



DATA INNOVATIONS LLC SUBSCRIPTION SERVICES AGREEMENT

This Subscription Services Agreement and all schedules attached hereto, as modified and updated from time to time as allowed hereunder, (collectively the “**Agreement**”) is a legal agreement between you, the end customer, as an authorized representative of a company (referred to herein as “**Customer**”), and Data Innovations LLC, a Delaware limited liability company, with offices located at 463 Mountain View Drive, Colchester, Vermont, 05446 (“**DI**”). Each of DI or Customer may be referred to as a “**Party**” or together the “**Parties**”.

PLEASE READ THIS AGREEMENT CAREFULLY. THIS AGREEMENT CONTAINS THE TERMS AND CONDITIONS UNDER WHICH DI AGREES TO GRANT CUSTOMER ACCESS TO AND USE OF DI'S PLATFORM AND SOFTWARE. CUSTOMER INDICATES ACCEPTANCE OF THIS AGREEMENT, AND AGREES TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, BY TAKING ANY OF THE FOLLOWING ACTIONS: 1) EXECUTING A QUOTE THAT REFERENCES THIS AGREEMENT, 2) CLICKING “I ACCEPT” IF PROMPTED TO ACKNOWLEDGE AND ACCEPT THESE TERMS AND CONDITIONS WITHIN THE SOFTWARE, OR 3) BY USING ALL OR ANY PORTION OF DI'S SUBSCRIPTION SERVICES OR SOFTWARE. CUSTOMER AGREES THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN NEGOTIATED AGREEMENT SIGNED BY THE PARTIES. IF THE INDIVIDUAL ENTERING INTO THIS AGREEMENT ON BEHALF OF CUSTOMER, REPRESENTS TO DI THAT THEY HAVE THE LEGAL AUTHORITY TO BIND THE CUSTOMER TO THIS AGREEMENT. IF SUCH INDIVIDUAL DOES NOT HAVE THE AUTHORITY OR IF CUSTOMER DOES NOT AGREE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT, THEN THE INDIVIDUAL SHOULD NOT INDICATE ACCEPTANCE OF THIS AGREEMENT, AND CUSTOMER MAY NOT USE OR ACCESS ANY OF DI'S SOFTWARE OR SUBSCRIPTION SERVICES OFFERINGS. THE “**EFFECTIVE DATE**” OF THIS AGREEMENT IS THE DATE ON WHICH AN INDIVIDUAL FIRST INDICATES AGREEMENT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

1) DEFINITIONS.

- a) “**Acceptable Use Policy**” means the acceptable use terms and conditions set forth in Schedule 4.
- b) “**Access and Use Terms and Conditions**” means the terms and conditions set forth in Schedule 1, under which DI grants Customer a license to access and Use the Software and the Subscription Services.
- c) “**Affected Subscription Services**” means a Subscription Services that is materially and adversely affected by a Modification.
- d) “**Aggregated and Statistical Data**” means the aggregated and statistical data derived from the operation of the Software, including, without limitation, the usage history, statistics, telemetry, number of records in the Software, the number and types of transactions processed using the Software and the performance results for the 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 Subscription Services performed, under this Agreement, except for any taxes based upon DI's net income.
- g) “**Authorized User**” means the employees and authorized agents of Customer granted the right to access the DI Platform and Use the Subscription Services.
- h) “**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.
- i) “**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.
- j) “**Claims and Losses**” means any and all demands, claims, liabilities, actions, suits, judgments, decrees, proceedings, (including reasonable attorneys' fees incurred in connection therewith), losses, damages, and expenses.
- k) “**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, source code, object code, flow charts, file record layouts, databases, inventions, know-how 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 and Subscription Services, (ii) information with respect to either Party's existing or contemplated products, product development, services, marketing plans, suppliers, business opportunities, finances, operations, prices, customers or personnel, processes, techniques or know-how, sales data, internal performance results, or any information or data developed pursuant to the performance of the Subscription 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, and (v) the terms and conditions of this Agreement. 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 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. 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.

