assigns.
- l) **Entire Agreement.** This Master Agreement, together with all Schedules, Exhibits, and Quotes, constitutes and contains the entire understanding and agreement of the Parties with respect to the subject matter herein and, supersedes all prior representations, proposals, discussions, undertakings, communications, agreements, advertisements, and understandings, whether oral or written, between the Parties. Any "click-through" or "shrink-wrap" terms and conditions delivered with the Software or any terms or conditions appearing on the face or reverse side of any purchase order, acknowledgement, confirmation or other document furnished by Customer (whether in hard copy, electronic form, or by reference) that are different from or in addition to those set forth herein are hereby expressly rejected and shall not be binding on the Parties, even if signed and returned, unless both Parties hereto expressly agree, in an instrument separate from and in addition to the purchase order, acknowledgement, or confirmation, to be bound by such separate or additional terms and conditions. Additionally, DI shall not be bound by any terms or conditions of Customer or any third party that Customer utilizes for its business activities (including but not limited to vendor registrations, security/privacy reviews, or for purchase order and payment related processes) sent to DI electronically, including links to a website, application, or "click to approve" or "click to acknowledge" pages that are different from or in addition to those set forth herein, and such terms are hereby expressly rejected and shall not be binding on the Parties.
- m) **Amendment.** This Master Agreement may only be modified, altered, or amended by written agreement signed by an authorized officer of both Parties.
- n) **Governing Law.** This Master Agreement will be governed by and construed in accordance with the laws indicated below:
  - Data Innovations LLC – the State of California

without regard to conflicts of laws principles of any jurisdiction. The Parties hereby disclaim the application of the 1980 U.N. Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.
- o) **Disputes.** Any Disputes, shall be settled or resolved in the following manner:
  - i) **Internal Resolution.** The Parties shall first engage in Internal Resolution. To initiate Internal Resolution, a Party must provide the other Party with a Dispute Notice. Upon receipt of the Dispute Notice, the Parties shall designate representatives to confer or meet with each other within a reasonable period of time (as agreed upon by the Parties) to discuss and attempt to resolve the Dispute.
  - ii) **Mediation.** If the Dispute cannot be settled internally by Internal Resolution, then the Parties will attempt to settle their Disputes by Mediation. The Parties will nominate a Mediator who will act fairly



- and with complete impartiality towards the Parties. The language of any Mediation shall be English.
- iii) **Relief.** The Parties may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief, without breach of this Master Agreement.
  - iv) **Court of Competent Jurisdiction.** In the event Mediation fails to resolve a Dispute, then any Party who engaged in good faith in the Mediation process may pursue its rights under this Master Agreement in any court of competent jurisdiction in the location indicated below:
    - Monterey County, California
  - p) **Language.** The English language version of this Master Agreement shall be controlling in the interpretation or application of the terms of this Master Agreement and the Schedules.
  - q) **Section Headings.** Section headings contained in this Master Agreement are for reference purposes only and shall not affect in any way the meaning and interpretation of this Master Agreement.
  - r) **No Waiver.** No failure or delay by either Party in exercising any right hereunder will operate as a waiver thereof.
  - s) **Relationship of the Parties.** The Parties are independent contractors and nothing in this Master Agreement shall be construed to create a partnership, joint venture, or employment relationship between DI and Customer.
  - t) **Third-Party Beneficiaries.** Except as expressly set forth in this Master Agreement, this Master Agreement is not intended to create and does not create enforceable obligations for the benefit of any third party.
  - u) **Severability.** If any part of this Master Agreement is found void and unenforceable, it will not affect the validity of the balance of this Master Agreement, which shall remain valid and in full force and effect.
  - v) **Counterparts.** This Master Agreement, and each PS Agreement, may be executed simultaneously in two or more counterparts, each of which will be considered an original, but all of which together will constitute one and the same instrument.
  - w) **Electronic Copies.** Fully executed pdf copy or electronic transmission of this Master Agreement, and each PS Agreement, shall serve as an original and shall be considered binding upon the Parties.
  - x) **Authority.** Each Party represents that the individual signing above on behalf of the Party is duly authorized and has the authority to execute and bind the Party indicated to this Master Agreement.

**14) INSURANCE****Evidence of Coverage:**

Prior to commencement of this Agreement, DI shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate.

This verification of coverage shall be sent to Customer's Contracts/Purchasing Department, unless otherwise directed. DI shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and Customer has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of DI.

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

**Insurance Coverage Requirements:** Without limiting DI's duty to indemnify, DI shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

**Commercial General Liability Insurance,** including but not limited to premises and operations, including coverage 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 \$500,000 per occurrence.

**Workers' Compensation Insurance.** If DI employs other in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each employee – bodily injury by disease, \$1,000,000 each accident and \$1,000,000 aggregate – bodily injury by disease.

**OTHER INSURANCE REQUIREMENTS:**

All insurance required by this Agreement shall be with a company acceptable to Customer and issued and executed by

# Master Agreement



an admitted insurer 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 DI completes its performance of services under this Agreement.



## ON-PREMISES SOFTWARE SCHEDULE

All Software licensed to Customer as On-Premises Software, is provided pursuant to the General Terms and Conditions, this Schedule, and any Exhibit or Appendix attached by reference.

### 1) RESTRICTIONS AND USE.

- a) **Installation.** Customer may install and Use one (1) copy of each license of the Software granted to Customer hereunder on one (1) Computer.
- b) **Reproduction.** Customer shall not copy the Software without the prior written approval of DI. Notwithstanding the foregoing, Customer may make one backup copy of the Software, into machine readable form, for archival and disaster recovery purposes, provided Customer's backup copy is not in Use on any Computer. All backup copies shall remain the property of DI and are subject to the terms and conditions of this Master Agreement. Customer shall maintain a record of the number and location of all copies of Software, including copies merged with other software, and shall make those records available to DI upon request. Any backup copy of the Software that Customer makes must contain the same titles, trademarks, copyright notices, legends, and other proprietary notices that appear on or in the Software.
- c) **No Modification.** Customer shall not, and shall not permit any third party to, (i) remove or alter any copyright notices on and all copies of the Software (ii) modify, adapt, alter, or translate (excluding any language translation features that are part of the Software, and default project data files) the Software or (iii) reverse engineer, decompile, disassemble, create derivative works of any part of the Software, attempt to defeat, avoid, by-pass, remove, deactivate, or otherwise circumvent any software protection mechanisms in the Software including, without limitation, any such mechanism used to restrict or control the functionality of the Software; or otherwise attempt to discover the source code or the underlying ideas, algorithms, structure, or organization form of the Software, except to the extent Customer may be expressly permitted to decompile under applicable law. DI reserves the right to make improvements, substitutions, modifications or enhancements to any part of the Software.
- d) **Transfer.** Customer may not, rent, lease, lend, sublicense, assign, distribute, sell, or transfer Customer's rights in the Software, use the Software for commercial time-sharing, or for service bureau use, or authorize all or any portion of the Software to be copied onto another user's Computer except as may be expressly permitted herein. Customer may, however, transfer the Software from one Customer Computer to another, provided that the transfer is carried out within a reasonable timeframe. Customer may ensure that the Software is successfully loaded on the new Computer prior to erasing from Customer's old Computer.
- e) **Updates.** If the Software is an Update to a previous version of the Software, Customer must possess a valid license to such previous version in order to Use such Update. All Updates are provided to Customer on a license exchange basis. Customer agrees that by Using an Update, Customer voluntarily terminates Customer's right to Use any previous version of the Software and will transfer all data to the new Update.

### 2) WARRANTIES.

- a) **Software Warranty.** DI warrants that for as long as Customer has a valid license, has a current Maintenance and Support Services term in effect for the Software, and has paid all applicable Fees due under this Master Agreement, the Software, when properly installed and Used in accordance with the applicable Documentation, will substantially perform in accordance with the Documentation provided with the Software. Customer's exclusive remedy under the limited warranty set forth herein and the sole obligation of DI for breach of this warranty shall be for DI to use commercially reasonable efforts to correct any reproducible error of the Software to conform to the Documentation, at no additional charge.
- b) **Malware Warranty.** DI warrants that as of the date of Delivery, the Software does not contain any Malware.
- c) **Media Warranty.** DI warrants that any media upon which DI provides the Software to Customer shall be free of defects in materials and workmanship for a period of ninety (90) days from Delivery of such media to Customer. As Customer's exclusive remedy and the sole obligation of DI for breach of this warranty, DI shall provide Customer with a new copy of such Software in non-defective media at no additional charge.

### 3) SPECIFIC SOFTWARE TERMS AND CONDITIONS.

- a) **Instrument Manager™.**
  - i) **Third-Party Software.** InterSystems Corporation's ("InterSystems") proprietary applications are Bundled Software delivered and used with DI's Instrument Manager™ software, subject to InterSystems' End User License & Service Agreement, attached as an Exhibit to this On-Premises Software Schedule. Such Bundled software is named as follows:
    - (1) Caché™ bundled with Instrument Manager™ versions up to 8.17.
    - (2) InterSystems IRIS™ bundled with Instrument Manager™ versions 9.00 and greater.
  - ii) **Affirmation.** Customer's execution of this Master Agreement shall be Customer's affirmative agreement that it accepts the term and conditions of the InterSystems' End User License & Service Agreement, attached as an Exhibit to this On-Premises Software Schedule.
  - iii) **Renewals:** Notwithstanding anything to the contrary in the InterSystems' End User License & Service Agreement ("ISC EULA"), ISC EULA renewals shall be subject to the DI Master Agreement terms and conditions and not the ISC EULA terms and conditions set forth in Section 3 of the ISC EULA.

**EXHIBIT TO ON-PREMISES SOFTWARE SCHEDULE - PERPETUAL LICENSE**

This Exhibit is attached to the On-Premises Software Schedule by reference and sets forth the additional terms, conditions and restrictions that are specific to On-Premises Software licensed to Customer on a perpetual license basis.

**1) LICENSE AND USE.**

- a) Subject to Customer's compliance with the terms of this Master Agreement, DI grants to Customer, for the term of this Master Agreement, a non-exclusive, non-transferable, non-sublicensable, revocable, perpetual license to Use the Software, in accordance with the Documentation, only as allowed herein and solely for Customer's internal business purposes.
- b) Each Software license will be delivered with a Temporary SSK.
- c) A permanent SSK will be provided to Customer when the applicable Software Fees have been paid in full.

**2) FEES.** DI shall invoice Customer for all Software Fees as set forth on the applicable Quote.

**3) TERMINATION.** See Section 12.e) ("**Effect of Termination**") of the General Terms and Conditions.

**EXHIBIT TO ON-PREMISES SOFTWARE SCHEDULE - SUBSCRIPTION LICENSE**

This Exhibit is attached to the On-Premises Software Schedule by reference and sets forth the additional terms, conditions and restrictions that are specific to On-Premises Software licensed to Customer on a subscription license basis.

**1) LICENSE AND USE.**

- a) Subject to Customer's compliance with the terms of this Master Agreement, DI grants to Customer, for the term of this Master Agreement, a non-exclusive, non-transferable, non-sublicensable, revocable, term license to receive and Use the Software, in accordance with the Documentation, only as allowed herein and solely for Customer's internal business purposes, as part of Subscription Services, for the length of the Subscription Term indicated on the applicable Quote.
- b) Each Software license will be delivered with an SSK.
- c) Upon completion of order processing for the Subscription Services, a new SSK will be provided to Customer set for the length of the Subscription Term.
- d) The date of receipt of payment of the Subscription Fees shall be deemed the Subscription Services Start Date.
- e) If Customer chooses to renew an expiring Subscription Services for a new Subscription Term (a "Renewal Term"), upon completion of the applicable order processing, Customer will be provided with an SSK for the new Renewal Term.
- f) Each Subscription Term, including any Renewal Term, shall be no less than a twelve (12) month period.

**2) FEES.**

- a) DI will invoice Customer annually for the Subscription Fees due for each Subscription Term.
- b) Customers will be notified in advance of an upcoming expiration of a Subscription Term and will be provided with a Quote for the Subscription Fees due for a Renewal Term.

**3) SUSPENSION OF A SUBSCRIPTION SERVICES.**

- a) DI reserves the right to suspend a Subscription Services and any pending Professional Services if Customer fails to pay the appropriate Subscription Fees within thirty (30) days from when the Monterey County Auditor-Controller receives the invoice ("**Suspension**").
- b) During any term of Suspension:
  - i) DI will not provide Maintenance and Support Service, including Updates or any Professional Services; and
  - ii) Customer will not be able to access the My DI Community or the Customer Web Portal, Updates and Drivers.
- c) Customer acknowledges and agrees that it shall not attempt to circumvent any Suspension restrictions imposed on the Software or Services.
- d) DI will lift the Suspension upon Customer's payment of all of the unpaid Subscription Fees due and payable.

**4) TERMINATION.**

- a) **Termination for Convenience.** The Parties acknowledge and agree that each Subscription Services Term is priced as a minimum term and may not be terminated for convenience.
- c) **Termination for Material Breach.** Subscription Services may be terminated immediately upon written notice by either Party upon the material breach by the other Party of its obligations under this Master Agreement (including nonpayment of any applicable Fees), which breach has not been cured within thirty (30) days after the breaching Party has received written notice thereof.
- d) **Termination of this Master Agreement.** If this Master Agreement is terminated in whole, for any reason, all licenses to Subscription Services shall terminate as of the termination date.
- e) **Effect of Termination.** Upon termination of Subscription Services:
  - i) DI shall cease providing, and Customer shall immediately cease using, the Subscription Services and all related licenses granted to Customer shall immediately terminate.
  - ii) Customer shall be liable to DI for Subscription Fees due for the remainder of any Subscription Terms (initial or Renewal Terms) in place at the time of termination. The owed Subscription Fees will become immediately due and payable.
  - iii) If Customer terminates a Subscription Service by not renewing the Subscription Term, and afterwards Customer desires to reinstate the Subscription Service, Customer will have to purchase a new Subscription Service for a new, full Subscription Term, at the then-current prices.
  - iv) The provision of Section 12.e) ("**Effect of Termination**") of the General Terms and Conditions shall go into effect, as applicable,

**EXHIBIT TO ON-PREMISES SOFTWARE SCHEDULE**

This Exhibit is attached to the On-Premises Software Schedule by reference and sets forth the additional terms, conditions and restrictions that are specific to the license of Instrument Manager™.

**INTERSYSTEMS****END USER LICENSE & SERVICES AGREEMENT**

1. This Agreement is between InterSystems Corporation ("ISC") and you the customer (hereinafter "you") that has ordered license(s) to use ISC's proprietary software (the "Licensed Software") and/or services ("Services") from ISC as a part of your agreement with DI, a licensed Application Partner of ISC ("AP").
2. Upon ISC's acceptance of your order (the "Effective Date") and the payment of the appropriate fee (the "License Fee") to ISC, ISC shall grant to you a nontransferable and nonexclusive license to use the Licensed Software internally solely in the conduct of your business (the "License"). For the avoidance of doubt, the "Licensed Software" shall not include any open source or third party software that may be shipped with, installed with or used in conjunction with ISC's proprietary software. No license shall be granted upon the physical delivery of any software to you. The granting of each License is subject to the approval of ISC, who has the right to disapprove any such request. A Trade In shall be deemed to be the cancellation of your old paid up License and the granting of a new paid up License. Services ordered by you shall be provided in accordance with the terms and conditions contained in ISC's Price List ("Price List") in effect on the date such Services are rendered, provided that ISC has received the appropriate fee therefor ("Service Fee"). If you ordered a License or Services through an AP, you may only use the Licensed Software and Services in conjunction with such AP's software.
3. To enter into a License, you must accept the terms of this Agreement as a schedule to your agreement with DI. Your agreement with DI specifies whether your License is a paid-up License or is a subscription License. The term ("License Term") of a paid-up License shall be 30 years from the Effective Date. The License Term of a subscription License begins on the Effective Date and is renewed automatically from year to year on the anniversary of the Effective Date unless proper notice of non-renewal is provided. The License Term of a paid-up or a subscription License is subject to earlier termination in accordance with Section 6 below.
4. ISC hereby warrants to you that (i) the Licensed Software will operate substantially in accordance with ISC's documentation relating thereto for one (1) year following the Effective Date, and (ii) all Services shall be performed in a manner consistent with industry standards. The foregoing warranties are conditioned upon the use of the Licensed Software strictly in accordance with ISC's documentation and instructions, and upon the absence of any misuse, damage, alteration, or modification thereto. ISC SHALL NOT BE DEEMED TO HAVE MADE ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, TO YOU AS TO THE CONDITION, MERCHANTABILITY, TITLE, NON-INFRINGEMENT, DESIGN, OPERATION, OR FITNESS FOR A PARTICULAR PURPOSE OF THE LICENSED SOFTWARE OR SERVICES. Your exclusive remedy for a breach of the above warranties shall be for ISC to use reasonable efforts to repair, replace or re-perform any non-conforming Licensed Software or Services, as applicable. In the event of a valid claim that any Licensed Software that has not been altered, modified, misused or damaged infringes upon the intellectual property rights of a third party when used in accordance with ISC's documentation and instructions, ISC shall either (a) modify the Licensed Software, (b) procure a license for you to use the Licensed Software or (c) terminate your License, at ISC's option. LIMITED WARRANTY HEREIN DOES NOT INCLUDE TECHNICAL ASSISTANCE AND SOFTWARE UPDATE SERVICES AND IS NOT A SUBSTITUTE FOR SUCH SERVICES, WHICH ARE AVAILABLE FOR A SEPARATE FEE.
5. ISC's liability to you shall in no event exceed the License Fees or Services Fees received by ISC in respect of the specific Licensed Software or Services on account of which such liability arose. In no event shall ISC be liable to you for any special, incidental, exemplary, indirect, or consequential damages or lost profits.
6. Either party may terminate this Agreement upon the other's breach. You shall be liable for all fees relating to Licensed Software or Services provided prior to termination, and Sections 5, 6, 7, 8 and 10 hereof shall survive.
7. The Licensed Software and related documentation are and shall remain the sole property of ISC. You may make copies of the Licensed Software for backup and archival purposes only. You agree not to (i) decompile, disassemble, or reverse engineer the Licensed Software or (ii) disclose to others the Licensed Software or any data or information relating to the Licensed Software. In addition, you agree not to use or disclose any confidential information provided to you by ISC or its affiliates relating to the Licensed Software, Services or this business relationship. You agree to allow ISC or its representatives to audit your use of the Licensed Software upon five (5) days' notice by ISC, including providing access to your premises.
8. This Agreement shall be construed in accordance with and governed by the laws and regulations of the Commonwealth of Massachusetts. Any litigation arising herein shall be initiated and conducted exclusively in the state or federal courts in Boston, Massachusetts.
9. You agree to comply with all applicable laws, including, but not limited to, U.S. export control or similar laws with respect to use of the Licensed Software and technical data. The English version of this Agreement shall control unless otherwise required by local law.
10. **US Federal Government Use: This clause applies to any use of the Licensed Software by any U.S. federal government entity, agency or department.** The Licensed Software is commercial computer software and commercial computer software documentation as those terms are defined in the Federal Acquisition Regulation (FAR) and the Defense Federal Acquisition Regulation Supplement (DFARS). The Licensed Software is for the United States federal government's end use subject to the terms and conditions of the License Agreement, which



is a customary commercial license provided in accordance with FAR [48 C.F.R.] 12.211 (Technical Data) and FAR [48 C.F.R.] 12.212 (Software) and, for End Users that are Department of Defense Government Entities, DFARS [48 C.F.R.] 252.227-7015 (Technical Data – Commercial Items), DFARS [48 C.F.R.] 227.7202-1 (Commercial Computer Software or Commercial Computer Software Documentation Shall be Acquired under the Licenses Customarily Provided to the Public), DFARS [48 C.F.R.] 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation), and DFARS [48 C.F.R.] 227.7202-4 (Contract Clause Governing the Government's Rights in Commercial Computer Software or Commercial Computer Software Documentation). The License Agreement is in lieu of, and supersedes, any other provisions or terms and conditions addressing the United States federal government's rights in the Licensed Software.

11. These terms together with any applicable terms provided to you by DI constitute the entire agreement (collectively, the "Agreement") between you and ISC relating to the subject matter hereof and supersede any prior understandings between us as well as any purchase orders or similar documents that may be submitted to ISC. ISC shall have the right to transfer or assign this Agreement without your consent. This Agreement may only be modified or amended by a writing signed by both Parties.

InterSystems Corporation: V. Aug07 1.0



## CLLOUD-BASED SOLUTION SCHEDULE

All Software licensed to Customer as part of a Cloud-Based Solution, is provided pursuant to the General Terms and Conditions, this Schedule and any Exhibit or Appendix attached by reference.

### PART A – STANDARD TERMS AND CONDITIONS

- 1) **DEFINITIONS.** The following definitions are added to this Master Agreement for the purpose of providing the Subscription Services:
- a) **“Access and Use Terms and Conditions”** means the terms and conditions set forth in Section 3 below, under which DI grants Customer a license to access and Use the Software and the Subscription Services.
  - b) **“Affected Subscription Services”** means a Subscription Services that is materially and adversely affected by a Modification.
  - c) **“Critical Threat”** Use of the Subscription Services or of any IdP by Customer or any of its Authorized Users that poses an imminent threat to (i) the security or integrity of any Customer Data or the data of any other DI customer, or (ii) the availability of the Cloud Platform to Customer or any other DI customer.
  - d) **“Customer Identifying Information”** means any information identifying the legal Customer entity, such as Customer’s legal name or address. Customer Identifying Information shall be deemed to be “Customer Data”.
  - e) **“Login Notice”** means an email to Customer containing a link for log in access to the Cloud Platform and Software that is initiated upon payment of the applicable Subscription Services Fees.
  - f) **“Modification Notice”** means a notice provided by DI to Customer of any Modification(s) to this Master Agreement, applicable to Customer and affecting the Subscription Services.
  - g) **“Operating Hours”** means the hours the Cloud Platform will be available, as set forth in Part C - Service Level Agreement.
  - h) **“Scheduled Maintenance”** means the application of any Updates or performance of other maintenance activities related to the Cloud Platform and/or Software.
  - i) **“Security Measures”** means DI’s current technical and organizational security measures designed to meet the following objectives: (i) ensure the security and confidentiality of Customer Data in the custody and under the control of DI; (ii) protect against any anticipated threats or hazards to the security or integrity of such Customer Data; and (iii) protect against unauthorized access to or use of such Customer Data.
  - j) **“Service Level Agreement”** means the service level terms and conditions for the Cloud Platform and Software, as set forth in Part C.
  - k) **“Service Level Warranty”** means the service level warranty, as set forth in Part C (“Service Level Agreement”).
  - l) **“Uptime”** means the uptime availability for the Cloud Platform and Software, as set forth in Part C.
- 2) **FEES.**
- a) Customer must pay the Subscription Fees, set forth on the applicable Quote, prior to the start of any initial Subscription Term or a Renewal Term.
  - b) DI will invoice Customer annually for the Subscription Fees due for each calendar year of the then-current Subscription Term (“Calendar Year Portion”).
  - c) Customers will be notified in advance of an upcoming expiration of a Subscription Term and will be provided with a Quote for the Subscription Fees due for the Renewal Term.
- 3) **ACCESS AND USE TERMS AND CONDITIONS**
- a) **License.** Subject to Customer’s compliance with the terms of this Master Agreement:
    - i) **Access and Use.** DI grants to Customer, for the current Subscription Services Term, a non-exclusive, non-transferable, non-sublicensable, revocable, license to receive the Subscription Services, and access and Use, and permits its Authorized Users to access and Use, the Software, in accordance with the Documentation, only as allowed herein solely for Customer’s internal business purposes.
    - ii) **Subscription Start Date.** The date DI provides the Login Notice to Customer shall be deemed the Subscription Services Start Date.
    - iii) **Reproduction.** DI grants Customer the right to reproduce the Documentation, as necessary, for Customer’s internal business purposes, in its ordinary course of business. Any copies of the Documentation that Customer makes must contain the same titles, trademarks, copyright notices, legends and other proprietary notices that appear on or in the Documentation.
  - b) **No Modification.** Customer shall not, and shall not permit any third party to, (i) remove or alter any copyright notices on and all copies of the Software (ii) modify, adapt, alter or translate (excluding any language translation features that are part of the Software, and default project data files) the Software or (iii) reverse engineer, decompile, disassemble, create derivative works of any part of the Software, attempt to defeat, avoid, by-pass, remove, deactivate or otherwise circumvent any software protection mechanisms in the Software including, without limitation, any such mechanism used to restrict or control the functionality of the Software; or otherwise attempt to discover the source code or the underlying ideas, algorithms,



structure or organization form of the Software, except to the extent Customer may be expressly permitted to decompile under applicable law. DI reserves the right to make improvements, substitutions, modifications or enhancements to any part of the Software.

- c) **Run Time Components.** To the extent that the Software includes run time or other components licensed by DI from third parties, Customer shall not create any software program that links, embeds or makes direct function calls to such components.
- d) **Transfer.** Customer may not, share, rent, lease, lend, sublicense, assign, distribute, sell or transfer Customer's license/rights under this Master Agreement for any purpose, including but not limited to commercial time-sharing, or for service bureau use.
- e) **Updates.** Customer agrees that by Using an Update, Customer voluntarily terminates Customer's right to Use any previous version of the Software and will transfer all data to the new Update.

#### 4) CUSTOMER GENERAL RESPONSIBILITIES.

- a) **Acceptable Use Policy.** Customer shall comply with and will ensure that its Authorized Users comply with the Acceptable Use Policy.
- b) **Software and Hardware.** The procurement, compatibility, operation, security, support and maintenance of Customer's hardware and software (that are not the Software) used to receive the Subscription Services are the responsibility of Customer.
- c) **Internet Access and Connectivity.** Customer will be solely responsible for obtaining, maintaining and paying for all equipment and third-party services (e.g., Internet access and email service) required for Customer to obtain and maintain connectivity and access between Customer's network, its hardware, and the Subscription Services.
- d) **Login Credentials and Account Keys.** Any login credentials and private keys generated by the Software are for Customer's internal use only and Customer will not sell, transfer or sublicense them to any other entity or person, except that Customer may disclose Customer login credentials and private keys to an Authorized User.
- e) **Passwords.** Customer will be solely responsible for safeguarding and maintaining the confidentiality of Authorized User names and passwords, administering name and password information for its Authorized Users, restricting Software passwords to Authorized Users only, maintaining single Authorized User passwords, and making Authorized User accounts inactive when employment is terminated. Customer agrees to add or inactivate Authorized Users, reset passwords and manage its account only through the Software or notify DI in the event an Authorized User's employment has been terminated and the aforementioned steps cannot be performed.
- f) **Authorized Users.** Customer shall implement reasonable controls to ensure that the Subscription Services are accessed and Used only by Authorized Users. Customer is responsible for all activities that occur under Customer's log ins to the Software, regardless of whether the activities are authorized by Customer or undertaken by Customer or an Authorized User, and DI is not responsible for unauthorized access to Customer's installation of the Software. Customer will be deemed to have taken any action that Customer permits, assists or facilitates any person or entity to take related to this Master Agreement. Customer is responsible for Authorized Users Use of the Software. Customer will ensure that all Authorized Users comply with Customer obligations under this Master Agreement. If Customer becomes aware of any violation of Customer obligations under this Master Agreement caused by an Authorized User, Customer will immediately suspend access to the Subscription Services and the Software by such Authorized User.
- g) **Customer Data.** Customer will ensure that Customer Data, and Customer and Authorized User's use of Customer Data or Use of the Software will not violate any applicable law. Customer is solely responsible for the occurrence, quality, integrity and content and use of Customer Data. Customer is responsible for any transmission of Customer Data Customer or its Authorized Users, send, receive, post, access, or store via the Cloud Platform and Software.
- h) **Customer Security and Backup.** Customer is solely responsible for properly configuring and using the Software and otherwise taking appropriate action to secure, protect and backup Customer Data in a manner that will provide appropriate security and protection, which might include use of encryption to protect Customer Data from unauthorized access, and routinely archiving Customer Data.
- i) **Prohibited Content.** If DI reasonably believes any of Customer Data is Prohibited Content, DI will notify Customer of the Prohibited Content and may request that such content be removed from the Software or access to it be disabled. If Customer does not remove or disable access to the Prohibited Content within two (2) business days of notice, DI shall remove or disable access to the Prohibited Content or suspend access to the Software to the extent it is not able to remove or disable access to the Prohibited Content. Notwithstanding the foregoing, DI may remove or disable access to any Prohibited Content without prior notice in connection with illegal content, where the content may disrupt or threaten Use of the Software in accordance with applicable law or any judicial, regulatory or other governmental order or request.

#### 5) THIRD PARTY SOFTWARE OR SERVICES.

- a) **IdPs.** The Cloud Platform may include functionality that enables Customer, at Customer's option, to connect with certain IdP services or sites, via public facing APIs provided and controlled by the IdP. Any authentication information transmitted to or accessed by the Cloud Platform from an IdP is considered



Customer's Confidential Information under this Master Agreement and, to the extent within DI's possession or under DI's control, shall be protected as such pursuant to the terms of this Master Agreement. If an IdP modifies its APIs or equivalents so that they no longer interoperate with the Cloud Platform or imposes requirements on interoperability that are unreasonable for DI, and if, after applying reasonable efforts, DI is unable to overcome such modifications or requirements then, upon reasonable notice to Customer, DI may cease or suspend its provision of interoperability between the Cloud Platform and the affected IdP services or sites without liability to Customer. Except for DI's obligations to protect authentication credentials obtained by the Cloud Platform from an IdP, DI has no responsibility for the acquisition, development, implementation, operation, support, maintenance, or security of any IdP.

6) **MODIFICATION(S).** DI will provide Customer with a Modification Notice, applicable to Customer and affecting Customer's current Subscription Services. If Customer does not wish to accept such Modification, then Customer may terminate Customer's subscription for the Affected Subscription Service by providing DI notice in accordance with the following:

- a) If the Modification Notice states that the Modification(s) will become effective upon commencement of the next Renewal Term, then Customer may notify DI, in writing, of its determination not to renew the Affected Subscription Services, upon the earlier of (a) thirty (30) days prior to commencement of the next Renewal Term or (b) within five (5) business days after receipt of the Modification Notice, if such Modification Notice is received by Customer within the thirty (30) day period, prior to the date of the next Renewal Term.
- b) If the Modification Notice states that the Modification(s) will become effective during the then current Subscription Services Term, then Customer may notify DI in writing, of its determination to terminate Customer's subscription for the Affected Subscription Services, at any time within the thirty (30) day period immediately following the date of the Modification Notice. Customer's termination will become effective on the later to occur of (a) the date on which Customer delivers the termination notice, or (b) the date on which the applicable Modifications become effective. If Customer terminates any Affected Subscription Services pursuant to this section, then Customer will be entitled to a pro-rata refund of any prepaid Subscription Services Fees for the terminated Affected Subscription Service for the unused portion of the current Subscription Services Term. For clarification, Subscription Services Fees do not include any activation fees, installation fees, Professional Services Fees, or other expenses incurred in connection with the Affected Subscription Services.
- c) If Customer does not terminate the Affected Subscription Service as specified in the preceding sections, then Customer will be bound by the Modification(s) beginning upon the date on which the Modification Notice states they become effective.

7) **WARRANTIES.**

- a) DI warrants that for as long as Customer has a valid Subscription Services Term in effect for the Software, the Software, when properly Used in accordance with the applicable Documentation, will substantially perform in accordance with the Documentation provided with the Software. Customer's exclusive remedy under the limited warranty set forth herein and the sole obligation of DI for breach of this warranty shall be for DI to use commercially reasonable efforts to correct any reproducible error of the Software to conform to the Documentation, at no additional charge.
- b) DI warrants that it shall use, reasonable efforts, using applicable current industry practices, to ensure that the Cloud Platform and the Software, in the form provided by DI to Customer under this Master Agreement, do not contain any Malware.

8) **SUBSCRIPTION SERVICES TERM.**

- a) **Initial Term.** The initial Subscription Services Term shall be set forth in the applicable Quote. A Login Notice will be initiated to Customer upon payment of the applicable Subscription Services Fees. The date DI provides the Login Notice shall be deemed the Subscription Services Start Date.
- b) **Renewals.**
  - i) Customers will be provided with a Renewal Notice and Quote in advance of an upcoming expiration of a Subscription Services Term. The Subscription will be considered renewed only if Customer signs the Quote should Customer elect to Renew,
  - ii) Customer will also have the option to discontinue year two or year three of the Subscription Services by providing notification to DI at least thirty (30) days in advance of the expiration date of the current annual Subscription Services Term.
  - iii) Customer must pay the Renewal Fees prior to the expiration of the then-current Subscription Services Term.
  - iv) DI may increase its charges for the Subscription Services Fees for each successive term. Any such increase shall be set out in the Renewal Notice for the Subscription Services Term for which the increase is to be in effect.
  - v) Upon renewal of Subscription Services, should the Subscription terms and conditions change, those changes shall be provided to Customer along with the Renewal notice and Quote.

9) **SUSPENSION AND TERMINATION**

- a) **Suspension for Critical Threats.** If DI determines that Customer's or any of its Authorized Users' Use of the Subscription Services pose a Critical Threat, the DI will immediately attempt to contact Customer to



- resolve the Critical Threat. If DI is unable to immediately contact Customer, or if DI contacts Customer but Customer is unable to immediately remediate the Critical Threat, then DI, acting reasonably in the circumstances then known to DI, may suspend Customer's and its Authorized Users' Use of the Cloud Platform until the Critical Threat is resolved and DI is able to restore the Subscription Services to Customer.
- b) **Suspension or Termination for Non-Compliance.** If DI determines that Customer's or any of its Authorized Users are in Non-Compliance, and if Customer has not remediated the Non-Compliance within five (5) days of notification by DI, then DI may suspend Customer's and its Authorized Users' Use of the Cloud Platform until the Non-Compliance is resolved and DI is able to restore the Subscription Services for Customer. If DI determines that the Non-Compliance is incapable of cure, then DI may immediately terminate its provision of Subscription Services to Customer.
  - f) **Suspension or Termination for Non-Payment.** DI, at its sole discretion, reserves the right to suspend, or terminate Customer's Subscription Services if the Fees due for the current Calendar Year Portion or Renewal Term, are not paid prior to start of such Calendar Year or Renewal Term.
  - g) **Termination for Convenience.** The Parties acknowledge and agree that each Subscription Services Term is priced as a minimum term and may not be terminated for convenience.
  - h) **Termination for Material Breach.** Subscription Services may be terminated immediately upon written notice by either Party upon the material breach by the other Party of its obligations under this Master Agreement (including nonpayment of any applicable Fees), which breach has not been cured within thirty (30) days after the breaching Party has received written notice thereof.
  - i) **Termination for a Modification.** Customer may terminate the Subscription Services, related to a Modification Notice, as set forth in Section 6 ("**Modifications**") above.
  - j) **Termination of this Master Agreement.** If this Master Agreement is terminated in whole, for any reason, all licenses to Subscription Services shall terminate as of the termination date.
  - k) **Effect of Termination.** Upon termination of Subscription Services:
    - i) DI shall cease providing, and Customer shall immediately cease using, the Subscription Services and all related licenses granted to Customer shall immediately terminate.
    - ii) Customer shall be liable to DI for Subscription Fees due for the remainder of any Subscription Terms (initial or Renewal Terms) in place at the time of termination. The owed Subscription Fees will become immediately due and payable.
    - iii) If Customer terminates a Subscription Service by not renewing the Subscription Term, and afterwards Customer desires to reinstate the Subscription Service, Customer will have to purchase a new Subscription Service for a new, full Subscription Term, at the then-current prices.
    - iv) The provision of Section 12.e ("**Effect of Termination**") of the General Terms and Conditions shall go into effect, as applicable.

## **PART B - ACCEPTABLE USE POLICY**

This Acceptable Use Policy ("**AUP**") applies to Use of DI's Subscription Services, access to the Cloud Platform, Software and to all other services and products offered by DI and accessible from the Cloud Platform (collectively referred to herein as the "**DI Services**").

- 1) **USE OF THE DI SERVICES.**
  - a) Customer may not:
    - i) Attempt to gain unauthorized access to, or interfere or attempt to interfere with or compromise, in any manner, with the functionality or proper working of the DI Services.
    - ii) Upload to the DI Services, or Use the DI Services, to store or transmit material in violation of any third-party privacy or data protection rights.
    - iii) Upload to the DI Services, or Use the DI Services to store or transmit any Malware.
    - iv) Upload to the DI Services or Use the DI Services to store, transmit or process any Personally Identifiable Information, or any other regulated data or information in violation of any applicable law or regulations.
    - v) Interfere with or disrupt the integrity or performance of the DI Services or third-party data stored or processed with the DI Services.
    - vi) Attempt to gain unauthorized access to the DI Services or their related systems or networks, including through denial of service, fuzzing or similar attacks.
    - vii) Attempt to probe, scan, penetrate or test the vulnerability of the DI Services, or to circumvent, avoid or breach DI's security or authentication measures, whether by passive or intrusive techniques or by social engineering.
    - viii) Attempt to reverse engineer any of DI's technology (including the Cloud Platform and Software), including as a means to find vulnerabilities to avoid DI's current Security Measures.
- 2) **SHARED RESOURCES.** Customer agrees that DI may quarantine or delete any Customer Data stored on the Cloud Platform or in the Software if DI reasonably believes that the Customer Data is infected with any Malware or is otherwise corrupted and has the potential to infect or corrupt the Cloud Platform and/or Software or other



customer's data that is stored or accessed via the Cloud Platform and Software.

**3) ABUSE.**

- a) Customer may not Use the DI Services to engage in, foster, or promote illegal, abusive or irresponsible behavior, including:
- i) Unauthorized access to, or Use of the DI Services, including any unauthorized attempt to probe, scan or test the vulnerability of the DI Services to breach security or authentication measures.
  - ii) Monitoring data or traffic with the DI Services without the express authorization of DI.
  - iii) Interference with service to any user of the DI Services.
  - iv) Use of a DI Service account without the appropriate authorization.
  - v) Collecting or using email addresses, screen names or other identifiers without the consent of the person identified (including, phishing, internet scamming, password robbery, spidering, and harvesting).
  - vi) Collecting or using information without the consent of the owner of the information.
  - vii) Use of the DI Services to distribute software that covertly gathers information about a user or covertly transmits information about the user.
  - viii) Use of the DI Services to commit fraud.
  - ix) Any conduct that is likely to result in retaliation against the DI Services or DI's employees, officers or other agents, including engaging in behavior that results in any server used to provide the DI Services being the target of a denial of service ("DoS").
  - x) Use of the DI Services to facilitate competition with DI including through establishment of accounts that do not fairly represent their purpose, or for benchmarking purposes not authorized by DI.

**4) OFFENSIVE CONTENT.**

- a) Customer may not publish, transmit or store on the Cloud Platform of Software, or Use any DI Services, to enable, control or provide access to any content or links to any content that DI reasonably believes:
- i) Is obscene.
  - ii) Contains harassing content or hate speech, or is violent, incites violence, or threatens violence.
  - iii) Is unfair or deceptive under the consumer protection laws of any jurisdiction.
  - iv) Is defamatory or violates a person's privacy.
  - v) Creates a risk to a person's safety or health, creates a risk to public safety or health, is contrary to applicable law, or interferes with an investigation by law enforcement.
  - vi) Improperly exposes trade secrets or other confidential or proprietary information of another person or entity.
  - vii) Is intended to assist others in defeating technical copyright protections.
  - viii) Infringes on another person or entity's copyright, trade or service mark, patent or other property rights, or violates any privacy right.
  - ix) Is illegal or solicits conduct that is illegal under laws applicable to Customer or to DI.
  - x) Is otherwise malicious, fraudulent, or may result in retaliation against DI by offended viewers or recipients.

- 5) OTHER.** Customer will not be entitled to any credit or other compensation for any interruption of the DI Services resulting from AUP violations.

**PART C – SERVICE LEVEL AGREEMENT**

- 1) The Service Level Warranty provided in this Schedule shall not apply to any services other than bandwidth and facility services and shall not apply to performance issues (i) caused by factors outside of DI's reasonable control; (ii) that resulted from any actions or inactions of Customer or any third parties; or (iii) that resulted from Customer's equipment and/or third-party equipment.
- 2) For purposes of this Service Level Agreement, the term "**Uptime**" shall mean all Operating Hours except for time devoted to Scheduled Maintenance and to any time during which connectivity to the Cloud Platform or Software is lost due to the factors described in Section 1 above.
- 3) The Cloud Platform and Software will operate on a twenty-four hour per day, seven-day per week basis (the "**Operating Hours**").
- 4) From time to time, DI may, at its sole discretion, decide to perform Scheduled Maintenance to the Cloud Platform and/or Software, which may result in interruptions in access to the Software by Customer during the Operating Hours. DI will notify the Customer when Scheduled Maintenance will occur.
- 5) Subject to the limitations set forth in Sections 1, 2, 3, and 4 of this Part C ("Service Level Agreement"), DI warrants and represents that it will use commercially reasonable efforts to provide ninety-five (95%) Uptime of the Cloud Platform and Software, in any calendar quarter during the Subscription Services Term (the "**Service Level Warranty**").
- 6) In the event of a breach of the Service Level Warranty, as the sole remedy for such breach DI shall credit to



Customer's account a pro-rata portion of the Subscription Services Fees, pre-paid by Customer, for the unavailable Subscription Services during the period of such breach.

- 7) Customer must exercise its right to a refund under Section 6 above by written notice, subject to the terms of Section 13.h.ii) ("**Legal Notices**") of the General Terms and Conditions, delivered to DI not later than thirty (30) days after the close of the calendar quarter in which the breach occurred.
- 8) Notwithstanding the foregoing, Customer agrees that any failure of the Cloud Platform and/or Software to meet the Uptime warranty set forth in this Schedule that is not directly caused by DI, but is caused by something outside of DI's control, shall not be deemed a breach of the Service Level Warranty (e.g. Customer's internet service goes down, downtime is caused by DI's third-party platform vendor, failure of video streaming service, etc.).

**EXHIBIT TO CLOUD-BASED SOLUTION SCHEDULE - LAB GPS™**

This Exhibit is attached to the Cloud-Based Solution Schedule by reference and sets forth the additional terms, conditions and restrictions that are specific to the provision of access and Use of Lab GPS™.

- 1) **LAB GPS™.** Lab GPS is a software developed and owned by Data Innovations and is sublicensed to Customer by DI as a Cloud-Based Solution.
- 2) **AUTHORIZED USERS.**
  - a) The number of Authorized Users who may concurrently access and Use the Software shall not exceed the number of Authorized Users specified in the applicable Quote.
  - b) Authorized User seats cannot be shared by more than one (1) individual, but Customer may replace and re-assign the seat to a new Authorized User.
- 3) **AGGREGATED AND STATISTICAL INFORMATION.**
  - a) DI may utilize all Aggregated and Statistical Information, without obligation to Customer, for purposes of internal analytical purposes related to the operation, of the Software or its supporting processes and systems and the provision of the Subscription Services, including the (i) monitoring, managing, enhancement or undertaking of internal research for technological development of the Software or Subscription Services, (ii) detection of security incidents, and to protect against malicious, deceptive, fraudulent or illegal activity; and (iii) identification of errors that impair existing functionality. DI may make information derived from its analysis of the Aggregated and Statistical Information publicly available on an aggregated and anonymized basis, provided that DI's use of the Aggregated and Statistical Information does not contain any Personally Identifiable Information nor will it disclose any Customer Identifying Information. For the sake of clarity such aggregated and anonymized data is not Confidential Information of Customer.
  - b) Customer acknowledges and agrees that to provide Customer and other DI customers with comprehensive comparative and benchmark data, DI reserves the perpetual right to aggregate data including Customer Data, without any obligation to Customer, and disclose Aggregated and Statistical Information from all DI customers in its database. Customer Data will not be attributed to Customer.
- 4) **INFORMATION SECURITY.** DI will implement and maintain commercially reasonable technical and organizational Security Measures. A copy of DI's current Security Measures may be found at <http://www.datainnovations.com/terms-and-conditions>. Customer is solely responsible for the consequences of Customer's decision not to adopt updates or best practices that DI makes available to Customer.
- 5) **EFFECT OF TERMINATION.** The following provision is added as an additional subsection to Section 9.h) ("Effect of Termination") of Part A ("**Standard Terms and Conditions**") of the Cloud-Based Solution Schedule: Customer Data stored on the Cloud Platform and in the Software will be permanently deleted.