- l) **“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 DI Platform to Customer or any other DI customer.
- m) **“Customer Data”** means all Customer data entered into, or coming in from an outside source, and captured by, the Software, including any Personal Data and Customer Identifying Information forming part of such data.
- n) **“Customer Identifying Information”** means any information identifying the legal Customer entity, such as Customer’s legal name or address.
- o) **“Disclosing Party”** means the Party providing Confidential Information to the Receiving Party.
- p) **“Disputes”** mean any and all disputes, controversies, differences or claims arising from or related to this Agreement, or the interpretation, making, performance, breach or termination thereof or transactions conducted pursuant to the rights and duties granted by this Agreement.
- q) **“Dispute Notice”** means written notice given by one Party to the other Party setting forth the details of a Dispute.
- r) **“DI Platform”** means the computer software applications, tools, APIs, connectors, programs, networks and equipment that DI uses to make the Subscription Services, and individual Software, available to Customer on an internet-hosted platform.
- s) **“DI Property”** means the Software, DI Platform, Aggregated and Statistical Data and Feedback, including any future derivative works, enhancements or modifications thereto.
- t) **“Documentation”** means all Customer guides, related explanatory written materials, manuals, files or on-line help provided for the Software or DI Platform, and any modifications thereto.
- u) **“Driver”** means the software developed by DI to connect Customer’s on-premises software to the Software on the DI Platform.
- v) **“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.
- w) **“Executed Quote”** means the Quote, accepted and agreed to by Customer, by either Customer i) signing and returning an executed copy of the Quote to DI; or ii) submitting a purchase order to DI for the Subscription Services detailed on the Quote. Each Executed Quote shall be made part of this Agreement as described in Section 2 (“**Construction**”).
- x) **“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 Subscription Services and Software.
- y) **“Feedback”** means all ideas, suggestions, improvements, reports, corrections, Requested Enhancements, and other contributions that Customer provides to DI, or otherwise makes with respect to the DI Platform, Software and/or Subscription Services.
- z) **“Fees”** means a reference to the Subscription Services Fees, Renewal Fees, Bank Fees and/or any Applicable Taxes.
- aa) **“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.
- bb) **“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.
- cc) **“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 DI Property and Subscription Services whether registered or not, including any future release, update, modifications, new version, release, compilation and translation of the DI Property and Subscription Services.
- dd) **“Internal Resolution”** means the resolution of a Dispute by the assigned representatives of each Party.
- ee) **“Log-In Notice”** means an email to Customer containing a link for log-in access to the DI Platform and Software that is initiated upon payment of the applicable Subscription Services Fees.
- ff) **“Maintenance and Support Services”** means DI’s standard technical support and maintenance services for the Software. Terms governing DI’s Maintenance and Support Services are specified in Schedule 2 (“**Maintenance and Support Services**”).
- gg) **“Maintenance and Support Services Priority Levels”** mean the following:



- i) **“Critical”** means a Software Error that renders the Software inoperable and causes a significant, time-dependent stoppage of Customer’s business operations.
- ii) **“High”** 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.
- iii) **“Medium”** 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 Customer 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.
- iv) **“Low”** means a Software Error issue is opened when Customer has general Software questions or Software related needs that do not impact day-to-day functionality.
- hh) **“Malware”** means programming (code, scripts, active content, and other software) that is designed to disrupt or deny operation, gather information that leads to loss of privacy or exploitation, or gain unauthorized access to system resources, 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.
- ii) **“Mediation”** means the attempt to settle a Dispute that cannot be settled by Internal Resolution through the use of third party mediation.
- jj) **“Mediator”** means the independent third party trained as a mediator to act fairly and impartially, who has been nominated by the Parties to oversee Mediation.
- kk) **“Modification”** means any change to the terms and conditions of this Agreement including any of its Schedules, applicable to Customer and affecting the Subscription Services.
- ll) **“Modification Notice”** means a notice provided by DI to Customer of any Modification(s) to this Agreement, applicable to Customer and affecting the Subscription Services.
- mm) **“My DI, My Community”** means the DI web portal used by Customers 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.
- nn) **“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 or any of its Sub-Processors to liability to any third party; (iii) or infringes or is alleged to infringe any third party intellectual property rights.
- oo) **“Operating Hours”** means the hours the DI Platform will be available, as set forth in Section 3 of Schedule 3 (**“Service Level Agreement”**).
- pp) **“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>.
- qq) **“Personal Data”** means information defined as “Personal Data” in Schedule 5 (**“Personal Data Processing Terms and Conditions”**), contained within Customer Data.
- rr) **“Professional Services”** means training, implementation, installation and/or consulting services provided by DI to Customer pursuant to DI’s terms and conditions for the provision of Professional Services located at <http://www.datainnovations.com/terms-and-conditions>.
- ss) **“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 the Agreement, including the Acceptable Use Policy and any Protected Health Information.
- tt) **“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 the Health Insurance Portability and Accountability Act of 1996 and Title XIII of the American Recovery and Reinvestment Act of 2009 also known as the Health Information Technology for Economic Clinical Health Act.
- uu) **“Quote”** means the sales proposal prepared by DI and provided to Customer setting forth the details of the Subscription Services the Customer is purchasing, including but not limited to the Software that will be accessed, the term of the Subscription Services, and the Subscription Service Fees.
- vv) **“Receiving Party”** means the Party receiving the Confidential Information of the Disclosing Party.
- ww) **“Renewal Fees”** means the fees charged by DI to Customer to renew Subscription Services for an additional set term.
- xx) **“Renewal Notice”** means the written notice provided by DI to Customer with the terms and conditions, including the applicable Renewal Fees, for renewing the Subscription Services.
- yy) **“Renewal Term”** means any renewal of the Subscription Services Term.