## MAINTENANCE AND SUPPORT SERVICES SCHEDULE

All Maintenance and Support Services are provided pursuant to the General Terms and Conditions, this Schedule, and any Exhibit or Appendix attached by reference.

DI will provide the Maintenance and Support Services set forth in this Schedule, and any related Exhibits, for the current Major Release and the previous Major Release of a Supported Version of the Software for which Customer has a valid license to Use and for which Customer is current on all Maintenance and Support Services Fees.

- 1) **MAINTENANCE AND SUPPORT SERVICES PRIORITY LEVELS.** Upon request for Maintenance and Support Services where the issues being experienced by the Customer are identified as a Software Error, Customer and DI will mutually agree on the severity level of the Software Error. DI will respond to issues with the Software according to the following schedule:
  - a) **Critical Priority Software Error:**
    - i) Critical Priority Software Errors must be reported via telephone.
    - ii) DI will acknowledge Critical Priority Software Errors within one (1) hour of the initial contact via telephone and commence working towards a resolution at that time.
  - b) **High Priority Software Errors:**
    - i) High Priority Software Errors must be reported via telephone.
    - ii) DI will acknowledge High Priority Software Errors within four (4) hours of the initial contact via telephone and commence working towards a resolution at that time.
  - c) **Medium Priority Software Errors:**
    - i) Medium Priority Software Errors may be reported via telephone, email, or through the My DI Community, and/or the Customer Web Portal (as specified in the table in the Exhibit, attached to this Schedule by reference, for the specific Software license type.
    - ii) DI will acknowledge Medium Priority Software Errors within twenty-four (24) hours of the initial contact.
  - d) **Low Priority Software Errors:**
    - i) Low Priority Software Errors may be reported via telephone, email, or through the My DI Community, and/or the Customer Web Portal (as specified in the table in the Exhibit, attached to this Schedule by reference, for the specific Software license type.
    - ii) DI will acknowledge Low Priority Software Errors within forty-eight (48) hours of the initial contact.
- 2) **OBTAINING SUPPORT.** A customer requesting that DI provide Maintenance and Support Services for the Software shall contact DI during the times and in the manner set forth in the Exhibit, attached to this Schedule by reference, for the specific Software license type. Customer shall provide DI 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.
  - a) **During Support Hours.** Customer may log requests for Maintenance and Support Services in the following manner:
    - i) **Telephone:** Customer may log Maintenance and Support Services requests by calling the telephone number provided in the Exhibit, attached to this Schedule by reference, for the specific Software license type. All Critical Priority and High Priority Software Errors must be logged via telephone.
    - ii) **E-mail:** Customer may log Maintenance and Support Services requests by sending e-mails to the appropriate DI regional support center via the email address provided in the Exhibit, attached to this Schedule by reference, for the specific Software license type. All Critical and High Priority Software Errors must be logged via telephone. E-mail is reserved for Medium and Low Priority Software Errors.
    - iii) **My DI Community, and/or Customer Web Portal:** Using the My DI Community, and/or Customer Web Portal, as indicated in the Exhibit attached to this Schedule by reference, for the specific Software license type, Customers can log Medium and Low Priority Issues, view the status of outstanding issues, download Drivers, (for Instrument Manager™ only) Documentation, and access a Knowledgebase of known issues and resolutions, for troubleshooting assistance and update contact information. DI does not warrant My DI Community, and/or Customer Web Portal will operate without interruption or without errors.
  - b) **Emergency Support.** Emergency Maintenance and Support Services are available 24x7x365. An Emergency Maintenance and Support Services request may be submitted for a live Software system where all or a portion of the system has become non-operative and is affecting a critical laboratory function.
  - c) **Non-Emergency Support After Hours.** Customers requesting that DI provide non-Emergency Maintenance and Support Services outside of Support Hours may purchase Professional Services for "Custom Support Services". Custom Support Services must be scheduled and are subject to DI's resource availability and shall be provided subject to a separate, PS Agreement entered into between the Parties.
- 3) **CUSTOMER RESPONSIBILITIES.**
  - a) **Remote Access.** In order to assist DI 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.
- b) **Diagnostics Data.** In the event DI requests any data dumps, logs, or any other documentation from Customer to resolve a reported Software Error, such information shall be forwarded by overnight courier at Customer's expense or through electronic means such as e-mail, remote access, or FTP.
  - c) **Primary Technical Contact(s).** DI reserves the right to only provide Maintenance and Support Services for up to three (3) individuals employed or subcontracted by the Customer who have been identified and trained as the Primary Technical Contacts of the Software. Customer shall identify its designated Primary Technical Contacts in the Notice and Contact Information Schedule for the specific Software license type.
- 4) **HARDWARE PLATFORM / INFRASTRUCTURE.** 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, Malware protection, and security software applications (i.e. firewalls).
  - 5) **UPDATES.** Customer shall have the right to receive Updates at no additional charge by requesting the same from the Customer's respective DI's regional support center or accessing the Updates from the DI's customer web site. If Customer requests that Updates be provided to Customer via electronic media (e.g. CD/DVD), DI may charge reasonable processing and shipping fees.
  - 6) **REQUESTED ENHANCEMENTS.** Customer may submit a request to DI for a Requested Enhancement. DI may, at its discretion, develop the Requested Enhancements in full, in part, and/or with variations to the request.
  - 7) **DRIVER UPDATES.** Customer shall have the right to receive Driver Updates at no additional charge by requesting the same from the Customer's respective regional DI's support center or accessing the Driver Updates from the DI customer web site. If Customer requests that the Driver Updates be provided to Customer via electronic media (e.g. CD/DVD), DI may charge reasonable processing and shipping fees.
  - 8) **NEW DRIVERS.** Customer may submit a request to DI for the development of a new Driver. DI may, at its discretion, develop the requested new Driver in full, in part, and/or with variations to the request.
  - 9) **NO LIABILITY FOR INACCURATE DIAGNOSTICS.** DI 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 DI 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, DI will not be liable to Customer for any damages sustained by Customer as a result of incorrect or inaccurate advice by DI unless such damages were directly caused by the gross negligence or willful misconduct of DI.
  - 10) **INSTALLATION OF ADDITIONAL SOFTWARE AND UPDATES.** Customer should not install any version, update, or upgrade of any Additional Software, on a shared platform with the Software, unless Customer understands the impact and necessity of the Additional Software version, update, or upgrade with the Software. Customer must understand and assume the risk to the Software for the application of Additional Software versions, updates, or upgrade.
  - 11) **MAINTENANCE AND SUPPORT SERVICES EXCLUSIONS.** DI will not be obligated to provide Maintenance and Support Services if: (a) Customer fails to provide DI 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 DI; (b) the Software is not Used in accordance with the applicable Documentation; (c) any Software Error malfunction or defect reported by Customer is found by DI to be due to a cause other than the Software or Updates as delivered by DI; (d) Customer has not installed the Updates in a timely manner (see the Updates and Driver Updates sections above); or (e) the Software Error, malfunction, or defect cannot be reproduced. If any such non-Software error, malfunction, or defect may reasonably be corrected by DI, DI may correct it at Customer's request, subject to resource availability, for reasonable service charges, agreed to by Customer and DI. Examples of non-Software Errors, malfunctions, defects, associated materials, or services outside the scope of Maintenance and Support Services include but are not limited to the following:
    - a) Troubleshooting of Customer's computer hardware, operating system, system monitoring software, Malware software, or network;
    - b) Database management including but not limited to database backups, database archiving, database disk utilization monitoring, database patching, database upgrades;
    - c) Set up of Customer-provided equipment;
    - d) Troubleshooting Additional Software;
    - e) Troubleshooting Additional Software issues;
    - f) Data modification caused by Customer error or host computer system error;
    - g) Customer-requested modifications to the Documentation;
    - h) Customer account management (e.g. password resets).
  - 12) **MAINTENANCE AND SUPPORT SERVICES WARRANTY AND DISCLAIMER:** DI warrants that Maintenance and Support Services 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 DI's sole obligation for breach of this warranty, DI shall use commercially reasonable efforts to correct



defective Maintenance and Support Services at no additional charge to Customer, provided that Customer gives DI specific written notice of the defective Maintenance and Support Services within thirty (30) days after the Maintenance and Support Services are performed.

**13) NOTIFICATIONS REGARDING EOS, EOM AND EOL:**

- a) Communications related to Software may be frequent. DI suggests that Customer subscribe to the appropriate email notifications at [E-mail Updates | Data Innovations](#).
- b) EoS - DI policy is to provide a minimum 12-month notification for an End of Sale event, whenever possible.
- c) EoM - DI policy is to provide a minimum 12-month notification, whenever possible, when Customer is required to act in response to an End of Maintenance event to avoid degradation of the normal Use of the Software or a specific Software version.
- d) EoL - DI policy is to provide a minimum of 24 months notification prior to an End of Life event for Software. It is DI's policy to provide a minimum of 12 months' notification prior to an End of Life event for a specific Software version whenever possible. Maintenance and Support Services for Software and specific Software versions will be provided based on the [published End of Life dates](#).



**EXHIBIT TO MAINTENANCE AND SUPPORT SERVICES SCHEDULE  
ON-PREMISES SOFTWARE – PERPETUAL LICENSE**

This Exhibit is attached to the Maintenance and Support Services Schedule by reference and sets forth the additional terms, conditions, and restrictions that are specific to the provision of Maintenance and Support Services for On-Premises Software licensed to Customer on a perpetual license basis.

- 1) **GENERAL.** Provided Customer is current on all applicable Fees, Customer shall receive Maintenance and Support Services for the Software in accordance with the terms and conditions set forth herein.
- 2) **TERM.** The term of Maintenance and Support Services is for twelve (12) months. The start date and accrual of Maintenance and Support Services Fees for all Software licensed under this Master Agreement shall be from the date of Delivery of the Software.
- 3) **FEES.** The Maintenance and Support Services Fee for the Software is eighteen percent (18%) per year of DI's then current list price of the Software.
- 4) **RENEWAL:**
  - a) Unless terminated as provided herein, Maintenance and Support Services shall renew annually via a renewal Quote signed by both parties which shall serve as the Renewal Notice at least forty-five (45) days prior to the end of the then-current Maintenance and Support Services term.
  - b) Customer will have the option to discontinue its Maintenance and Support Services by providing notification to DI at least thirty (30) days in advance of the expiration date of the current Maintenance and Support term. Customer must pay the Maintenance and Support Services Fees for the Renewal Term prior to the expiration date of the then-current Maintenance and Support Services term.
  - c) DI reserves the right to terminate Customer's Maintenance and Support Services if Fees are not paid prior to the start of the Renewal Term.
  - d) DI may increase its charges for Maintenance and Support Services Fees for each successive Renewal Term by providing no less than forty-five (45) days advance notice of such increase before the beginning of the Renewal Term for which the increase is to be in effect. Annual price increases shall not exceed a 3% total increase.
- 5) **TERMINATION.** Termination of Maintenance and Support Services by either DI or Customer shall not terminate any fully paid-up, perpetual license to the Software.
- 6) **REINSTATEMENT.** In the event Customer allows Maintenance and Support Services to lapse, DI may allow Customer to reinstate Maintenance and Support Services upon Customer's performance of both of the following conditions (a) Customer agrees to install the latest version of the Software immediately upon Maintenance and Support Services reinstatement and (b) payment for all Maintenance and Support Services Fees accruing between the date in which the prior Maintenance and Support Services term expired and the effective date of reinstatement.
- 7) **NON-EMERGENCY MAINTENANCE AND SUPPORT SERVICES.** The following table sets forth the times and manner in which Customer may request non-Emergency Support Maintenance and Support Services:

<b>Non-Emergency Support is available Monday through Friday, excluding holidays published on <a href="http://www.datainnovations.com">www.datainnovations.com</a> during the hours for the region listed below.</b>		
<b>Region</b>	<b>Support Hours</b>	<b>Technical Support Contact</b>
Asia	8:30 am – 6:00 pm HKT Monday – Friday	Customer Web Portal * <a href="mailto:asia-support@datainnovations.com">asia-support@datainnovations.com</a> +852 2398 3182
Europe	8:00 am – 6:00 pm CET/CEST Monday – Friday	Customer Web Portal * <a href="mailto:europe-support@datainnovations.com">europe-support@datainnovations.com</a> +32 2 332 24 13
Latin America	8:30 am – 6:00 pm BRT/BRST Monday – Friday	Customer Web Portal * <a href="mailto:latinamerica-support@datainnovations.com">latinamerica-support@datainnovations.com</a> +55 11 38013283
North America	9:00 am – 8:00 pm EST/EDT Monday – Friday	My DI Community * <a href="mailto:northamerica-support@datainnovations.com">northamerica-support@datainnovations.com</a> +1 802 658 1955
<b>Note(s):</b> * Based on Customer's regional location, the My DI Community or Customer Web Portal may be accessed via <a href="http://support.datainnovations.com">support.datainnovations.com</a> .		

- 8) **PRIMARY TECHNICAL CONTACT(S).** As of the Effective Date, Customer designates the individuals set forth on the Notice and Contact Information Schedule as the Primary Technical Contacts.
- 9) **MAINTENANCE AND SUPPORT SERVICES EXCLUSIONS.** The following items are added as additional sub-items to Section 11 ("Maintenance and Support Service Exclusions") of the Maintenance and Support Services Schedule:
  - a) Issues regarding installation in the event Customer chooses to install or implement the Software on its own;
  - b) Software recovery or data manipulation and recovery due to hardware (regardless of whether or not the hardware was purchased by Customer directly from DI or from another third-party vendor) 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;
  - c) Database modifications or alterations made by non-DI personnel; and
  - d) Server maintenance including disk management, hardware operation, operation system updates, Malware software management, removal of Customer-introduced Malware.
- 10) **OPERATING SYSTEMS:** On-Premises 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.



**EXHIBIT TO MAINTENANCE AND SUPPORT SERVICES SCHEDULE  
ON-PREMISES SOFTWARE – SUBSCRIPTION LICENSE**

This Exhibit is attached to the Maintenance and Support Services Schedule by reference and sets forth the additional terms, conditions and restrictions that are specific to the provision of Maintenance and Support Services for On-Premises Software licensed to Customer on a subscription license basis.

- 1) **GENERAL.** Provided Customer is current on all applicable Fees, Customer shall receive Maintenance and Support Services for the Software as part of the Subscription Services in accordance with the terms and conditions set forth herein.
- 2) **TERM.** The Maintenance and Support Services term for each Software license shall be coterminous with the applicable Subscription Term
- 3) **FEES.** Maintenance and Support Services for the Software are included as part of the annual Subscription Fee at DI's then current list price at the time of initial Subscription Service purchase and/or renewal.
- 4) **TERMINATION.** Maintenance and Support Services shall automatically terminate upon the termination of the applicable Subscription Services.
- 5) **NON-EMERGENCY MAINTENANCE AND SUPPORT SERVICES.** The following table sets forth the times and manner in which Customer may request non-Emergency Support Maintenance and Support Services:

Non-Emergency Support is available Monday through Friday, excluding holidays published on <a href="http://www.datainnovations.com">www.datainnovations.com</a> during the hours for the region listed below.		
Region	Support Hours	Technical Support Contact
Asia	8:30 am– 6:00 pm HKT Monday – Friday	Customer Web Portal * <a href="mailto:asia-support@datainnovations.com">asia-support@datainnovations.com</a> +852 2398 3182
Europe	8:00 am – 6:00 pm CET/CEST Monday – Friday	Customer Web Portal * <a href="mailto:europe-support@datainnovations.com">europe-support@datainnovations.com</a> +32 2 332 24 13
Latin America	8:30 am– 6:00 pm BRT/BRST Monday – Friday	Customer Web Portal * <a href="mailto:latinamerica-support@datainnovations.com">latinamerica-support@datainnovations.com</a> +55 11 38013283
North America	9:00 am – 8:00 pm EST/EDT Monday – Friday	My DI Community * <a href="mailto:northamerica-support@datainnovations.com">northamerica-support@datainnovations.com</a> +1 802 658 1955
<b>Note(s):</b> My DI Community may be accessed via <a href="http://support.datainnovations.com">support.datainnovations.com</a> .		

- 7) **PRIMARY TECHNICAL CONTACT(S).** As of the Effective Date, Customer designates the individuals set forth on the Notice and Contact Information Schedule as the Primary Technical Contacts.
- 8) **MAINTENANCE AND SUPPORT SERVICES EXCLUSIONS.** The following items are added as additional sub-items to Section 11 ("Maintenance and Support Service Exclusions") of the Maintenance and Support Services Schedule:
  - a) Issues regarding installation in the event Customer chooses to install or implement the Software on its own;
  - b) Software recovery or data manipulation and recovery due to hardware (regardless of whether or not the hardware was purchased by Customer directly from DI or from another third-party vendor) 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;
  - c) Database modifications or alterations made by non-DI personnel; and
  - d) Server maintenance including disk management, hardware operation, operation system updates, Malware software management, removal of Customer-introduced Malware.
- 9) **OPERATING SYSTEMS:** On-Premises 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.
- 10) **NOT APPLICABLE:** The following provisions set forth in the Maintenance and Support Services Schedule do not apply to EP Evaluator®:
  - a) **Priority Levels - Critical Priority Software Error - Section 1.a)**
  - b) **Priority Levels – High Priority Software Error – Section 1.b)**
  - c) **Emergency Support – Section 2.b)**
  - d) **Non-Emergency Support After Hours– Section 2.c)**
  - e) **Driver Updates – Section 7**
  - f) **New Drivers – Section 8**



## **EXHIBIT TO MAINTENANCE AND SUPPORT SERVICES SCHEDULE CLOUD- BASED SOLUTION**

This Exhibit is attached to the Maintenance and Support Services Schedule by reference and sets forth the additional terms, conditions and restrictions that are specific to the provision of Maintenance and Support Services for Software licensed to Customer as part of a Cloud-Based Solution.

- 1) **GENERAL.** Provided Customer is current on all applicable Fees, Customer shall receive Maintenance and Support Services for the Software as part of the Subscription Services in accordance with the terms and conditions set forth herein.
- 2) **TERM.** The Maintenance and Support Services term for each Software license shall be coterminous with the applicable Subscription Term
- 3) **FEES.** Maintenance and Support Services for the Software are included as part of the annual Subscription Fee at DI's then current list price at the time of initial Subscription Service purchase and/or renewal.
- 4) **RENEWAL:** Unless terminated as provided herein, Maintenance and Support Services shall renew in conjunction with the renewal of the applicable Subscription Term. Customer will be notified at least forty-five (45) days prior to the upcoming expiration of a Subscription Term and will be provided with a Quote to renew the Subscription Term which shall require signatures by both Parties. Customer must pay the Subscription Fees for the Renewal Term prior to the expiration date of the then-current Subscription Term.
- 5) **TERMINATION.** Maintenance and Support Services shall automatically terminate upon the termination of the applicable Subscription Services.
- 6) **BROWSERS.** The Cloud-Based Solution has been validated for operation on a variety of browsers. Minimum specifications can be provided, upon request, per version of Software.



**Appendix to Exhibit to Maintenance and Support Services – Cloud-Based Solution  
Lab GPS**

This Appendix is attached to the Exhibit to Maintenance and Support Services Schedule – Cloud-Based Solution by reference and sets forth the additional terms, conditions, and restrictions that are specific to the provision of Maintenance and Support Services for Lab GPS.

- 1) **NON-EMERGENCY MAINTENANCE AND SUPPORT SERVICES.** The following table sets forth the times and manner in which Customer may request non-Emergency Support Maintenance and Support Services:

Non-Emergency Support is available Monday through Friday, excluding holidays published on <a href="http://www.datainnovations.com">www.datainnovations.com</a> during the hours for the region listed below.		
Region	Support Hours	Technical Support Contact
North America	9:00 am – 5:00 pm EST/EDT Monday – Friday	My DI Community* <a href="mailto:northamerica-support@datainnovations.com">northamerica-support@datainnovations.com</a> +1 802 658 1955
<b>Note(s):</b> * My DI Community may be accessed via <a href="http://support.datainnovations.com">support.datainnovations.com</a> .		

- 2) **PRIMARY TECHNICAL CONTACT(S).** As of the Effective Date, Customer designates the individuals set forth on the Notice and Contact Information Schedule as the Primary Technical Contacts.
- 3) **NOT AVAILABLE:** The following support levels and types, set forth in the Maintenance and Support Services Schedule are not available for Lab GPS:
- a) **Priority Levels - Critical Priority Software Error - Section 1.a)**
  - b) **Priority Levels – High Priority Software Error – Section 1.b)**
  - c) **Emergency Support – Section 2.b)**
  - d) **Non-Emergency Support After Hours– Section 2.c)**
- 4) **NOT APPLICABLE:** The following provisions set forth in the Maintenance and Support Services Schedule do not apply to Lab GPS:
- a) **Customer Responsibilities:**
    - i) Remote Access – Section 3.a)
    - ii) Diagnostic Data – Section 3.b)
  - b) **Hardware Platform / Infrastructure – Section 4**
  - c) **Updates – Section 5**
  - d) **Driver Updates – Section 7**
  - e) **New Drivers – Section 8**
  - f) **Installation of Additional Software and Updates – Section 10**



## PROFESSIONAL SERVICES SCHEDULE

All Professional Services are provided pursuant to the General Terms and Conditions, this Schedule, and any Exhibit, Quote, or Appendix attached by reference.

- 1) **PROFESSIONAL SERVICES FEES.** DI will invoice Customer for the Professional Services Fees as set forth in the applicable PS Agreement, Quote, or PS Appendix.
- 2) **PERIOD OF PERFORMANCE.**  
The Period of Performance for each Professional Services project shall be set forth in the applicable PS Agreement. The Period of Performance may only be modified or extended by mutual agreement of the Parties through the Change Management Process, and if warranted, via a written Amendment signed by both parties.
- 3) **ASSUMPTIONS/CONSIDERATIONS.**
  - a) Any Professional Service not explicitly identified in the applicable PS Agreement is considered "out-of-scope" and assumed to be the responsibility of the Customer. Per the request of Customer, those items can be evaluated, considered, and (if agreed upon by the Parties) addressed through the Change Management Process and a written Amendment signed by both parties.
  - b) Pricing for each PS Agreement assumes Customer resources will be engaged to perform and complete its obligations for the completion of the Professional Services project throughout the Period of Performance. If additional time is required to complete the Professional Services project due to Customer delays or related issues, including but not limited to, completion of Customer tasks outlined in the applicable PS Agreement, this will be discussed between the Customer and DI. If additional time beyond the Period of Performance is requested by Customer to continue delivery of the Professional Services, the additional time will be addressed via the Change Management Process.
- 4) **CHANGE MANAGEMENT PROCESS.** Customer acknowledges and agrees that the Professional Services Fees set forth in the Quote are only for the Professional Services scoped based on Customer provided information and projected Customer technical skills and time commitment required for the performance of such Professional Services. If after the Effective Date of this Agreement i) DI determines that the information provided was not accurate, ii) the information changes, and/or iii) Customer is not able to provide personnel at the technical level, or time-commitment level originally agreed upon, an adjustment to the Professional Services may have to be made by DI, and such adjustment may cause an increase in the Professional Services Fees. Such an increase shall not be binding until both parties agree via a written Amendment. Further, if Customer requests DI perform Professional Services beyond those scoped an adjustment to the scope of Professional Services will have to be made by DI, and such adjustment may require an increase in the Professional Services Fees. Prior to any changes taking affect, an Amendment will be entered into between DI and the Customer to document the revisions to this Agreement and the applicable Quote, if necessary. DI shall have no obligation to begin work on any additional Professional Services prior to the executed Amendment being in place. Changes are broadly defined as work activities not originally scoped in the Agreement.
- 5) **LICENSE GRANT AND OWNERSHIP.**
  - a) Subject to the terms and conditions of this Master Agreement, and the applicable terms set forth in a PS Agreement, and upon payment of all Professional Services Fees owed under the PS Agreement, DI hereby grants Customer a perpetual (subject to the termination provisions below and as set forth in Section 12 ("**Termination**") of the General Terms and Conditions), non-exclusive, non-transferable, license to use the Work Products solely for Customer's internal business purposes. Nothing contained herein shall grant any rights of ownership to Customer in the DI Tools. If any Software (whether pre-existing or new) is delivered as part of the Professional Services provided herein, Customer acknowledges and agrees that i) nothing contained herein shall grant any rights of use or ownership to Customer in such Software, and ii) all such Software shall be licensed to Customer pursuant to separately executed license agreements.
  - b) Customer acknowledges that DI shall have sole and exclusive ownership of all right, title, and interest in and to the Work Products, including any and all DI copyright material, including algorithms, predefined rules and validation templates, provided to Customer under the scope of this Master Agreement and all modifications and enhancements thereof (including ownership of all trade secrets and copyrights pertaining thereto), subject only to the rights and privileges expressly granted to Customer herein. This Master Agreement does not provide Customer with title to or ownership of the Work Products, but only a right of limited use as set forth herein.
  - c) The license to use the Work Products granted to Customer by DI herein, shall be limited by the following: Customer shall not distribute, copy, or use the Work Products for any purpose beyond the scope of this Master Agreement, except for archival or backup purposes or disclosure required by law, regulatory compliance, and/or laboratory accreditation purposes.
- 6) **RULES-BASED SERVICES.** As part of the Professional Services provided under this Master Agreement, DI may provide Customer with Instrument Manager™ Rules-Based Decision Processing services ("Rules-Based Services") which can include:
  - a) Consulting and/or training Customer on designing and developing rules and algorithms of their own creation to direct Instrument Manager in the processing of patient test results.
  - b) Predefined rules and algorithms that have been modified with Customer's input and approval to direct Instrument Manager in the processing of patient test results.



- c) Templates and consulting to Customer for use and approval to validate the Professional Services provided under this Master Agreement for the Instrument Manager system prior to processing patient test results.
  - d) Customer agrees and acknowledges that the content of any algorithms, and any corresponding results and actions, shall be solely Customer's responsibility. While DI may offer Customer consulting, training, and/or predefined algorithms and rules to implement certain parameters for processing patient test results, Customer agrees that the final identified parameters shall at all times be determined by, and be the sole responsibility of, Customer. Customer shall not, under any circumstances, rely upon DI to make final determinations regarding the content or direction of any Customer rules or processing decisions.
  - e) Because the responsibility for any and all parameters, content, and direction of any rules implemented via Instrument Manager through Rules-Based Services rests solely with Customer, DI makes no representations or warranties with respect to any algorithms, or their content, implemented via its Rules-Based Services.
- 7) **DI EXPENSE REIMBURSEMENT GUIDELINES.** All Billable Expenses incurred by DI while performing the Professional Services shall be reimbursed by Customer per the Monterey County Travel and Business Expense Policy attached as an Exhibit to this Professional Services Schedule, in addition to the following and subject to the following DI Reimbursement Guidelines:
- a) **General.**
    - i) Travel and related expenses should be governed by what is reasonable and appropriate for the business purpose involved and should be the least expensive alternative that meets reasonable quality standards and scheduling needs. Lodging shall be reimbursed per GSA (General Services Administration) per diem allowances for the Monterey County area. Mileage shall be reimbursed at IRS allowances.
    - ii) When requesting reimbursement, DI will report expenses as they were actually spent and support with appropriate receipt.
  - b) **Receipts.** Receipts are required for reimbursement of all expenses.
  - c) **Meals.** Reasonable food and beverage expenses will be reimbursed for breakfast, lunch, and dinner meals only. No other incidental food or beverages will be expensed. Meals may be reimbursed at GSA allowances per diem.
  - d) **Air Travel.**
    - i) DI will secure the lowest coach class fare available for direct, non-stop flights.
    - ii) Customer will not be expected to reimburse for first class tickets or upgrades. First class exception will not apply if airlines place traveler in first class at the coach fare rates.
  - e) **Ground Transportation.**
    - i) DI will use the most economical ground transportation appropriate under the circumstances.
    - ii) No "luxury" or "stretch" limousine expenses will be expensed or expected to be reimbursed.
  - f) **Lodging.**
    - i) DI will book lodging with a reasonable cost for hotel accommodations at the single room rate at a business quality hotel.
    - ii) No "deluxe" or "luxury" room rate expenses will be reimbursed.
  - g) **Parking and Tolls.**
    - i) Parking and toll expenses, including hotel parking, will be reimbursed by Customer.
    - ii) Parking tickets, fines, car washes, and valet service will not be reimbursed by Customer.
  - h) **Other Reimbursable Travel Expenses.** hotel internet may be reimbursable with a documented business purpose.
  - i) **Non-Reimbursable Expenditures.** In general, those expenses that exceed reasonableness or are not appropriately documented will not be reimbursed. Additionally, expenses that are not reimbursable include, but are not limited to:
    - i) airline or other travel insurance
    - ii) first class tickets or upgrades
    - iii) "deluxe" or "luxury" room rates
    - iv) stretch or luxury limousine expenses
    - v) traffic and parking violations and valet or laundry services
    - vi) spa or exercise charges
    - vii) barbers and hairdressers
    - viii) toiletry articles
    - ix) gasoline for personal cars
    - x) movie rentals
    - xi) cost of hotel safes



- xii) rental of sport utility vehicles or luxury cars
- 8) **WARRANTY.** DI warrants that the Professional Services will be performed with reasonable skill and care by competent and trained personnel and in accordance with applicable and reasonable industry standards and practices, and that the Work Products will substantially perform in accordance with the specifications set forth in a PS Agreement. As Customer's exclusive remedy and DI's sole obligation for breach of this warranty, DI shall use commercially reasonable efforts to correct defective Professional Services and/or Work Products at no additional charge to Customer, provided that Customer gives DI specific written notice of the defective Professional Services or Work Products within thirty (30) days after the Professional Services are performed.
- 9) **TERM, RESCHEDULING, AND TERMINATION.**
- a) **Term.** Each PS Agreement shall have the term set forth in the PS Agreement. If a term is not specified in the PS Agreement, the PS Agreement shall begin upon the effective date of the PS Agreement and shall continue until all Professional Services are completed, unless earlier terminated as provided herein.
- b) **Rescheduling.** If, after the Scheduled Date has been agreed upon by the Parties, Customer requests to reschedule the Professional Services, such rescheduling request shall be provided to DI as follows:
- i) **Professional Services, excluding training:** If, after the Scheduled Date has been agreed upon by the Parties, Customer requests to reschedule the Professional Services (excluding training), such written rescheduling request shall be provided to DI at least twenty (20) business days prior to the Scheduled Date.
- ii) **Professional Services specifically for training:** Requests by Customer to cancel or reschedule training must be made at least thirty (30) business days prior to training Scheduled Date.
- c) **Effect of Rescheduling.**
- i) **Professional Services, excluding training:** If the Professional Services are rescheduled Customer is responsible for any fees and expenses, already incurred by DI prior to the rescheduling, associated with the Professional Services, including transportation change fees and any reasonable and appropriate corresponding increase in Professional Services Fees due to the Rescheduling.
- ii) **Professional Services specifically for training:**
- (1) If training reschedule requests are received at least thirty (30) business days prior to Scheduled Date, Customer's trainees can be rescheduled for an available seat in a comparable program either in person or virtually. DI cannot guarantee seat availability for training in the original site for which Customer's trainee had been scheduled.
- (2) Reschedule requests or cancellations by Customer made less than thirty (30) business days prior to the Schedule Date, or no shows, are subject to a rescheduling fee up to the full price of the training seat.
- (3) All reschedule requests or cancellations must be sent to the DI North America training team at: northamerica-training@datainnovations.com.
- d) **Expiration of Training Seats.**
- i) Training seats invoiced pursuant to a SOW must be used by Customer within ninety (90) days of the applicable PS Agreement Project Closure Date, whichever occurs first. After the ninety (90) day period, any unused training seats shall be deemed delivered under the applicable invoice, unless otherwise agreed upon in a Change Order to the SOW between DI and an authorized representative of the Customer.
- ii) Training seats purchased outside of a SOW, pursuant to a Quote only, must be used within twelve (12) months from the date of invoice. At the end of the twelve (12) month period, any unused training seats shall be deemed delivered under the applicable invoice.
- e) **Termination Without Cause.** Either Party may terminate an individual PS Agreement without cause upon thirty (30) days' written notice to the other. If Customer terminates any PS Agreement without cause, Customer shall promptly reimburse DI for any Fees for Professional Services performed, and Billable Expenses incurred, prior to the date of termination.
- f) **Termination with Cause.** If either Party materially breaches the terms of an individual PS Agreement, (including, without limitation, any obligation to pay Professional Services Fees), and fails to remedy such breach (if such breach can be remedied) within thirty (30) days of receipt of written notice of such breach, the other Party may terminate such PS Agreement.
- g) **Termination of this Master Agreement.** If this Master Agreement is terminated for any reason, all PS Agreements still in effect as of the date of termination of this Master Agreement ("Open PS Agreements") shall immediately terminate.
- h) **Effect of Termination.** Upon any termination of a PS Agreement, Section 12.e) ("Effect of Termination") of the General Terms and Conditions shall be directly applicable to the terminated PS Agreement.



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**EXHIBIT TO PROFESSIONAL SERVICES SCHEDULE  
MONTEREY COUNTY TRAVEL AND BUSINESS EXPENSE POLICY**



# **TRAVEL AND BUSINESS EXPENSE REIMBURSEMENT POLICY**

Revised December 11, 2012

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**I. PURPOSE**

The purpose of this policy is to establish uniform travel and business expense reimbursement policies, rules and claim procedures for persons authorized to conduct County business.

**II. SCOPE**

The County travel and business expense reimbursement policy applies to all County employees, members of legislative bodies established by the Board (salaried or not), non-County employees (such as contractors who receive travel and/or business expense reimbursements) and volunteers traveling on County business.

**III. DEFINITIONS**

Unless the context otherwise requires, the definitions contained in this part govern the construction of this policy. They do not necessarily apply in other County contexts.

**A. Accountable Expense Reimbursement Plan**

Reimbursements of travel and other business expenses to a County employee, contractor or volunteer will be considered to be made under an "Accountable Expense Reimbursement Plan" if the following three requirements are met:

- The person substantiates his or her expenses by submitting an expense report with
  - 1) the amount of the expenditure,
  - 2) the time and place of the travel or business entertainment,
  - 3) the business purpose of the expenditure, and
  - 4) the names and business relationship of any persons entertained.
- The person documents the expenses with supporting receipts, paid bills, etc. within 60 days after the expense is paid or incurred, and
- Excess advances, if any, are repaid to the County within 120 days after the expense is paid or incurred.

"County" means the County of Monterey.

**B. County Business**

"County business" means the activity directly related to the ordinary, necessary and/or required business functions of the County of Monterey ("County"). It does not include travel or expenses related to an employee's participation in the County's Educational Assistance Program or commuting expenses (a non-reimbursable expense).

**C. County Employee**

"County employee" means any County officer or employee, whether elected or appointed, filling a budgeted position approved by the Board of Supervisors.

Independent contractors and their employees are not County employees.

#### **D. County Traveler**

"County traveler" means any County employee, authorized non-County employee (such as a contractor) or volunteer traveling on County business. Agency temporary employees are not covered by this policy and are not reimbursable for travel.

#### **E. County Volunteer**

"County volunteer" means a person, other than a County employee, who performs volunteer work authorized by a department or the Board of Supervisors for the County, such as a department volunteer, a commissioner or a member of an interview panel. It does not include agency temps, inmates, wards or probationers working for the County.

#### **F. Home**

"Home" means the actual dwelling place of the County traveler without regard to any other legal or mailing address.

#### **G. Main or Regular Place of Work**

"Main or regular place of work" means the principal place of business for the County employee or the principal location to which the County volunteer/contractor is assigned to work for the County. This may be the place at which s/he spends the largest portion of his/her regular County workday or working time or, in the case of field workers, the assigned location/headquarters to which s/he returns upon completion of regular or special assignments.

#### **H. Meals**

Meals that are 1) directly related or associated with bona fide County business matters and 2) approved for reimbursement by a member of the Board of Supervisors or a department head (or his or her designee) will be considered a reimbursable County business expense, if incurred in connection with out-of-County business travel or while conducting in-County business. Also, reimbursement for the provision of in-kind meals to employees on the business premises of the County will only be allowed if there is a substantial non-compensatory business reason for providing such meals to employees.

#### **I. Temporary Work Location**

"Temporary work location" means the place where the County employee, volunteer or contractor is assigned on an irregular or short-term basis. If an employee is assigned to a work location for no more than 35 work days during a calendar year, then the location is considered temporary. Attending conferences, meeting or training sessions away from the main or regular place of work by County employees or volunteers, or field

workers conducting fieldwork at off-site locations, does not normally constitute assignment to another site. If the employee is assigned for more than 35 work days during the calendar year, the new location has become the main or regular place of work.

**J. Vehicle**

"Vehicle" means a motor vehicle, which can be legally operated on public highways.

**IV. AUTHORIZATION TO TRAVEL**

**A. General Conditions**

1. Travel will be authorized only when the travel is necessary and in the best interest of the County.
2. Advance authorization is required for all County travel, as specified in B & C.
3. Advance written authorization from the County Administrative Officer is required for all County travel by County volunteers, except as follows:
  - a) Travel by appointed members of County boards, commissions, or advisory committees to and from the official meetings of their respective boards.
  - b) Travel to and from the County for members of personnel interview panels, subject to authorization by the Human Resources Department.
  - c) Travel to and from meetings, conferences and training covered by the County MHSA plan, subject to authorization by the Behavioral Health Program Manager or designee.

**B. In-County Travel**

County employees are authorized to travel within the County when said travel is required by the department and is considered a part of the routine, day-to-day official duties of the employee as defined and authorized by the department head or his/her designee. All other in-County travel requires advance authorization by the department head or his/her designee.

**C. Out-of-County Travel**

1. All travel outside of the County, but within the State of California, requires advance authorization by the department head, or his/her designee. Travel by immediate staff of a member of the Board of Supervisors requires the advance authorization of the respective Board member.

2. All travel outside of the State of California requires advance written authorization by the department head, or his/her designee. Travel by immediate staff of a member of the Board of Supervisors requires the advance authorization of the respective Board member.
3. Authorization for out-of-state travel by current members of the Board of Supervisors is subject to the guidelines established by the Board.

#### **D. Travel Requests**

Travel requests that require department head authorization shall be submitted to the department head pursuant to department policy. If the traveler is requesting a travel advance, an approved "County of Monterey Travel Request" form (usually in the form of a "white claim" or "GAX"), accompanied by all documentation relative to the request, shall be forwarded to the Auditor-Controller.

### **V. TRAVEL EXPENSES**

#### **A. General Conditions**

1. County travelers are entitled to submit a claim for actual and necessary expenses for transportation, meals, lodging, and incidentals for authorized travel, subject to the conditions set forth in this Travel and Business Expense Reimbursement Policy ("Policy"), whenever the expenses are incurred as part of his/her official duties and authorized because the County traveler is required to work, attend a school, training, meeting or convention overnight at a location sufficiently distant from main or regular place of work to qualify under this policy for meal per diem and overnight lodging.
2. Notwithstanding Section 1 above, claims shall be paid subject to the rules set forth in this Policy and statutory law. Eligibility to submit a claim does not automatically entitle the claimant to reimbursement for any and all expenses.
3. County travelers receiving reimbursement from an outside source for travel on County time shall forward said reimbursement to the County Auditor-Controller for handling and deposit if the traveler intends to submit an expense claim to the County or use County resources to travel. Said travelers shall then be entitled to submit a claim for actual and necessary expenses for transportation, meals, lodging, and incidentals, subject to the conditions set forth in this travel policy.
4. Arrangements for transportation, lodging or registration fees that have cancellation or change penalties shall be carefully monitored by the department. If cancellation/change occurs due to direction by the County traveler's department head, or his/her designee, or the County Administrative Officer, the County department will cover the penalty cost. If the cancellation/change occurs due to a traveler's personal request or obligations, the traveler will be required to pay the

penalty. Exceptions shall be made when a traveler is unable to travel because of hospitalization, serious sickness or death of self or an immediate family member or when the department head certifies that the reason for the employee's absence was legitimate and authorized.

## **B. Transportation Expenses**

### 1. General Conditions

- a) Transportation expenses are the direct costs related to movement of the County traveler from authorized point of departure to destination of travel and back to the authorized point of return.
- b) All transportation expenses incurred shall be based upon the most efficient, direct, and economical mode of transportation required by the occasion.
- c) Whenever a time frame is established as criteria for eligibility for claiming, such as the requirements set forth for meals in Section V, subsection C. 1. d., estimated travel time shall be based upon legal vehicle speed limits, volume of traffic, and weather conditions in effect at the time of travel.

### 2. Vehicle Transportation

Vehicle use (both County-owned and private) by authorized County travelers during the conduct of official County business is subject to the County Vehicle Use Policy.

#### a) Private Vehicle

- (1) Travel by private vehicle will be reimbursed at the IRS rate for business use of a personal vehicle in effect in the County at the time of travel.
- (2) Authorized County travelers who travel in a vehicle other than their own may not claim mileage for business use of a private vehicle but may claim reimbursement of actual fuel expenses necessary for the trip and expended by the traveler. Receipts are required and should be claimed by the employee actually paying the expense.
- (3) Authorized County travelers may not claim mileage for business use of a private vehicle in the following instances:
  - (a) when the County traveler is riding with someone who will be claiming reimbursement for the vehicle's use from the County or another source;
  - (b) when the County traveler is traveling in a County or other government

agency vehicle;

- (c) when the County traveler is traveling in a rented vehicle (paid by County);
  - (d) when the County traveler has been assigned a County Vehicle for home retention, is receiving an allowance or lump sum for mileage, unless specifically provided for in the terms of their agreement or contract with the County or by Board resolution.
- (4) County employee mileage to the regular or main place of work from home, and back, is considered commuting and may not be claimed.
  - (5) County employee mileage to the temporary work location from home, and back, is considered commuting and may not be claimed except in the following cases:
    - (a) if the County employee is required to report to the regular or main place of work before reporting to the temporary work location, s/he is eligible for mileage from the regular or main place of work to the temporary work location;
    - (b) if the County employee is required to report to the regular or main place of work after working at the temporary work location and before going home, s/he is eligible for mileage from the temporary work location to the regular or main place of work.
  - (6) Mileage in conjunction with authorized County travel to and from a school, training, convention or meeting shall be based on the distance to the destination from the traveler's home or the regular or main place of work, whichever is less, except in the following cases:
    - (a) if the traveler is required to report to his/her work location before leaving, s/he is eligible for mileage to the school, training, convention/meeting from the work location.
    - (b) if the traveler is required to report to his/her work location before returning home, s/he is eligible for mileage based on the distance from the school, training, convention/meeting to the work location.
  - (7) Appointed volunteer members of County boards, commissions, or advisory committees may claim mileage to the official meetings of their respective boards from home, and back.
  - (8) Members of personnel interview panels may claim mileage to the panel location from their regular or main place of work, and back.