- zz) **“Requested Enhancement”** means a request by Customer for the development of new functionality or enhancements to existing functionality of the Software.
 - aaa) **“Scheduled Maintenance”** means the application of any upgrades, patches, bug fixes, Updates or performance of other maintenance activities related to the DI Platform and/or Software by DI.
 - bbb) **“Security Measures”** means 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.
 - ccc) **“Service Level Agreement”** means the service level terms and conditions for the DI Platform and Software, as set forth in Schedule 3.
 - ddd) **“Service Level Warranty”** means the service level warranty, as set forth in Schedule 3.
 - eee) **“Software”** means the DI application(s) located on the DI Platform, and licensed by DI to Customer, for access and Use, pursuant to this Agreement, (ii) the Documentation, (iii) all Drivers and (iv) all Updates.
 - fff) **“Software Error”** means a failure of the Software, licensed hereunder to Customer, when properly being Used, to perform in accordance with the specifications set forth in the applicable Documentation.
 - ggg) **“Sub-Processors”** shall have the definition set forth in Schedule 5 (**“Personal Data Processing Terms and Conditions”**).
 - hhh) **“Subscription Services”** means the DI service offering, as specified on each applicable Quote, to which Customer has subscribed to on a term basis, for the access and Use of the Software located on the DI Platform, and the provision of the applicable Maintenance and Support Services.
 - iii) **“Subscription Services Start Date”** means the date of delivery of the Log-In Notice to Customer.
 - jjj) **“Subscription Services Term”** means the term for the Subscription Services as set forth in the applicable Quote. Each Subscription Services Term shall be a minimum of twelve (12) months).
 - kkk) **“Support Hours”** mean the hours Maintenance and Support Services are available, as set forth in Section 5.a of Schedule 2.
 - lll) **“Third Party Software”** means a collective reference to Bundled Software, Embedded Software or Open Source Software.
 - mmm) **“Third Party Software List”** means a list of Third Party Software currently distributed with the Software that may be found at: <http://www.datainnovations.com/terms-and-conditions>.
 - nnn) **“Update(s)”** means an error correction, patch, bug fix, modification, enhancement, improvement, new feature, functional corrections, upgrade, modified version, addition, or new release, generally made available to purchasers of Maintenance and Support Services at no additional charge.
 - ooo) **“Uptime”** means the uptime availability for the DI Platform and Software, as set forth in Section 2 of Schedule 3.
 - ppp) **“Use”, “Used” or “Using”** means to access, execute, display or otherwise benefit from using the functionality of the Software and Subscription Services in accordance with the Documentation.
- 2) **CONSTRUCTION.** This Agreement applies to the provision of all Subscription Services. The Parties will enter into one or more Executed Quote applicable to the provision of certain Subscription Services. Upon delivery of each Executed Quote by Customer to DI, the Executed Quote will be incorporated into this Agreement.
- 3) **PROVISION OF SUBSCRIPTION SERVICES.** During the Subscription Services Term, DI shall make the DI Platform available to Customer and provide Customer with access and Use of the Software and Subscription Services, pursuant to the terms and conditions contained in this Agreement. DI shall not be responsible for any delay in the performance of, or an inability to perform, any of its obligations contained in this Agreement that result from any failure or delay by Customer in the performance of its obligations contained in this Agreement.
- 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) **Log-In Credentials and Account Keys.** Any log-in 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 log-in 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 Agreement. Customer is responsible for Authorized Users Use of the Software. Customer will ensure that all Authorized Users comply with Customer obligations under this Agreement. If Customer becomes aware of any violation of Customer obligations under this 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 DI 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) FEES, PAYMENT, TAXES AND DELIVERY.