- (9) When two or more County travelers from the same department are traveling to the same site by vehicle, they should use only as many vehicles as are required to accommodate the number of travelers and business needs of the County. If a County traveler chooses to use a separate private vehicle because of personal preferences or obligations, h/she shall not be eligible for mileage or fuel reimbursement for the travel unless the department head determines that reimbursement is appropriate and justified.
- (10) If a County traveler chooses to use a private vehicle instead of an alternative mode of transportation chosen by the department head because of personal preferences or obligations, his/her mileage reimbursement shall not exceed the cost of using the alternative mode of transportation unless the department head determines that the additional reimbursement is appropriate and justified.

b) County Vehicle Transportation

- (1) County travelers using a County vehicle for traveling shall not be eligible for reimbursement for mileage.
- (2) County travelers required to fuel a County vehicle at their own expense should claim the actual fuel costs expended by them. Receipts must accompany the claim. Vehicle license number and the odometer reading should be written on the receipts.
- (3) If the County vehicle experiences mechanical failure, the County traveler shall follow the rules set forth in the "Mechanical Failure" section of the "Vehicle Operator's Handbook" located in the glove compartment of each County vehicle.

c) Rental Vehicle Transportation

- (1) Vehicles may be rented for transportation at the destination point when the County traveler travels to the destination via commercial common carrier and the cost of the rental will be less than the charge for shuttle or taxi service to and from the carrier termination point to the function or hotel accommodations.
- (2) Vehicles may be rented for transportation to the destination point when the cost of the rental will be less than other reasonable and available modes of transportation.
- (3) If more than one County traveler from the same department is traveling to the same function, only one rental vehicle may be claimed and then only if

it is available for use by all of the County travelers.

- (4) The County traveler shall choose the least expensive size and mileage limits appropriate to the use required. Rental expenses for luxury cars, motorcycles and recreational vehicles may not be claimed.
- (5) Rental cars shall be refueled prior to return to the rental agency to reduce cost to the County. Rental cars should be returned to the renting location and on time to avoid additional charges.
- (6) When traveling domestically the County traveler shall waive additional vehicle insurance (except for additional driver and coverage for drivers under 25 years of age), provided that the employee has his/her own vehicle insurance coverage. When traveling internationally additional insurance should be accepted if the traveler lacks other similar coverage.
- (7) An original car rental receipt showing the number of days and type of vehicle rented is required for vehicle rental claims. A copy of the receipt or a credit card receipt alone is insufficient.

d) Commercial Carrier Transportation

- (1) County travelers shall seek and attempt to use the lowest rates available for the type of commercial carrier service being utilized. Whenever possible, travelers should take advantage of flight arrangements that minimize County cost (for example, purchasing a round trip ticket may be less expensive than two one-way tickets). Reservations should be made as far in advance as possible to take advantage of available discounts and special offers. Travel agents that have added ticket handling charges should be avoided.
- (2) Claims for travel via commercial carrier shall be limited to the cost of travel at economy rates for the same day and time of travel or actual cost, whichever is less. County travelers may upgrade tickets, provided that the traveler and not the County pay for the difference in cost for such upgrade. The County will not reimburse any type of travel insurance unless the Department Head requests the traveler to purchase cancellation coverage. Reasonable baggage charges, if imposed by the airline, on the first checked bag are reimbursable.
- (3) Claims for commercial carrier tickets shall be substantiated by an original ticket document (such as an e-ticket or passenger receipt ticket copy) showing the price, date, date/time of travel and class of travel. A copy of the credit card receipt or statement from a travel agency alone is insufficient.

- (4) County business traveler may retain frequent flyer/hotel rewards and similar program benefits. However, participation in these programs must not influence flight/hotel/etc. selection, which would result in incremental cost to the County beyond the lowest available airfare/hotel cost unless the difference is paid by the traveler. Free tickets or cash allowances for volunteering to be denied timely boarding may be retained by the traveler but no additional cost to the County or interruption of County work is allowed and any additional time required to complete the trip is to be personal time.
- (5) Should a Saturday night stay reduce the cost to the County of a ticket more than the total of any additional hotel/meal/parking cost, the costs to do so are reimbursable to the traveler but should be well-documented with a clear savings to the County.

e) Private Aircraft Transportation

- (1) Traveling by private aircraft which is flown by a County employee may be authorized if it will be the most efficient means of travel and the flight is incidental to the purpose of the County travel. Said use shall require the advance written approval of the County Administrative Officer. If approved, the following must be provided to the Auditor-Controller's Office in advance of the travel:
  - (a) a copy of the pilot's Federal Aviation Administration (FAA) pilot's certificate and instrument rating for the category and class of aircraft to be flown and the type of flying to be performed;
  - (b) a copy of the pilot's current medical certificate;
  - (c) a copy of the FAA Pilot Proficiency Award Program certificate issued to the pilot within the twelve months prior to the flight;
  - (d) a copy of the pilot's flight log showing a minimum of 250 hours of flight time within the twelve months prior to the flight;
  - (e) a certificate of public liability and property damage insurance of not less than \$1,000,000 naming the County as an additional insured.
- (2) Traveling by private aircraft, which is flown by a non-County employee, except for flights conducted by members of the Sheriff's Air Squadron in the performance of their official duties, is normally prohibited.
- (3) County travelers who operate a private aircraft in connection with approved County travel may be reimbursed the actual cost paid by the

traveler for fuel used by the aircraft on the trip or the County's mileage rate for each air mile at the travelers option.

f) Other Transportation Expenses

(1) The following necessary transportation expenses may be claimed at actual cost (receipt required) when directly related to transporting the County traveler to and from the business destination point:

- (a) taxi, shuttle, or public transit fares;
- (b) parking fees (airport long-term parking is required for travel exceeding 24 hours);
- (c) bridge, road or ferry tolls;
- (d) other actual transportation expenses determined to be reasonable and necessary by the department head and the Auditor-Controller.

(2) The following transportation expenses may not be claimed:

- (a) traffic and parking violations;
- (b) emergency repairs or non-emergency repairs on non-County vehicles;
- (c) personal travel while at an out-of-County location;
- (d) other actual transportation expenses determined to be unreasonable or unnecessary by the department head or the Auditor-Controller.

**C. Meal Expenses**

1. Eligibility for Meals

- a) County employees, contractors and volunteers may be reimbursed for in-County meal costs that are 1) ordinary (not extravagant) and necessary, 2) directly related or associated with bona fide County business matters and 3) approved by a member of the Board of Supervisors or a department head (or his or her designee). County business discussions associated with a meal must be conducted in a “clear business setting”.
- b) County travelers involved with in-County travel that does not require an overnight stay away from their home are not eligible to claim for meals taken outside the County, unless the requirements of paragraph a) above are met, or unless provided for in a Board of Supervisor-approved written County policy.

- c) County travelers on out-of-County business travel that requires an overnight stay away from their home are eligible to claim for meals taken out-of-County.
- d) County travelers are eligible to claim the meal reimbursements noted below for travel requiring overnight lodging if the total travel time (work time, plus the lunch period plus round-trip travel time) is estimated to equal or exceed 12 hours.
  - (1) Breakfast may be claimed if the County traveler must reasonably be away from home because of County business travel at or before 7:00 a.m.
  - (2) Lunch may be claimed if the County traveler must reasonably be away from home because of County business travel at or before Noon.
  - (3) Dinner may be claimed if the County traveler must reasonably be away from home because of County business travel at 7:00 p.m. or after.
- e) Snacks are a personal expense, not reimbursable.
- f) Claims for meals purchased by a County employee or volunteer on behalf of federal, state or local public officials or employees is prohibited, including any other Monterey County employees, unless provided for under other Board of Supervisor approved written County policies.
- g) County travelers are not eligible to claim meals or other expenses for those persons who are not otherwise eligible to file a claim themselves for County reimbursement.
- h) County travelers are not eligible to keep or claim per diem allowances for anyone other than themselves.

## 2. Meal Claims

- a) The County maximum full day meal and incidental expenses rate shall be equal to the maximum federal per diem meal and incidental expenses (M&IE) rate established by the GSA. Said maximums include taxes and gratuities.
- b) Meal expense amounts shall be calculated by the Auditor-Controller for first and last partial days of travel based on the maximum federal per diem meal rate for the appropriate meal(s).
- c) Claims for out-of-County meals taken in conjunction with travel that includes an overnight stay away from the traveler's home shall be reimbursed in the form of a "per diem allowance", which means the traveler is eligible to be reimbursed at the maximum rate allowed and receipts are not required (except for Board of

Supervisor Members). Partial days shall be reimbursed at the appropriate meal rate.

- d) Allowable meal costs may only exceed the prescribed per diem rates if the meal is being served at a conference or workshop and the costs of the speaker, conference, and/or registration are included in the price. The agenda/brochure or other documentation describing the event and the price must accompany the claim to the Auditor-Controller's Office.
- e) A County traveler may not claim a per diem allowance or reimbursement for any meal which is provided, or otherwise available, to the County traveler with the lodging or function, whether or not there is an actual charge for the meal. For example, if lunch is provided at the function or breakfast is included in the cost of lodging, the traveler may not claim a per diem allowance or request reimbursement for eating elsewhere. For purposes of this section, continental breakfast and meals provided during airline or other commercial carrier travel do not constitute provided meals and do not need to be deducted from the per diem allowance. A County traveler may not claim a per diem allowance for a meal that was paid for by someone else.
- f) If a breakfast is included in the cost of lodging, the traveler may not claim for a breakfast meal; however, s/he may apply the next day's breakfast allowance amount towards the maximum lodging amount. For example, if the maximum lodging amount is \$79.00 and the breakfast allowance is \$8.00, the employee may claim up to a maximum of \$87.00 for lodging which includes a continental breakfast. (For purposes of this section, continental breakfast does not constitute a provided breakfast meal.)
- g) Claiming for alcoholic beverage expenses are prohibited in all cases.
- h) As required by California Government Code 53232.2 Board of Supervisors members must provide receipts for all meals and will be reimbursed at the lower of the appropriate per diem amount or the actual expense.

## **D. Lodging Expenses**

### **1. Eligibility for Lodging**

- a) County travelers are not eligible to claim for lodging for in-County functions.
- b) For out-of-County business that is conducted on one business day, if the County traveler's actual time for the day is estimated to equal or exceed 12 hours (including work time, the lunch period and round-trip travel time), then the County traveler will have the option of securing one night's lodging at either the

front-end or back-end of the trip. Illustration: A member of the County Board of Supervisors who resides in Monterey County is required to attend a one-day business meeting in Sacramento. The Board member estimates that his total time for the day without obtaining lodging would be 14 hours (8 hours of meetings, 1 hour for lunch and 5 hours for round-trip travel). The Board member will have the option of securing one night's lodging in Sacramento, either the night before the meeting, or after conclusion of the meeting.

- c) For out-of-County business that requires multiple business days, if County travelers are eligible to claim lodging for the first and last evenings of an out-of-County trip, they are also eligible to claim lodging for any evenings that fall in between the first and last evenings of the trip.
- d) County travelers are not eligible to claim reimbursement of lodging costs when staying overnight as a guest of friends or relatives.

## 2. Lodging Claims

- a) Lodging expenses shall be claimed at either the actual cost of the lodging (limited to the single occupancy rate for a single room) or the County's maximum lodging rate (Federal Per Diem Rate), whichever is less. Receipts are required. Taxes are in addition to the Federal Per Diem Rate.
- b) Lodging costs may exceed the County's maximum lodging rate only when a conference, meeting or convention is being sponsored by an organization of which the County, the department or employee is a member, the lodging may be claimed at the actual cost if seminars or meetings are to be held at the particular hotel and/or events are scheduled for evening hours, and the department head has given advance written authorization.
- c) An original room folio receipt, showing the number of days and the number of occupants, is required for lodging claims. A copy of the receipt, travel agency statement or a credit card receipt alone is insufficient.
- d) When a room is shared with a fellow County traveler, the expense may either be prorated, and the prorated amount claimed by each County traveler, or one County traveler may claim the total expense at the multiple occupancy rate.
- e) When a room is shared with a person other than a County traveler and said person will also be claiming reimbursement from the County or another source, the amount shall be prorated between the two travelers.
- f) Lodging expense may not be claimed for guests of the County traveler. Where expense for a family member or friend is included in the receipt, the claim must not exceed the single occupancy rate.

- g) Special lodging, such as accommodations in apartments, RV parks, campgrounds or other semi-permanent lodgings, shall require advance written authorization of the County Administrative Officer and the Auditor-Controller.
- h) County travelers should inquire when making lodging arrangements whether the County is exempt from Transient Occupancy Taxes (TOT) in the locale where they are staying and should provide the necessary form to the lodging facility, if required to do so to obtain the waiver.
- h) Except when registering for lodging at a pre-arranged group rate in conjunction with a conference or meeting, County travelers shall request the government rate or lowest available eligible rate when making lodging arrangements.
- i) Travelers are responsible for canceling hotel rooms before the cancellation period ends and should record the cancellation number in case of disputes. Travelers will not be reimbursed for “no-show” hotel charges unless there are unavoidable reasons for not canceling the room.
- j) When multiple country travelers are traveling together and the rooms are put on one invoice, one traveler may take care of the invoice but should provide the details on who stayed in each room on the invoice.

**E. Registration Fees**

Conference, convention and seminar registration and tuition fees may be claimed at the actual cost, provided that the agenda/brochure or other documentation describing the event, including the price, accompanies the approved claim to the Auditor-Controller's.

**F. Other Travel Expenses**

1. County travelers are eligible to claim a per diem incidental allowance, limited to the maximum federal per diem incidental rate established by the IRS, for each day of travel requiring an overnight stay away from the traveler's home. Said allowance covers fees and gratuities for persons who provide services, such as food servers and luggage handlers, and does not require receipts (Except for Board of Supervisors Meals). If applicable (such as a Board of Supervisor meal), gratuities are limited to not exceed 15% of the service costs unless billed by a provider's standard policy at a higher rate.
2. County travelers are eligible to claim the following expenses at actual cost, even if they also qualify for a per diem incidental allowance. Receipts are required.
  - a) County business calls (traveler must annotate purpose of call on the bill)
  - b) fax machine charges incurred to send or receive documents for County use.

- c) copy machine charges incurred to copy documents for County use.
- d) Internet access connection and/or usage fees away from home not to exceed \$15.00 per day, if Internet access is necessary for county related business.
- e) other business related expenses determined to be reasonable and necessary by the department head and the Auditor-Controller.

## **VI. OTHER COUNTY BUSINESS EXPENSES**

### **A. General Guidelines**

In the course of conducting County business, employees, contractors or volunteers may incur business expenses (including meal expenses pursuant to Section V.C) on behalf of the County. Such expenses will be approved for reimbursement if the disbursement meets the following requirements:

- The disbursement is for an ordinary (not extravagant) and necessary expense of conducting County business, or is an expense that is required by the County,
- The expense is approved by a member of the County Board of Supervisors, or a County department head (or his or her designee), and
- The payee accounts for the expense in accordance with the rules for a “Accountable Expense Reimbursement Plan”, as set forth in the Internal Revenue Code and related regulations.

### **B. Taxation of Business Expense Reimbursements**

If a reimbursement to an employee, contractor or volunteer meets the requirements of an “Accountable Expense Reimbursement Plan”, then such reimbursement will not be reportable for federal or California income tax purposes.

## **VII. CLAIMING PROCEDURES FOR OUT-OF-COUNTY TRAVEL**

### **A. Travel Advance Claims**

#### **1. Authorizations and Eligibility**

- a) Travel advances are strongly discouraged and are only available to County employees. The issuance of travel advances creates double work for departmental and auditor-controller staff and should only be used if a County travel card cannot be used or the employee does not have a personal credit card. Board of Supervisors Members are not eligible for travel advances.

The first choice is for travelers to use their personal credit cards to pay for their

travel expenses and be reimbursed before their monthly statement arrives. Secondly, the County has arranged for the use of the Travel Card to pay many travel related expenses. Departments may use their Travel Cards to pay for airline tickets and conference registration expenses for all of their employees, not just the cardholder. Commercial carrier and conference registration expenses should not be considered in the advance calculation. The third choice would be a cash advance, if necessary.

- b) Travel advances require the authorization of the department head or his/her designee, and the Auditor-Controller or his/her designee.
- c) The net amount of the travel advance shall not exceed the following:
  - (1) 75% of the total estimate for the following travel expenses, exclusive of payments made payable directly to the vendor:
    - (a) lodging (documentation, including at least the confirmation number and hotel name should be provided), including hotel parking
    - (b) rental vehicle transportation;
    - (c) per diem meal allowances;
    - (d) long-term airport parking;
    - (e) other out-of-pocket expenses deemed necessary and reasonable by the Auditor-Controller.
  - (2) 50% of the total estimate of reimbursement for mileage for business use of a private vehicle.
- d) A travel advance shall not be issued for a net amount less than \$100.00 nor more than \$2,000.00.
- e) A travel advance shall not be issued more than thirty (30) calendar days in advance of the commencement of travel.
- f) Travelers are not eligible for an additional travel advance if they have an unsettled advance, unless the advances are for travel taken consecutively. In such case, the sum total of the travel advances shall not exceed \$2,000.00.

## 2. Travel Advance Requests

- a) Requests for travel advances involving travel shall be submitted by the department head to the Auditor-Controller's Office on a completed and signed

"County of Monterey Travel Request" form, accompanied by all documentation relative to the request, at least ten (10) working days in advance of the commencement of travel.

- b) After a completed and approved "County of Monterey Travel Request" form is received by the Auditor-Controller's Office, a warrant payable to the County traveler for the amount requested shall be issued, up to the 100% maximum amount allowed pursuant to this County travel policy.

### 3. Travel Advance Settlements

- a) Within five (5) working days of completion of travel, the County traveler shall submit all receipts for allowable travel expenses to the Department and within fifteen (15) working days of completion of travel to the Auditor-Controller's Office on a completed County claim form. Credit for the travel advance shall be subtracted from the amount owed to the County traveler.
- b) In the event that allowable expenses are less than the amount of the travel advance, the County traveler shall submit the difference in the form of a check or money order made out to the "County of Monterey" with the claim form.
- c) County travelers who cannot provide a required receipt shall reimburse the County for the amount of the money advanced to them for that expense.
- d) Travelers who do not submit the required documentation by the time frames set forth above may lose their eligibility for future travel advances.
- e) Department heads are responsible for ensuring that their employees settle their travel advance claims within the time frames set forth in subsection a) above. Non-compliance may jeopardize advances for the entire department.

## **B. Prepaid Vendor Claims**

### 1. Vendor Claim Requests

- a) Once travel has been authorized, claims to the vendor may be submitted for lodging and registration fees when there is sufficient time for the check to be processed before the authorized County traveler commences travel.
- b) If the travel requires a "County of Monterey Travel Request" form, the approved form shall be submitted with the claim. If the original has been submitted with a previous claim, then that shall be noted on the claim form and a copy of the form attached.
- c) Whenever possible, the County shall be named as registrant for events to allow

transfer of attendance privilege when conflicts prevent the original registrant from attending.

- d) The County will mail the warrant directly to the vendor unless the traveler requests that the warrant be returned to them to hand carry to the vendor.

## 2. Vendor Claim Settlements

- a) Each vendor claim must have an original receipt attached in order to settle the claim. The required receipts for vendor claims that have been prepaid shall be forwarded to the Auditor-Controller's Office within thirty (30) calendar days after completion of travel.
- b) Claims paid directly to vendors that are not substantiated by receipts within thirty (30) calendar days of the completion of travel shall be considered to be unsettled travel advances to the County traveler.
- c) Department heads are responsible for ensuring that their employees return their receipts within the time frames established by this policy. Non-compliance may jeopardize the department's ability to have travel expenses paid in advance.
- d) In the event that all or a portion of the prepaid cost to a vendor is reduced after the check has been processed, the County traveler is responsible for ensuring that the entire difference is returned to the County within the time frames established for settling the claim.

## **C. Travel Reimbursement Claims**

- 1. After completion of travel, the County traveler shall submit a completed County claim form to the department head for authorization. After review and authorization, the department head shall submit the authorized claim, together with any required receipts, to the Auditor-Controller's Office. Said claim shall be received by the Auditor-Controller's Office within thirty (30) calendar days of the completion of travel.
- 2. The traveler shall not be reimbursed until s/he has signed the certification for the claim that is required by the Auditor-Controller's Office.
- 3. The Auditor-Controller's Office shall review the claim for compliance with applicable County policies and procedures. If approved by the Auditor-Controller's Office, the claim shall be processed and a check sent to the claimant within ten (10) working days. If denied, or denied in part, the department's contact person will be notified immediately. The Auditor-Controller has the final decision on allowable expenses.
- 4. No reimbursement for travel shall be paid to the employee until all required receipts

for the travel claim have been filed with the Auditor-Controller's Office.

5. Travel reimbursements are to be paid via checks and not to be paid via petty cash.

#### **D. Mileage Claims**

1. Whenever travel requires advance authorization of the department head, or his/her designee, the resulting mileage expense shall be claimed on the same claim form as the other expenses that apply to that travel. The only exception is if mileage is the only expense of the trip, in which case the traveler may claim the mileage on the monthly "Mileage Reimbursement" claim form.
2. Whenever travel does not require advance authorization of the department head, or his/her designee, the resulting mileage expense shall be claimed on the "Mileage Reimbursement" claim form.
3. Mileage claims shall be submitted monthly, unless the total for the month is less than \$50.00, in which case the claim may be held for an additional month. However, the claim must not be held over to the next month more than twice, regardless of the dollar amount.
4. All mileage claims for the last month of the fiscal year must be processed by year-end close.
5. Mileage Claims are to be paid via warrants and not to be paid via petty cash.

#### **E. Reimbursement by Outside Source**

1. County travelers receiving reimbursement from an outside source for travel on County time shall forward said reimbursement to the Auditor-Controller for handling and deposit if the traveler intends to submit an expense claim to the County or use County resources, including a County vehicle, to travel. In such cases, the traveler shall then be entitled to submit a claim for actual and necessary expenses for transportation, meals, lodging, and incidentals, subject to the claiming conditions set forth in this travel policy. Said reimbursement shall be delivered to the Auditor-Controller's Office within thirty (30) days of the receipt of the funds.
2. If a County volunteer or non-employee will be receiving a per diem or other reimbursement of travel expenses from a source outside of the County, the volunteer shall not be eligible to claim or receive any additional reimbursement from the County for the same expenses.

#### **F. Late Claims**

If a claim for reimbursement or settlement of a travel claim is submitted after the allowed time frames, the payment to the employee shall not be made until the claim has

been reviewed and approved by the Auditor-Controller or his/her designee.

**G. Travel Card Use**

Subject to the rules contained in the Travel Card Policy, travel expenses (airline, hotel, vehicle rental, gas, emergency repair of county vehicles and airport parking) may be charged to County of Monterey Travel Cards. Prohibited items include employee meals, room service, movies, cash advances, gift cards of any kind, liquor, tobacco and other items prohibited by the Travel Card Policy. Under no circumstances should personal items (even if reimbursed to the county) be charged to the travel card. Expenses paid on the travel card should not be included on a claim for reimbursement.

**VII. INTERPRETATIONS**

The Auditor-Controller, or his/her designee, shall be responsible for interpretations of this policy.

**VIII. EXCEPTIONS**

Exceptions to this policy require the approval of the Auditor-Controller or his/her designee.

**IX. CONFLICT WITH RULES**

In the event that this County Travel policy is in conflict with another County policy, the policy with the strictest application shall prevail.



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## **BUSINESS ASSOCIATE AGREEMENT SCHEDULE**

## BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”) effective as of the last date of signature below which is \_\_\_\_\_, (“Effective Date”), is entered into by the County of Monterey, a political subdivision of the State of California, on behalf of Natividad Medical Center (the “Covered Entity” or “NMC”) and Data Innovations LLC ( the “Business Associate”) (each a “Party” and collectively the “Parties”).

### RECITALS

A. WHEREAS, Business Associate provides certain Services for Covered Entity that involve the Use and Disclosure of Protected Health Information (“PHI”) that is created, received, transmitted, or maintained by Business Associate for or on behalf of Covered Entity.

B. WHEREAS, The Parties are committed to complying with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA), as amended by the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”), and their implementing regulations, including the Standards for the Privacy of Individually Identifiable Health Information, 45 C.F.R. Part 160 and Part 164, Subparts A and E (the “Privacy Rule”), the Breach Notification Standards, 45 C.F.R. Part 160 and 164 subparts A and D (the “Breach Notification Rule”), and the Security Standards, 45 C.F.R. Part 160 and Part 164, Subpart C (the “Security Rule”), (collectively “HIPAA”), all as amended from time to time.

C. WHEREAS, The Parties are also committed to complying with the California Confidentiality Laws (defined below).

D. WHEREAS, To the extent that Business Associate is performing activities in connection with covered accounts for or on behalf of Covered Entity, the Parties are also committed to complying with applicable requirements of the Red Flag Rules issued pursuant to the Fair and Accurate Credit Transactions Act of 2003 (“Red Flag Rules”).

E. WHEREAS, The Privacy and Security Rules require Covered Entity and Business Associate to enter into a business associate agreement that meets certain requirements with respect to the Use and Disclosure of PHI. This BAA sets forth the terms and conditions pursuant to which PHI, and, when applicable, Electronic Protected Health Information (“EPHI”) shall be handled, in accordance with such requirement.

NOW THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this BAA, the Parties agree as follows:

### AGREEMENT

#### 1. DEFINITIONS

**1.1** All capitalized terms used in this BAA but not otherwise defined shall have the meaning set forth in the Privacy Rule, the Breach Notification Rule, or the Security Rule.

(a) “Breach” shall have the same meaning as “breach” as defined in 45 C.F.R. § 164.402 and shall mean the access, acquisition, Use, or Disclosure of PHI in a manner not permitted under the Privacy Rule that compromises the privacy or security of the PHI; the term “Breach” as used in this BAA shall also mean the unlawful or unauthorized access to, Use or Disclosure of a patient’s “medical information” as defined under Cal. Civil Code § 56.05(j), for which notification is required pursuant to Cal. Health & Safety Code 1280.15, or a “breach of the security of the system” under Cal. Civil Code §1798.29.

(b) “California Confidentiality Laws” shall mean the applicable laws of the State of California governing the confidentiality of PHI or Personal Information, including, but not limited to, the California Confidentiality of Medical Information Act (Cal. Civil Code §56, et seq.), the patient access law (Cal. Health & Safety Code §123100 et seq.), the HIV test result confidentiality law (Cal. Health & Safety Code §120975, et seq.), the Lanterman-Petris-Short Act (Cal. Welf. & Inst. Code §5328, et seq.), and the medical identity theft law (Cal. Civil Code 1798.29).

(c) “Protected Health Information” or “PHI” shall mean any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual or the past, present or future payment for the provision of health care to an individual; (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information that can be used to identify the individuals, and (iii) is provided by Covered Entity to Business Associate or created, maintained, received, or transmitted by Business Associate on Covered Entity’s behalf. **PHI includes EPHI.**

(d) “Services” shall mean the services for or functions on behalf of Covered Entity performed by Business Associate pursuant to a Services Agreement between Covered Entity and Business Associate to which this BAA applies.

## **2. PERMITTED USES AND DISCLOSURES OF PHI**

Unless otherwise limited herein, Business Associate may:

(a) Use or Disclose PHI to perform Services for, or on behalf of, Covered Entity, provided that such Use or Disclosure would not violate the Privacy or Security Rules, this BAA, or California Confidentiality Laws;

(b) Use or Disclose PHI for the purposes authorized by this BAA or as otherwise Required by Law;

(c) Use PHI to provide Data Aggregation Services for the Health Care Operations of Covered Entity, if required by the Services Agreement and as permitted by 45 C.F.R. § 164.504(e)(2)(i)(B);

(d) Use PHI if necessary for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted by 45 C.F.R. § 164.504(e)(4)(i);

(e) Disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate as permitted under 45 C.F.R. § 164.504(e)(4)(ii), provided that Disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is Disclosed that it will remain confidential and be Used or further Disclosed only as Required by Law or for the purpose for which it was Disclosed to the person, and that such person will notify the Business Associate of any instances of which such person is aware that the confidentiality of the information has been breached;

(f) Use PHI to report violations of law to appropriate Federal and state authorities, consistent with 45 C.F.R. § 164.502(j)(1); and

(g) De-identify any PHI obtained by Business Associate under this BAA in accordance with 45 C.F.R. § 164.514 and Use or Disclose such de-identified information only as required to provide Services pursuant to the a Services Agreement between the Parties, or with the prior written approval of Covered Entity.

### **3. RESPONSIBILITIES OF THE PARTIES WITH RESPECT TO PHI**

**3.1. Responsibilities of Business Associate.** With regard to its Use and/or Disclosure of PHI, Business Associate shall:

(a) Notify the Privacy Officer of Covered Entity, in writing, of: (i) any Use and/or Disclosure of the PHI that is not permitted or required by this BAA; (ii) any Security Incident of which Business Associate becomes aware; and (iii) any suspected Breach. Such notice shall be provided within ten (10) business days of Business Associate's discovery of such unauthorized access, acquisition, Use and/or Disclosure. Notwithstanding the foregoing, the Parties acknowledge the ongoing existence and occurrence of attempted but ineffective Security Incidents that are trivial in nature, such as pings and other broadcast service attacks, and unsuccessful log-in attempts. The Parties acknowledge and agree that this Section 3.1(a) constitutes notice by Business Associate to Covered Entity of such ineffective Security Incidents and no additional notification to Covered Entity of such ineffective Security Incidents is required, provided that no such Security Incident results in a Breach. Business Associate shall reasonably cooperate with Covered Entity to comply with applicable mitigation and/or notification obligations under the Privacy and Security Regulation. Business Associate shall investigate each Security Incident or unauthorized access, acquisition, Use, or Disclosure of PHI, or suspected Breach that it discovers and shall provide a summary of its investigation to Covered Entity, upon reasonable request. If Business Associate or Covered Entity determines that such Security Incident or unauthorized access, acquisition, Use, or Disclosure, or suspected Breach constitutes a Breach, then Business Associate shall comply with the requirements of Section 3.1(a)(i) below;

(i) Business Associate shall provide a supplemental written report in accordance with 45 C.F.R. § 164.410(c), which shall include, to the extent possible, the identification of each individual whose PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, Used or Disclosed during the Breach, to Covered Entity without unreasonable delay, but no later than ten (10) business days after discovery of the Breach;

(ii) Covered Entity shall have sole control over the timing and method of providing notification of such Breach to the affected individual(s), the appropriate government agencies, and, if applicable, the media. Business Associate shall reasonably assist with the implementation of any decisions by Covered Entity to notify individuals or potentially impacted individuals;

(b) Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of such improper access, acquisition, Use, or Disclosure, Security Incident, or Breach. Business Associate shall take prompt corrective action, including any action required by applicable State or federal laws and regulations relating to such Security Incident or non-permitted access, acquisition, Use, or Disclosure. Business Associate will reimburse Covered Entity's costs and expenses including attorney's fees, that are reasonably incurred due to the Breach by Business Associate, and as substantiated by evidence of receipts, including costs associated with the notification of Individuals and the media, as well as 12 months of credit monitoring.

(c) Implement reasonable and appropriate administrative, physical, and technical safeguards and comply with the Security Rule to prevent Use and/or Disclosure of EPHI other than as provided by this BAA;

(d) Obtain and maintain a written agreement with each of its Subcontractors that creates, maintains, receives, Uses, transmits or has access to PHI that requires such Subcontractors to adhere to the substantially the same restrictions and conditions with respect to PHI that apply to Business Associate pursuant to this BAA;

(e) Make available all internal practices, records, books, agreements, policies and procedures and PHI relating to the Use and/or Disclosure of PHI received from, created, maintained, or transmitted by Business Associate on behalf of Covered Entity to the Secretary of the Department of Health and Human Services ("Secretary") in a time and manner designated by the Secretary for purposes of determining Covered Entity's or Business Associate's compliance with the Privacy Rule To the extent permitted by law, Business Associate shall provide Covered Entity a copy of any PHI and other documents and records that Business Associate provides to the Secretary;

(f) Document Disclosures of PHI and information related to such Disclosure and, within thirty (30) days of receiving a written request from Covered Entity, provide to Covered Entity such information as is requested by Covered Entity to permit Covered Entity to respond to a request by an individual for an accounting of the Disclosures of the individual's PHI in accordance with 45 C.F.R. § 164.528. At a minimum, the Business Associate shall provide the Covered Entity with the following information: (i) the date of the Disclosure; (ii) the name of the entity or person who received the PHI, and

if known, the address of such entity or person; (iii) a brief description of the PHI Disclosed; and (iv) a brief statement of the purpose of such Disclosure which includes an explanation of the basis for such Disclosure. In the event the request for an accounting is delivered directly to the Business Associate, the Business Associate shall, within ten (10) business days, forward such request to the Covered Entity. The Business Associate shall implement an appropriate recordkeeping process to enable it to comply with the requirements of this Section;

(g) Subject to Section 4.4 below, return to Covered Entity within thirty (30) days of the termination of this BAA, the PHI in its possession and retain no copies, including backup copies;

(h) Disclose to its Subcontractors or other third parties, and request from Covered Entity, only the minimum PHI necessary to perform or fulfill a specific function required or permitted hereunder;

(i) If all or any portion of the PHI is maintained in a Designated Record Set:

(i) Upon ten (10) business days prior written request from Covered Entity, provide access to the PHI to Covered Entity to meet a request by an individual under 45 C.F.R. § 164.524. Business Associate shall notify Covered Entity within ten (10) days of its receipt of a request for access to PHI from an Individual; and

(ii) Upon ten (10) business days prior written request from Covered Entity, make any amendment(s) to the PHI that Covered Entity directs pursuant to 45 C.F.R. § 164.526. Business Associate shall notify Covered Entity within ten (10) days of its receipt of a request for amendment of PHI from an Individual;

(j) To the extent that Business Associate carries out one or more of Covered Entity's obligations under the Privacy Rule, Business Associate shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations;

(l) Unless prohibited by law, notify the Covered Entity within ten business (10) days of the Business Associate's receipt of any request or subpoena for PHI. To the extent that the Covered Entity decides to assume responsibility for challenging the validity of such request, the Business Associate shall reasonably cooperate with the Covered Entity in such challenge; and

(m) Maintain policies and procedures materially in accordance with State Confidentiality Laws and industry standards designed to ensure the security and integrity of the Covered Entity's data and protect against threats or hazards to such security.

### **3.2 Business Associate Acknowledgment.**

(a) Business Associate acknowledges that, as between the Business Associate and the Covered Entity, all PHI shall be and remain the sole property of the Covered Entity.

(b) Business Associate further acknowledges that it is obligated by law to comply, and represents and warrants that it shall comply, with HIPAA and the HITECH Act. Business Associate shall comply with all California Confidentiality Laws, to the extent that such state laws are not preempted by HIPAA or the HITECH Act.

**3.3 Responsibilities of Covered Entity.** Covered Entity shall, with respect to Business Associate:

(a) Provide Business Associate a copy of Covered Entity's notice of privacy practices ("Notice") currently in use;

(b) Notify Business Associate of any changes to the Notice that Covered Entity provides to individuals pursuant to 45 C.F.R. § 164.520, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI;

(c) Notify Business Associate of any changes in, or withdrawal of, the consent or authorization of an individual regarding the Use or Disclosure of PHI provided to Covered Entity pursuant to 45 C.F.R. § 164.506 or § 164.508, to the extent that such changes may affect Business Associate's Use or Disclosure of PHI; and

(d) Notify Business Associate of any restrictions on Use and/or Disclosure of PHI as provided for in 45 C.F.R. § 164.522 agreed to by Covered Entity, to the extent that such restriction may affect Business Associate's Use or Disclosure of PHI.

#### **4. TERM AND TERMINATION**

**4.1 Term.** This BAA shall become effective on the Effective Date and shall continue in effect until all requested services and obligations of the Parties under the Agreement have been met, unless terminated as provided in this Section 4 or by mutual agreement between the Parties. Certain provisions and requirements of this BAA shall survive its expiration or other termination as set forth in Section 5 herein.

**4.2 Termination.** If Covered Entity determines in good faith that Business Associate has breached a material term of this BAA, Covered Entity may either: (i) immediately terminate this BAA and any underlying Services Agreement; or (ii) terminate this BAA and any underlying Services Agreement within thirty (30) days of Business Associate's receipt of written notice of such breach, if the breach is not cured to the satisfaction of Covered Entity.

**4.3 Automatic Termination.** This BAA shall automatically terminate without any further action of the Parties upon the termination or expiration of Business Associate's provision of Services to Covered Entity.

**4.4 Effect of Termination.** Upon termination or expiration of this BAA for any reason, Business Associate shall return all PHI pursuant to 45 C.F.R. § 164.504(e)(2)(ii)(J) if, and to the extent that, it is feasible to do so. Prior to returning the PHI, Business Associate shall recover any PHI in the possession of its Subcontractors. To the extent it is not feasible for Business Associate to return any portion of the PHI, Business Associate shall provide Covered Entity with a statement that Business Associate has determined that it is infeasible to return or destroy all or some portion of the PHI in its

possession or in possession of its Subcontractors. In such event, Business Associate shall: (i) retain only that PHI which is necessary for Business Associate to continue its proper management and administration or carry out its legal responsibilities; (ii) return to Covered Entity the remaining PHI that the Business Associate maintains in any form; (iii) continue to extend the protections of this BAA to the PHI for as long as Business Associate retains PHI; (iv) limit further Uses and Disclosures of such PHI to those purposes that make the return or destruction of the PHI not feasible and subject to the same conditions as set out in Section 2 above, which applied prior to termination; and (vi) return to Covered Entity the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.

## **5. MISCELLANEOUS**

**5.1 Survival.** The respective rights and obligations of Business Associate and Covered Entity under the provisions of Sections 2.1, 4.4, 5.7, 5.8, 5.11, and 5.12 shall survive termination of this BAA until such time as the PHI is returned to Covered Entity or destroyed. In addition, Section 3.1(i) shall survive termination of this BAA, provided that Covered Entity determines that the PHI being retained pursuant to Section 4.4 constitutes a Designated Record Set.

**5.2 Amendments; Waiver.** This BAA may not be modified or amended, except in a writing duly signed by authorized representatives of the Parties. To the extent that any relevant provision of HIPAA, the HITECH Act, or California Confidentiality Laws is materially amended in a manner that changes the obligations of the Parties, the Parties agree to negotiate in good faith appropriate amendment(s) to this BAA to give effect to the revised obligations. If the Parties cannot agree on an amendment to this BAA, this BAA may be terminated by either Party upon thirty (30) days written notice to the other Party, or upon shorter notice as may be required by applicable law. Further, no provision of this BAA shall be waived, except in a writing duly signed by authorized representatives of the Parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any right or remedy as to subsequent events.

**5.3 No Third Party Beneficiaries.** Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the Parties hereto any rights, remedies, obligations, or liabilities whatsoever.

**5.4 Notices.** Any notices to be given hereunder to a Party shall be made via U.S. Mail or express courier to such Party's address given below, and/or via facsimile to the facsimile telephone numbers listed below.

If to Business Associate, to:

Data Innovations LLC  
Attn: Privacy Officer  
463 Mountain View Drive, Suite 3  
Colchester, VT 05446  
Phone: 802-658-2850

If to Covered Entity, to:

Natividad Medical Center  
Attn: Compliance/Privacy Officer  
1441 Constitution Blvd.  
Salinas, CA 93906  
Phone: 831-755-4111  
Fax: 831-755-6254

Each Party named above may change its address and that of its representative for notice by the giving of notice thereof in the manner hereinabove provided. Such notice is effective upon receipt of notice, but receipt is deemed to occur on next business day if notice is sent by FedEx or other overnight delivery service.

**5.5 Counterparts; Facsimiles.** This BAA may be executed in any number of counterparts, each of which shall be deemed an original. Facsimile copies hereof shall be deemed to be originals.

**5.6 Relationship of Parties.** Notwithstanding anything to the contrary in the Services Agreement, Business Associate is an independent contractor and not an agent of Covered Entity under this BAA. Business Associate has the sole right and obligation to supervise, manage, contract, direct, procure, perform, or cause to be performed all Business Associate obligations under this BAA.

**5.7 Choice of Law; Interpretation.** This BAA shall be governed by the laws of the State of California. Any ambiguities in this BAA shall be resolved in a manner that allows Covered Entity and Business Associate to comply with the Privacy Rule, the Security Rule, and the California Confidentiality Laws.

**5.8 Indemnification.** Business Associate shall indemnify, defend, and hold harmless the County of Monterey (the "County"), its officers, agents, and employees from any claim, liability, loss, injury, cost, expense, penalty or damage, including costs incurred by the County with respect to any investigation, enforcement proceeding, or third party action, arising out of, or in connection with, a violation of this BAA or a Breach that is directly and solely attributable to a grossly negligent act or deliberate omission of Business Associate and/or its agents, members, employees, or Subcontractors, excepting only loss, injury, cost, expense, penalty or damage caused by the negligence or willful misconduct of personnel employed by the County. It is the intent of the Parties to provide the broadest possible indemnification for the County. This provision is in addition to, and independent of, any indemnification provision in any related or other agreement between the Parties and is only applicable to the provisions herewithin to which the Business Associate is legally bound under HIPAA or other laws or statutes which pertain to the protections afforded to PHI.

**5.9 Applicability of Terms.** This BAA applies to all present and future Service Agreements and Business Associate relationships, written or unwritten, formal or informal, in which Business Associate creates, receives, transmits, or maintains any PHI for or on behalf of Covered Entity in any form whatsoever. This BAA shall automatically be incorporated in all subsequent agreements between Business Associate and Covered Entity

involving the Use or Disclosure of PHI whether or not specifically referenced therein. In the event of any conflict or inconsistency between a provision of this BAA and a provision of any other agreement between Business Associate and Covered Entity, the provision of this BAA shall control unless the provision in such other agreement establishes additional rights for Business Associate or additional duties for or restrictions on Business Associate with respect to PHI, in which case the provision of such other agreement will control.

**5.11 Legal Actions.** Promptly, but no later than ten (10) business days after notice thereof, Business Associate shall advise Covered Entity of any actual or potential action, proceeding, regulatory or governmental orders or actions, or any material threat thereof that becomes known to it that may affect the interests of Covered Entity or jeopardize this BAA, and of any facts and circumstances that may be pertinent to the prosecution or defense of any such actual or potential legal action or proceeding, except to the extent prohibited by law.

**5.12 Audit or Investigations.** Promptly, but no later than ten (10) business days after notice thereof, Business Associate shall advise Covered Entity of any audit, compliant review, or complaint investigation by the Secretary or other state or federal agency related to compliance with HIPAA, the HITECH Act, or the California Confidentiality Laws.

IN WITNESS WHEREOF, each of the undersigned has caused this BAA to be duly executed in its name and on its behalf as of the Effective Date.

**BUSINESS ASSOCIATE**

**COVERED ENTITY**

By: 

By: \_\_\_\_\_

Print Name Matt King

Print Name: \_\_\_\_\_

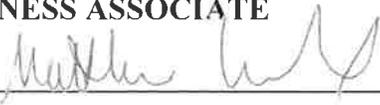
Print Title Chief Financial Officer

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

Date: December 18, 2025

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

**BUSINESS ASSOCIATE**

By: 

Print Name Matthew Wilcox

Print Title VP, Finance

Date: December 18, 2025



## NOTICE AND CONTACT INFORMATION SCHEDULE

- 1) **Legal Notice Information:** List the contact information for all legal Notices required under the General Terms and Conditions.

Same as: Page 1 of Master Agreement

Name:	Natividad Materials Management Director
Address:	1441 Constitution Blvd.
City:	Salinas
State:	CA
Zip or Province/Postal Code:	93906
Country:	USA

Attention to: \_\_\_\_\_

- 2) **Business Associate Addendum Notice Information:** List the contact information for Notices required under Business Associate Addendum.

Same as: Section 1

Name:	Natividad Chief Information Officer
Address:	1441 Constitution Blvd.
City:	Salinas
State:	CA
Zip or Province/Postal Code:	93906
Country:	USA

Attention to: \_\_\_\_\_

- 3) **Primary Technical Contact Information:** List the contact information for the three Primary Technical Contacts for Maintenance and Support Services for the specific Software being licensed:

**Instrument Manager™**

Primary Technical Contact #1	
Name:	
Primary Telephone Number:	
Secondary Telephone Number:	
Email:	
Primary Technical Contact #2	
Name:	
Primary Telephone Number:	
Secondary Telephone Number:	
Email:	
Primary Technical Contact #3	
Name:	
Primary Telephone Number:	
Secondary Telephone Number:	
Email:	

**EP Evaluator®**

Primary Technical Contact #1	
Name:	
Primary Telephone Number:	
Secondary Telephone Number:	
Email:	
Primary Technical Contact #2	
Name:	
Primary Telephone Number:	
Secondary Telephone Number:	
Email:	
Primary Technical Contact #3	
Name:	
Primary Telephone Number:	
Secondary Telephone Number:	
Email:	



**Lab GPS™**

<b>Primary Technical Contact #1</b>	
Name:	
Primary Telephone Number:	
Secondary Telephone Number:	
Email:	
<b>Primary Technical Contact #2</b>	
Name:	
Primary Telephone Number:	
Secondary Telephone Number:	
Email:	
<b>Primary Technical Contact #3</b>	
Name:	
Primary Telephone Number:	
Secondary Telephone Number:	
Email:	



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## QUOTE SCHEDULE

Quote #O-00153199



**Quote Prepared For:**  
 Arthur Tiongson  
 tiongsonat@natividad.com

**Sales Representative:**  
 Edwin Hammond  
 ehammond@datainnovations.com

**Bill To:**  
 Natividad Medical Center  
 1441 Constitution Blvd.  
 Salinas, CA 93906  
 US

**Ship To:**  
 Natividad Medical Center  
 1441 Constitution Blvd.  
 Salinas, CA 93906  
 US

All prices denominated in **USD(\$)**  
 Payment Terms: **Net 30**

Year 1

Product Summary		Total
IM™ Subscription Software		\$32,375.00
Professional Services		\$22,250.00
<b>Year 1 Total:</b>		\$54,625.00

Year 2

Product Summary		Total
IM™ Subscription Software		\$32,375.00
<b>Year 2 Total:</b>		\$32,375.00

Year 3

Product Summary		Total
IM™ Subscription Software		\$32,375.00
<b>Year 3 Total:</b>		\$32,375.00

**Total: \$119,375.00**

Year 1

Product Code	Product Name	Qty	Unit Price	Total
IM-CX-PRM	Instrument Manager™ Premium Subscription Interface Connection	11	\$1,750.00	\$19,250.00
Adds one interface connection license to the Instrument Manager™ Premium Subscription.				
IM-EU-PRM	Instrument Manager™ Premium Subscription End User Connection	5	\$1,750.00	\$8,750.00
Adds one End User connection license to the Instrument Manager™ Premium Subscription to concurrently access the Instrument Manager™ system from any remote network location.				
IM-EU-PRM-TEST	Instrument Manager™ Premium Subscription End User Connection for Test	1	\$875.00	\$875.00
Adds one End User connection license to the Instrument Manager™ Premium Subscription for Test to concurrently access the Instrument Manager™ Test system from any remote network location.				
IM-CX-PRM-TEST	Instrument Manager™ Premium Subscription Interface Connection for Test	4	\$875.00	\$3,500.00
Adds one interface connection license to the Instrument Manager™ Premium Subscription for Test.				
IM-SVC-01-04	New Implementation Services	1	\$22,250.00	\$22,250.00
Professional Services are available for Instrument Manager™ implementation. Services to be defined by a mutually agreed- to and signed Statement of Work.				
<b>Year 1 Total:</b>				\$54,625.00



Year 2

Product Code	Product Name	Qty	Unit Price	Total
IM-CX-PRM	Instrument Manager™ Premium Subscription Interface Connection	11	\$1,750.00	\$19,250.00
Adds one interface connection license to the Instrument Manager™ Premium Subscription.				
IM-EU-PRM	Instrument Manager™ Premium Subscription End User Connection	5	\$1,750.00	\$8,750.00
Adds one End User connection license to the Instrument Manager™ Premium Subscription to concurrently access the Instrument Manager™ system from any remote network location.				
IM-EU-PRM-TEST	Instrument Manager™ Premium Subscription End User Connection for Test	1	\$875.00	\$875.00
Adds one End User connection license to the Instrument Manager™ Premium Subscription for Test to concurrently access the Instrument Manager™ Test system from any remote network location.				
IM-CX-PRM-TEST	Instrument Manager™ Premium Subscription Interface Connection for Test	4	\$875.00	\$3,500.00
Adds one interface connection license to the Instrument Manager™ Premium Subscription for Test.				
<b>Year 2 Total:</b>				<b>\$32,375.00</b>

Year 3

Product Code	Product Name	Qty	Unit Price	Total
IM-CX-PRM	Instrument Manager™ Premium Subscription Interface Connection	11	\$1,750.00	\$19,250.00
Adds one interface connection license to the Instrument Manager™ Premium Subscription.				
IM-EU-PRM	Instrument Manager™ Premium Subscription End User Connection	5	\$1,750.00	\$8,750.00
Adds one End User connection license to the Instrument Manager™ Premium Subscription to concurrently access the Instrument Manager™ system from any remote network location.				
IM-EU-PRM-TEST	Instrument Manager™ Premium Subscription End User Connection for Test	1	\$875.00	\$875.00
Adds one End User connection license to the Instrument Manager™ Premium Subscription for Test to concurrently access the Instrument Manager™ Test system from any remote network location.				
IM-CX-PRM-TEST	Instrument Manager™ Premium Subscription Interface Connection for Test	4	\$875.00	\$3,500.00
Adds one interface connection license to the Instrument Manager™ Premium Subscription for Test.				
<b>Year 3 Total:</b>				<b>\$32,375.00</b>

**Total: \$119,375.00**

**Additional Notes**

The IM™ Premium Subscription Base Software License includes:

- Instrument Manager™
- Production System with High Availability
- Test System with High Availability
- Disaster Recovery
- Specimen Management
- Sample Archival
- Specimen Routing
- Manual Results Entry
- Peer & Daily QC Integration (Bio-Rad Unity Real Time, Thermo LabLink xL, and TechnoPath)
- Open Data Exchange Connection
- Moving Averages
- DMS Connections and Light Pole Connections can be added, as needed.

The Instrument Manager™ solution listed above is licensed to Customer on a subscription basis for a set subscription term of: Three (3) Years ("Subscription Term")

Invoicing Terms: DI will invoice Customer for the total fees due for the Subscription Term as follows:

- Year 1 - Upon signature of SOW and PO received by Customer and SOW milestones
- Year 2 - Annually prior to start date of Year 2
- Year 3 - Annually prior to start date of Year 3



Additional Purchases: If Customer purchases any additional add-on Instrument Manager™ connections or End Users for Instrument Manager™ production or test system during the IM™ Subscription Term, at the time of purchase, the Fees for the Add-Ons shall be prorated into the fees due for the remaining years left in the Subscription Term.

**PO & Mailing Address:**

Data Innovations LLC  
463 Mountain View Drive  
Colchester, VT 05446

**Payment Remittance Address:**

Data Innovations LLC  
PO Box 101978  
Atlanta, GA 30392-1978  
DUNS #96-490-0463  
TAX ID: 51-0263969

**Standard Terms & Conditions****1) About this Quote**

Attached is the requested quote (the "Quote"). The Quote includes all of the items in which an interest was indicated. The included pricing proposal is intended to provide a price guarantee for a period of ninety (90) days. Execution of the Master Agreement between Data Innovations LLC and County of Monterey for the provision of services for Natividad Medical Center, to which this Quote is attached as a Schedule, will be deemed Customer's acceptance of the pricing, specific time frames and terms and conditions set forth herein. Future Maintenance and Support Services ("M&S") amounts will be adjusted to reflect any software license purchased under this Quote.

**2) Sales Tax**

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

**3) Invoice and Payment Terms**

All pricing is in set forth Currency, FOB Shipping Point. Prices are subject to change without notice. Data Innovations LLC will invoice for the fees set forth in this Quote as of date of signature of the Master Agreement. Payment terms are 100% due and payable net thirty (30) days from the date of invoice.

- IM™ Subscription Software (Premium) Subscription Fees:
  - Year 1 – Upon Effective Date of Statement of Work # O-00153199
  - Year 2 – Annually prior to start date of Year 2
  - Year 3 – Annually prior to start date of Year 3
- Professional Services Fees – pursuant to the invoicing milestones set forth in Section 10.1 ("Fixed Fee Basis") of Statement of Work # O-00153199

**4) Delivery Terms**

DI will deliver the Software license(s) electronically to Customer upon execution of the Master Agreement to which this Quote is a Schedule.

**5) Entire Agreement**

The Software, Maintenance and Support Services, Professional Services and/or Subscription Services listed above are subject to the Master Agreement between Data Innovations LLC and County of Monterey for the provision of services for Natividad Medical Center, effective as of the Effective Date, to which this Quote is attached as a Schedule (the "Agreement"). The Agreement shall govern and supersede any conflicting terms and conditions contained on this Quote. This Quote and the Agreement represent the entire agreement between the Parties and supersedes all other representations, proposals, discussions, undertakings, communications, agreements, advertisements, and understandings, whether oral or written, between the Parties and shall govern and control with respect to the subject matter herein. Any terms or conditions appearing on the face or reverse side of any purchase order, acknowledgement, or confirmation that are different from or in addition to those described herein are hereby expressly rejected and shall not be binding on the Parties, even if signed and returned, unless both Parties hereto expressly agree, in an instrument separate from and in addition to the purchase order, acknowledgement, or confirmation, to be bound by such separate or additional terms and conditions.

**6) Services Cancellation or Rescheduling Policy:**

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

**Additional Terms & Conditions for IM Subscription****1) Activation Code Note**

Activation Codes for the new Subscription Term will be furnished within three (3) business days from receipt of payment.

**2) Subscription Plan**

The new subscription term shall be defined by the Term dates noted above and renewed by the Term End Date.



## DATA INNOVATIONS LLC STATEMENT OF WORK

This Statement of Work (the "SOW"), effective as of the last date of signature below (the "Effective Date") by and between Data Innovations LLC ("DI"), a Delaware limited liability company, having its principal place of business at 463 Mountain View Drive, #305, Colchester, Vermont 05446 and Natividad Medical Center. ("Customer"), having its principal place of business at 1441 Constitution Blvd. Salinas, CA 93906, sets forth the terms and conditions under which DI agrees to provide Professional Services to Customer.

This SOW is subject to the terms and conditions of the Master Agreement entered into between the parties and shall be executed contemporaneously with the Master Agreement such that both this SOW and the Master Agreement (the "**Agreement**") shall have the same Effective Date, to which this SOW is a supplement. All terms and conditions in the Agreement are incorporated by reference herein and shall remain unchanged and in effect. All Professional Services will be provided under this SOW and terms and conditions of the Agreement. In the event of any conflict between the terms and conditions of this SOW and the terms and conditions of the Agreement, the terms and conditions of the Agreement shall control. All definitions not set out in this SOW shall have the meaning as set forth in the Agreement.

### 1. DEFINITIONS.

- 1.1. "**AV**" means "Auto-verification", the process of using computer-based rules to verify clinical laboratory test results without manual intervention.
- 1.2. "**AV Workflow**" means a standardized set of rules written in IM based on Customer's Standard Operating Procedure(s) ("SOPs").
- 1.3. "**Business Hours**" means Monday to Friday 8 am – 5 pm local time to Customer location.
- 1.4. "**Communication Plan**" means a documented outline of how DI will communicate important, on-going project related information to key Customer stakeholders.
- 1.5. "**Completed Project**" means this SOW when it has been through the Project Closure process and has been closed as completed.
- 1.6. "**Discontinued Project**" means the status of this SOW if it has been discontinued and closed out due to action or non-action from Customer.
- 1.7. "**Enterprise Configuration**" means a configuration that is shared across lab locations using the same IM system.
- 1.8. "**Functional Testing**" means testing a successful roundtrip of one (1) test component order out of the LIS to the instrument, and one (1) test component result filing back into the LIS from the instrument on each instrument in scope.
- 1.9. "**Go-Live**" means the date the Instrument Manager software, and any associated Work Product delivered under this SOW if applicable, become operational in a live production environment.
- 1.10. "**Go-Live Deployment (Cutover) Plan**" means a document list of steps needed to define the segment-relates tasks that drive a successful deployment of Instrument Manager to production operations.
- 1.11. "**Go-Live Support**" means the implementation support provided by DI immediately at the production cutover event.
- 1.12. "**Holiday**" means the calendar day falling on any of the following observed US holidays: New Year's Day, Martin Luther King Jr Day, President's Day, Memorial Day, Juneteenth, Independence Day, Independence Day, Labor Day, Columbus or Indigenous People Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve, and Christmas Day.
- 1.13. "**IM**" means DI's proprietary software application, Instrument Manager™.
- 1.14. "**Instrument Connectivity Testing**" means establishing connectivity of each instrument in scope with IM.
- 1.15. "**LIS**" means Laboratory Information System.
- 1.16. "**LIS Connectivity Testing**" means establishing connectivity between the LIS and IM.
- 1.17. "**Mapped Record Testing**" means testing every test component and every test panel from the LIS on orders and results for all instruments in scope.
- 1.18. "**Period of Performance**" means the total amount of time during which this SOW shall be performed (as defined herein).
- 1.19. "**Post Deployment Support**" means the on-going support provided by the DI Professional Services team beyond the Go-Live event.
- 1.20. "**Project Closure**" means the process DI will follow to transition this SOW from an "in-process" status to a Completed Project, which includes the handoff of the Customer environment to DI Customer Support Team.
- 1.21. "**Project Closure Date**" means the date this SOW is closed as either a Completed Project or a Discontinued Project.
- 1.22. "**Project Closure Document**" means the form, executed by DI and Customer, to formally close this SOW and authorize the handoff to the DI Customer Support Team.



- 1.23. **“Project Closure Meeting”** means the final meeting of DI and the Customer to formally close this SOW.
- 1.24. **“Project Initiation”** means the first contact/session between a DI assigned resource and the primary point of contact on the Customer team (“PPOC”). The objective of this meeting is to establish rapport, to ensure that product readiness activities have been completed, to align on project scope and objectives, to validate project resource assignments/availability, and to confirm key milestones and overall project timeline. This session allows the project planning to begin. This session serves as the start of the Period of Performance.
- 1.25. **“Project Initiation Meeting”** means the date of the first meeting between DI and the Customer to discuss the Professional Services.
- 1.26. **“Project Kickoff”** means the gathering of all Customer and DI stakeholders, team members, and sometimes business partners, to review and align on the project objectives, scope of deliverables, timeline, communication plan, roles/responsibilities, and overall governance for the delivery of the project. This session allows the extended Customer team members and DI assigned resources to review and to understand the comprehensive project plan, including their role in its success.
- 1.27. **“Project Kickoff Meeting”** means a discovery meeting with the Customer to confirm alignment across Customer and DI’s core and extended Professional Service project team.
- 1.28. **“Project Plan”** means a specific Professional Service project plan for Customer that includes phase-based timelines, Customer and Professional Services project resource requirements and assignments, level of effort per task, timelines, Go-Live date(s), and potential associated risks.
- 1.29. **“Project Readiness Checklist”** means the document/file (provided by a DI Sales Representative to Customer as part of the initial sales process) that Customer must complete to confirm that Customer has completed all necessary tasks, prerequisites, and requirements necessary to initiate the Professional Services. This document will be submitted to DI by the Customer upon completion.
- 1.30. **“Project Status Meeting”** means a meeting with Customer to evaluate and monitor progress, reported issues and/or challenges against key SOW milestones.
- 1.31. **“QC”** means Quality Control
- 1.32. **“Shell Configuration”** means building configurations and connection assignments in IM for all instruments in scope.
- 1.33. **“Smoke Testing” also referred to as “Build Verification Testing or Confidence Testing”** means a software testing method used to determine if a release of IM is ready for promotion to production use.
- 1.34. **“Specimen Management”** means the database used to house patient, specimen, and test information within IM.
- 1.35. **“Specimen Management Workspace”** means the configurable screen in the IM application where patient, specimen, and test information can be viewed and acted upon.
- 1.36. **“Trip”** means an on-site visit to the Customer location provided by one (1) DI Professional Services resource. A Trip includes two (2) days of travel and up to three (3) days of work. All Billable Expenses are included in the Professional Service Fees for the Trip set forth in applicable quote.
- 1.37. **“User Security”** means the IM module used to assign security access to features within IM.
- 1.38. **“Validation Documentation”** means the Customer created documentation that supports the Customer Validation Testing of IM to ensure that it meets the intended Customer functional and user requirements.
- 1.39. **“Validation Test Plan”** means the documented plan to identify the activities that need to be completed in order to establish compliance with the Customer requirements (verification) and to establish that the IM system will meet the Customer expectations.
- 1.40. **“Validation Testing”** means Customer’s quality assurance process of verifying that the IM application meets the Customer needs and requirements of its key stakeholders.
2. **PROFESSIONAL SERVICES.**
- 2.1. **Description of Professional Services.** DI in conjunction with the Customer will perform the following Professional Services under this SOW:
- 2.1.1. **Initiation and Planning - Customer-provided Project Manager (“PM”)**
- **DI Responsibilities:** DI will provide an assigned DI resource responsible for the following tasks as part of the initiation and planning of the project:
    - Provide input into the initiation planning tasks led by the Customer.
    - Confirm the scope of project as described herein.
    - Testing and validation planning support.
    - Prepare for full team kick off to include all project resources and key project stakeholders.



- **Customer Responsibilities:** Customer is responsible for the following as part of the initiation and planning of the project:
  - Development of a Project Plan and timeline with target Go-Live date(s).
  - Development of a resource plan detailing roles and responsibilities for all assigned resources for all tasks identified in the Project Plan.
  - Development of a Communication Plan to ensure alignment and escalation pathways for all project resources and key stakeholders.
  - Manage resources and project timeline.
  - Complete Project Status Meetings with Customer and DI resources
- The output from the planning tasks shall be the following as mutually agreed to between DI and the Customer:
  - A Project Plan including a timeline/schedule, a Communication Plan, a Go-Live target date, a detailed resource plan, and a testing strategy.
  - A Customer-provided Validation Test Plan.

#### 2.1.2. **Build and Test - Server Install and Instrument Integration:**

- **DI Responsibilities:** DI is responsible for the following to complete the build and test phases of the project, according to the agreed-upon project timeline:
  - Schedule and conduct the Project Kick-off.
  - Provide consulting support to Customer during server procurement.
  - Assist Customer resources with the installation of IM Software on applicable Customer-provided production, failover and test servers.
    - Customer is assumed to have purchased net new IM licenses for both production and test to be used with new Customer-provided servers.
    - Production and failover servers use the same IM license number.
    - At least one (1) server meeting the server specifications provided by DI must be available for IM install to begin the project. Delays in server procurement may delay the start of the project.
    - Customer may have both High Availability ("HA") and Disaster Recovery ("DR") failover servers configured as a part of this project as licensed and desired to meet Customer's end-state redundancy configuration.
  - Advise Customer on how to download Drivers, install Drivers, create configurations and create connections for the instrument(s) defined below and the Meditech LIS Driver:
    - Two (2) Abbott Alinity
    - Two (2) Siemens CS 2500
    - One (1) Cepheid Genexpert
    - One (1) Beckman IRIS
    - One (1) Qiagen Qiasat
    - Instruments are intended to be interfaced during the project Period of Performance ("PoP") as detailed in Section 8 herein. Extension of the PoP to interface instruments beyond the PoP shall be handled via Change Management as detailed in Section 6 herein.
    - Customer must ensure the IM production license has sufficient connections licensed prior to confirmed Go-Live date. Additional connections may need to be purchased if number of connections built is greater than the number of connections estimated in the pre-sale instrument inventory review.
    - Number of connections licensed or purchased may be more or less than the number of instruments included in the scope of the project.
    - Changes to the scope of the project may be handled via the Change Management process as detailed in Section 6 herein.
  - If purchased and applicable, register Customer for training seats.



- Advise Customer on how to modify the instrument and LIS configurations, including necessary test code, fluid code, error code, and instrument ID mapping if applicable.
- Collaborate with Customer to write necessary rules in IM to format orders and results correctly for instruments and the LIS for pass-through connectivity. The scope of this project does not include Professional Services to write rules for AV Workflows in IM, Professional Services to write rules or provide Specimen Management Workspace setup to manage any other non-AV Workflows in IM, or complex rules or setup to replace any current middleware solutions.
- Assist and advise Customer as needed with all phases of testing to include LIS Connectivity Testing, Instrument Connectivity Testing, Functional Testing, Mapped Record Testing, and Validation Testing for all instruments in scope.
- Provide application guidance and mentoring to the Customer while the Customer executes their Validation Test Plan according to the project timeline and regulatory requirements of the laboratory. Execution and sign-off of Validation Test Plans are the responsibility of the Customer.
- Provide consulting support to Customer resources as they determine requirements for and execute on end user training and maintenance strategy for long-term support of the IM application.
- **Customer Responsibilities:** Customer is responsible for the following to complete the build and test phases of the project, according to the agreed-upon project timeline. Using guidelines and assistance provided by DI, Customer will:
  - Provide all necessary server and network infrastructure required for IM to function as designed for instrument integration with the LIS.
  - Provide resources, per the Project Plan for the following activities:
    - Participation in the installation and mirror setup of the IM application.
    - Participation in and completion of the Shell Configuration activity to download Drivers, Install Drivers, create configurations, and create connections.
    - Completion of all phases of testing including LIS Connectivity Testing, Instrument Connectivity Testing, Functional Testing, Mapped Record Testing, and Validation Testing.
    - Completion of Driver configuration build in IM including all test code, fluid code, error code, and instrument ID mapping as applicable to the specific Driver and configuration.
    - Execution of the Validation Test Plan according to the project timeline and regulatory requirements of the laboratory.
  - Create all applicable Validation Documentation according to regulatory requirements and obtain approval of testing evidence by the applicable Customer resources.
  - Develop and implement an end user training and long-term application maintenance strategy for the IM application.
  - Customer resources registered for training classes should plan to complete the IM Fundamentals 2.0 course or current equivalent course prior to the start of Functional Testing, and the Foundations of Rule Writing in IM or equivalent current course prior to the start of Mapped Record Testing.
    - For Customer IM Analyst(s) without IM experience or training, DI **requires** all IM Fundamentals 2.0 or equivalent training to be completed prior to start of Functional Testing.

### 2.1.3. Deploy

- Cutover and Go-Live Support
  - Prepare IM production server(s) for Go-Live.
  - A customized cutover plan will be discussed and created with Customer resource(s) at least thirty (30) days prior to confirmed Go-Live date.



- Assist Customer as needed to move the validated instrument configuration(s) from the test server to the production server prior to each Go-Live event in scope.
- Go-Live Support will be provided by DI for up to **one (1) Go-Live event(s)** under the following conditions:
  - Provide **one (1)** resource for up to **eight (8)** hours per day for **one (1)** day, for a total of **eight (8)** hours of remote Go-Live support. – Target Go-Live date (subject to confirmation during project planning): to be determined.
- If Customer requests the Go-Live event to occur during a defined Holiday, additional charges will apply.

- **Post-Deployment Support**

- DI will provide Post Deployment Support for **up to two (2) week(s)** following Customer's final Go-Live event during Business Hours. At the completion of Post-Deployment Support, the Customer will be transitioned to DI Customer Support Team and the SOW will be closed.
- Post Deployment Support includes:
  - Support for the Professional Services that went live as a part of a DI-provided Go-Live event.
  - Assistance with troubleshooting non-emergent, non-time dependent issues related to the normal operation and maintenance of instrument interfaces.
- Post Deployment Support does not include:
  - All emergency support – Customer should contact DI Customer Support according to DI's Maintenance and Support agreement in place with Customer.
  - Off-hours support for issue resolution.
  - On-site Professional Services.
  - IT support for Customer-provided servers, other hardware, and Customer's network. Customer provides all support for network, servers, and other Customer-provided hardware as applicable.
  - Support to run Customer's laboratory instrumentation. Customer must provide resource(s) to maintain, operate, configure, and troubleshoot instruments.
- DI will respond to issues raised within twenty-four (24) hours of receipt.

2.1.4. **Project Closure**

- Upon completion of the Customer transition to the DI Customer Support Team, a Project Closure Meeting will be scheduled and conducted by the assigned DI resource, followed by the DI Project Closure Document, which is routed to the Customer for signature via DocuSign.

2.2. **On-site Visits.**

- DI will deliver the quantity of Trips, as listed in the Quote under part #IM-SVC-01-TRP, to complete the Professional Services defined herein. If part #IM-SVC-01-TRP is not present on the Quote, the number of Trips is zero (0).
- Additional Trips to support the Professional Services may be purchased separately at an additional cost.
- For Professional Services delivered on-site at a Customer facility, appropriate access will be provided to the DI consultant to enable them to do their work effectively. Access typically includes the Customer laboratory, resources, instruments, and test and production IM systems.

3. **WORK PRODUCTS & TIMELINE.**

3.1. **Work Products.** DI in conjunction with the Customer will provide support for and/or deliver the Work Products listed in the following table. The actual sequence of Work Products will be determined by the joint DI and Customer project team and will be documented after Project Kickoff.

<b>WORK PRODUCT</b>	<b>RESPONSIBLE PARTY</b>	<b>PROJECT PHASE</b>
Project Readiness Checklist	Customer	Initiation & Planning
Project Plan	Customer	Initiation & Planning
Communication Plan	Customer	Initiation & Planning



Validation Test Plan	Customer	Initiation & Planning
Validation Documentation	Customer	Initiation & Planning
Project Kickoff Meeting	DI, Customer	Initiation & Planning
End User Training	Customer	Build
DI Software/Solution Installation & Mirror Setup	DI, Customer	Build
Shell Configuration	DI, Customer	Build
Completion of Functional and Mapped Record Testing	Customer	Build & Test
Completion of Validation Testing and Validation Documentation	Customer	Test
Support of Validation Testing	DI	Test
Go-Live Deployment Plan	DI, Customer	Deploy
Smoke Testing	Customer	Deploy
Support of Go-Live Deployment	DI	Deploy
Post Go-Live Deployment Support	DI	Deploy
Transition to Customer Support Team	DI, Customer	Project Closure
Project Closure Meeting	DI	Project Closure
Project Closure Document	DI, Customer	Project Closure

3.2. **Project Timeline.** Chronology has yet to be precisely determined; exact dates and times will be coordinated as *mutually agreed to by Customer and DI.*

3.3. **Summary of Professional Services.**

- IM installed on applicable production, failover, and test servers.
- Instruments in scope are integrated with IM and LIS.
- IM production server(s) prepared for Go-Live.
- IM failover server synced with production server.
- IM test server loaded with production configuration.
- Go-Live Support provided as described in Section 2.1.3. "Deploy" herein.

4. **ASSUMPTIONS/CONSIDERATIONS.**

4.1. **Delays and Scope Consideration.**

- 4.1.1. Any Professional Service not explicitly identified in this SOW is considered "out-of-scope" and assumed to be the responsibility of the Customer. Per the request of Customer, those items can be evaluated, considered and (if agreed upon) addressed through the Change Management Process set forth below.
- 4.1.2. Pricing for this SOW assumes Customer resources will be engaged to perform and complete its obligations for the completion of the SOW throughout the Period of Performance. If additional time is required to complete this SOW due to Customer delays or related issues including but not limited to completion of Customer tasks outlined herein this will be discussed between the Customer and DI. If additional time beyond the Period of Performance is requested by Customer to continue delivery of the Professional Services, the additional time will be addressed via the Change Management Process set forth below.
- 4.1.3. As applicable to the project scope, any delays in the completion of the LIS build, instrument delivery, instrument readiness to connect to IM, data collection necessary for IM configuration, completion of any pre-requisite tasks, network issues, or server procurement will delay the start of this project and/or result in additional effort and costs against the potential breach in Period of Performance.
- 4.1.4. Instruments are required to be available for wet testing as indicated by the Project Plan testing strategy and to be in compliance with laboratory regulations. Coordinating the testing strategy with laboratory operations is required to ensure project timelines are met. Delays in instrument availability and testing completion, beyond the agreed upon project timeline may require additional effort to be estimated and cost incurred.

4.2. **Project Readiness Checklist.**

- 4.2.1. Customer will be provided with the DI Project Readiness Checklist, which must be completed in advance of the project being initiated. Upon DI receipt of the completed Project Readiness Checklist file, the required DI team members will be assigned. A DI project team member will contact the Customer directly to initiate the project delivery.
  - By returning the Project Readiness Checklist, the Customer agrees that Lab, IT and Network resources are available to start work and be fully engaged in the project.
  - If the Project Readiness Checklist gets returned to DI incomplete, the Customer agrees that DI Technical and Professional Services will assist in answering questions to assist Customer in completing the requirements. Depending on the



situation, these activities may count against the Period of Performance.

**4.3. Instrumentation Considerations and Availability of Instruments for Testing.**

- 4.3.1. All instruments must be able to be taken out of the live (current production) interface environment, if applicable to the scope of the project, and available to be connected to IM during all testing phases. Pre-scheduling testing sessions in advance with lab operations around peak production times can help mitigate delays.
- 4.3.2. Instruments are included in scope based on information documented during scoping. Changes to instrumentation during the course of the project must be submitted to DI in writing and evaluated for changes to the scope of Professional Services and/or number of standard or DMS connections prior to beginning work on the project.
- 4.3.3. Any changes to instrumentation resulting in the need for DI Driver development or enhancements may delay the implementation for that instrument and/or result in additional effort and costs against the potential breach in Period of Performance.
- 4.3.4. All instruments in scope for this service are installed and have passed regulatory compliance for the laboratory (method validation, verification, and/or comparison), and have all applicable network/IT infrastructure in place to connect to IM in advance of Project Initiation.
- 4.3.5. Customer is responsible for resolution of any network compatibility issues for instruments included in scope during all Validation Testing activities.
- 4.3.6. Customer is responsible for maintaining adequate and complete documentation for any changes to be applied to instrument settings for all instruments in scope at Go-Live if changes are applicable.

**4.4. Validation Testing Requirements.**

- 4.4.1. An authorized Customer representative is responsible for all Validation Testing of the IM system prior to Go-Live. This also includes the development of Validation Test Plans for testing the IM system to include all mapping, connections, rules, and applicable workflows.
- 4.4.2. Changes or delays to the Validation Test Plan and timeline may cause additional effort to be estimated and cost incurred.
- 4.4.3. DI will assist in resolving issues identified during the Validation Testing that are related to the scope of this project, as it pertains to the DI software/solutions licensed to Customer.

**4.5. Server Procurement, IM Analyst Access, and Long-Term Application Maintenance.**

- 4.5.1. Customer is responsible for procurement and support of all necessary servers on which the IM application is installed and run.
- 4.5.2. Customer is responsible for IT network support and troubleshooting for all networks with IM servers and/or networks with instruments included in scope to be connected to the IM servers.
- 4.5.3. Customer IT/Network resources will confirm network compatibility between the network where IM servers are installed and all networks with instruments expected to connect to IM.
- 4.5.4. Customer IM Analyst(s) are required to have appropriate access and permissions to the server for the duration of the project. Delays in obtaining appropriate access may delay the overall project timeline, which may lead to a breach in Period of Performance.
- 4.5.5. Customer will be responsible for communicating any changes to their technical/server architecture or configuration that may impact or influence the performance of DI software/solutions licensed to Customer.
- 4.5.6. Customer is responsible for the long-term application and server maintenance of their IM system. The IM Maintenance strategy can be developed with DI Consultant support if needed, as part of the implementation plan.
- 4.5.7. Customer must have appropriate server and user permissions granted to enable Drivers to be downloaded from My DI Community to the server(s) where IM is installed.

**4.6. Driver Development or Enhancement Requests.**

- 4.6.1. If Driver development is required, Customer is responsible for testing any new Driver or Requested Enhancements to existing Driver developed by DI and shall provide DI with the required evidence of testing prior to Go-Live. Once proper evidence is received, a production version of the Driver will be released to the Customer.

**4.7. IM System.**

- 4.7.1. Customer has been given access to supporting DI technical documentation (IM Administrator Guide, IM Specifications, etc.) in support of the IM project. Customer is assumed to have completed review of this documentation in preparation for project delivery.
- 4.7.2. Customers with multiple IM systems on different IM versions must have a plan for end users to access each system from a workstation with a matching IM version installed.
- 4.7.3. Customer is responsible for ensuring patient IDs and specimen IDs arriving in IM from all upstream systems are unique. Unique patient and specimen IDs are required to prevent



issues with testing and potential patient safety issues caused by mismatched patient demographics when specimen or patient IDs overlap and are used to identify different patients.

**4.8. Add-on Projects.**

- 4.8.1. Customer is responsible for documenting all changes to the LIS configuration and any other Enterprise Configuration(s) during an add on project to be moved to the production server at each Go-Live event if changes are applicable.
- 4.8.2. Customer is responsible for retroactively testing any updated Drivers on existing live configurations if applicable prior to each Go-Live event.

**4.9. Emergency Support.**

- 4.9.1. Upon completion of Go-Live Support for each Go-Live event in scope for the project, technical support (during non-business hours) for emergency issues (system-down, critical laboratory workflow affected) will be provided by DI's Customer Support Team, in accordance with the DI Maintenance and Support agreement in place with Customer.

**4.10. AV Workflows.**

- 4.10.1. Projects that are scoped to include Professional Services to deploy an existing AV workflow to an additional laboratory location assume the Customer's additional lab uses the same instrument, the same instrument settings, are connected to the same LIS, and are using the same DI Driver as the original lab location to be eligible to use the same AV workflow. Customers with a different instrument, different instrument settings, are connected to a different LIS, or are using a different DI Driver must purchase additional Professional Services to configure a net new AV workflow.
- 4.10.2. All instruments included for AV workflows must be onsite and validated prior to beginning work on AV.

**4.11. IM System Responsibilities**

- 4.11.1. The Customer is responsible for completing the configuration of the IM application and acting as the primary operator of the IM application.
- 4.11.2. DI Professional Services resources assigned to complete the Professional Services detailed herein shall advise the Customer on best-practices of IM configuration and testing through a guidance and mentoring approach while considering unique aspects of the Customer's needs, provided however, the Customer shall maintain the primary responsibility for completing the configuration, mapping, testing, and validation of the IM application.

**5. STAFFING REQUIREMENTS.**

- 5.1. The DI team will assign resources for the scoped project and will communicate staffing with the Customer at the Project Initiation Meeting.
- 5.2. The Customer will be responsible for providing resources proficient in IM, Laboratory, Network / IT, and installed LIS. Customer resources are expected to perform the functions of these roles over the defined project durations identified in this document.
  - The level of effort for each required role will likely be determined by Customer's security protocols, software validation SOPs, etc.
  - Some personnel may fulfill more than one role (example: A Laboratory Resource can also fulfill the IM Analyst role if qualified)
- 5.3. Customer's Laboratory Resource(s) are required to be available as needed during testing sessions to maintain, operate, configure, and troubleshoot instruments, set up assays, and otherwise assist with testing.
- 5.4. Customer is required to have at least one (1) resource that is trained within the last four (4) years and is proficient in IM identified to be an IM Analyst for the duration of this project. For projects including the implementation of IM rules, the Customer IM Analyst must have formal training in the implementation and development of IM rules. DI may recommend additional resource(s) based on the size or complexity of the project. If the Customer does not have a resource trained within the last four (4) years, additional training must be performed, or DI will require Customer provide additional resources to supplement the gap.
- 5.5. Customer personnel assigned to work on the matters related to the Professional Services will be qualified for the tasks for which they are assigned.

<b>Role</b>	<b>Responsibilities</b>
Project Sponsor	The Project Sponsor will work with the assigned DI resource to set project expectations, identify resource availability, and set timelines for the Professional Services. They serve as the escalation point for project issues from Project Initiation through Project Closure.
Primary Point-of-Contact	The Primary Point-of-Contact ("PPOC") will work with the assigned DI resource to develop and manage Customer's project timelines, set



	milestones, and adjust resources as necessary, act as the primary point of escalation for issues risks, and other project related escalations, and provide sufficient contact information for the individual to be reached during Customer's business hours. The PPOC serves as the direct contact, and decision maker, for project from Project Initiation through Project Closure.
IM Analyst	The IM Analyst is responsible for the IM configuration and maintenance as well as the development of new workflows in conjunction with the Validation Testing of the IM application. The IM Analyst should have access to the DI Customer portal, "My DI Community," and be proficient in the use of IM.
IT / Network Resource	The IT / Network Resource is responsible for the Customer server build(s) and design of technical solutions to address connectivity needs and problems between the instruments, IM, and the LIS.
LIS Analyst	The LIS Analyst is responsible for the LIS interfaces, placing orders, and/or confirming results.
Interface Analyst(s)	The Interface Analyst(s) are responsible for any third-party interface engine(s) used.
Laboratory Resource	The Laboratory Resource or Subject Matter Expert ("SME") is responsible for all phases of Validation Testing to include development of Validation Testing and review of Validation Documentation.

**6. CHANGE MANAGEMENT PROCESS.**

**6.1.** Customer acknowledges and agrees that this SOW is only for the performance of the Professional Services scoped herein and that DI has scoped the Professional Services in this SOW based on Customer provided information and projected Customer technical skills and time commitment required for the performance of such Professional Services. If after the Effective Date of the SOW i) DI determines that the information provided was not accurate, ii) the information changes, and/or iii) Customer is not able to provide personnel at the technical level, or time-commitment level originally contemplated in the scope of Professional Services, an adjustment to the scope of Professional Services may have to be made by DI, and such adjustment may require an increase in the Professional Services Fees. Further, if Customer requests DI perform Professional Services beyond those scoped herein, and/or necessary changes are identified, an adjustment to the scope of this SOW will have to be made by DI, and such adjustment may require an increase in the Professional Services Fee.

**6.2.** Changes are broadly defined as work activities not originally scoped in this SOW including, but not limited to:

- Driver Updates, if Driver development is required.
- Provision of Work Products not included in this SOW.
- A change in responsibilities including reallocation of DI project staffing.
- Any rework of completed Professional Services or accepted Work Products.
- Changes to Customer's instrument inventory or instruments included in scope

**6.3.** Prior to any changes taking effect, a Change Order will be entered into between DI and the Customer, to document the revisions to this SOW and the applicable quote, if necessary. DI shall have no obligation to begin work on any additional Professional Services prior to the Change Order being in place.

**7. EXPIRATION OF TRAINING SEATS.** If Training has been scoped under this SOW, and seats purchased by Customer and invoiced by DI, Customer must use the training seats within ninety (90) days of Project Closure Date for this SOW. After the ninety (90) day period, any unused training seats shall be deemed delivered under the applicable invoice, unless otherwise agreed upon by the parties in a Change Order to this SOW.

**8. PERIOD OF PERFORMANCE.**

**8.1.** The Period of Performance for this SOW shall take effect as of the Project Initiation Meeting date and shall remain in effect for a term of **twenty (20) weeks** or until the scope of Professional Services outlined herein have been completed, whichever occurs first. The Period of Performance may only be modified or extended by mutual agreement of the parties through the Change Management Process outlined herein.

**8.2.** If the Period of Performance has ended, and the performance of Professional Services set out in this SOW have not been completed due to Customer's unresponsiveness or lack of engagement, DI may close out this SOW as a Discontinued Project unless otherwise agreed to by the parties under a Change Order. If this SOW is closed as a Discontinued Project, Customer forfeits all monies already paid.

**8.3.** If this SOW has been closed out as a Discontinued Project, Customer may request that it be re-engaged by DI. To reengage a Discontinued Project a new SOW must be agreed to by the parties, and there will be a "Reengagement Fee" of 20% the original Professional Services fees set forth for this SOW.

**9. NOTIFICATIONS.** Any notifications pertaining to the Change Management Process and/or Period of Performance updates, including closing this SOW as a Discontinued Project will be sent via email to the

**Statement of Work - Direct Customer**



Customer PPOC.

- 10. **FEES, INVOICING AND PAYMENT TERMS.** As consideration for the Professional Services provided by DI to Customer under this SOW, DI shall invoice Customer, or a third-party on their behalf, for the Professional Service Fees set forth in quote #O-00153199 (the "Quote") on the following basis:
  - 10.1. **Fixed Fee Basis:** 100% of the Professional Services fees set forth in the Quote as of the Effective Date of this SOW.
  - 10.2. **Change in Professional Services Fees, Invoicing and Payment Terms:** Each applicable Change Order to this SOW shall document any changes to the Professional Services Fees and related invoicing and payment terms.
  - 10.3. **Billable Expenses:** All Billable Expenses are included in the Professional Service Fees set forth in Quote and are included in the payment terms.
  - 10.4. **Payment Terms:** All invoices are due as of the Due Date.
- 11. **AUTHORITY.** Each person executing this SOW on behalf of any entity hereby represents and warrants that he or she is duly authorized and has full authority to execute and deliver this SOW.

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

**Data Innovations LLC**

**Natividad Medical Center**

  
Signature

\_\_\_\_\_  
Signature

**Matt King**  
Printed Name

\_\_\_\_\_  
Printed Name

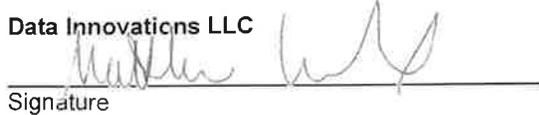
**Chief Financial Officer**  
Title

\_\_\_\_\_  
Title

**December 18, 2025**  
Date

\_\_\_\_\_  
Date

**Data Innovations LLC**

  
Signature

**Matthew Wilcox**  
Printed Name

**Vice President, Finance**  
Title

**December 18, 2025**  
Date

The terms and conditions of this SOW offered herein shall expire if this SOW has not been duly executed by the Parties contemporaneously with the Master Agreement, as mutually agreed to by the Parties.

The Professional Services set forth herein shall be scheduled to commence upon receipt of this SOW signed by Customer and Customer's purchase order (or a purchase order from a third-party on Customer's behalf) and in accordance with the defined Period of Performance.

Return this signed SOW to Edwin Hammond at [ehammond@datainnovations.com](mailto:ehammond@datainnovations.com) in .pdf format as an email attachment or via mail to:

Data Innovations LLC  
463 Mountain View Drive, #305  
Colchester, VT 05446  
Attention: Edwin Hammond