- a) In consideration of the Subscription Services and any accompanying licenses provided to Customer by DI under this Agreement, Customer or a third party on Customer's behalf, shall pay DI the applicable Fees. All Fees are quoted in U.S. dollars and Customer shall pay the Fees in U.S. dollars.
 - i) All applicable Quotes, together with the Agreement, set forth the terms and conditions, including pricing terms, under which DI agrees to sell Subscription Services to Customer.
 - ii) All discounts, if any, provided under this 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 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.
- b) If Customer is not subject to any or all Applicable Taxes, then Customer is responsible for submitting the applicable documentation to DI along with the applicable Executed Quote. If this document is not provided with the Executed Quote, Applicable Taxes will be calculated and included on the Customer's invoice.
- c) All invoiced Fees are due and payable in advance, prior to the commencement of any initial or renewal Subscription Services Term.
- d) Delivery of the Subscription Services shall be deemed to have occurred upon the Subscription Services Start Date.

6) TERM.

- a) **Agreement.** The term of this Agreement shall begin on the Effective Date and shall continue until expiration of the last Subscription Services Term, or when terminated by either Party as set forth in this Agreement.
- b) **Subscription Services.**
 - i) **Initial Term.** The initial Subscription Services Term shall be set forth in the applicable Quote. A Log-In Notice will be initiated to Customer upon payment of the applicable Subscription Services Fees. The date of delivery of the Log-In Notice shall be deemed the Subscription Services Start Date.
 - ii) **Renewals.**
 - (1) Customers will be provided with a Renewal Notice in advance of an upcoming expiration of a Subscription Services Term. Customer must pay the Renewal Fees for the Renewal Term prior to the expiration date of the then-current Subscription Services Term.



- (2) Customer will have the option to discontinue its Subscription Services by providing notification to DI at least thirty (30) days in advance of the expiration date of the current Subscription Services Term.
- (3) Customer must pay the Renewal Fees prior to the expiration of the then-current Subscription Services Term.
- (4) 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.
- (5) Upon renewal of Subscription Services, Customer will be subject to DI's then-current Subscription Services terms and conditions in effect on the date of DI's Renewal Notice to Customer, and as provided to Customer by DI.
- (6) DI, at its sole discretion, reserves the right to suspend, or terminate Customer's Subscription Services if the Renewal Fees are not paid prior to the expiration of the then-current Subscription Services Term.

7) OWNERSHIP OF INTELLECTUAL PROPERTY. The Parties acknowledge and agree that:

- a) DI owns all exclusive right, title and interest, including the Intellectual Property Rights, in the DI Property. Customer shall not take any action inconsistent with such title and ownership. Customer hereby agrees to assign any such right to DI. Confidential Information of DI, including permitted copies, shall be deemed "**DI Property**".
- b) This 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 Platform and Software, and receive the Subscription Services, subject to the license grants herein.
- c) 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.
- d) Customer will not remove, alter or obscure any of DI's copyright notices, proprietary legends, trademark or service mark attributes, patent markings or other indicia of DI's 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 Agreement.
- e) DI may utilize all Feedback without any obligation to Customer.
- f) 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 Personal Data of Customer nor will it disclose any Customer Identifying Information. For the sake of clarity such aggregated and anonymized data is not Confidential Information of Customer.
- g) 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.
- h) 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.
- i) 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.
- j) Customer grants to DI during the term of this Agreement, a non-exclusive, non-transferable, non-sublicensable (except to its Sub-Processors as required for the provision of Subscription Services), right to use the Customer Data, solely as necessary to perform the Subscription 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.i) (A) – (D) 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 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 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 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) **Processing of Personal Data.** Schedule 5 (“**Personal Data Processing Terms and Conditions**”) sets forth the agreement and respective obligations of the Parties with respect to the processing of Personal Data which may be included in Customer Data and transferred to DI under this Agreement.

- 9) **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.

10) **GENERAL WARRANTIES AND DISCLAIMERS.**

- a) **Customer Warranty.** Customer is solely responsible for obtaining, and represents and warrants that, prior to uploading any Customer Data into the DI Platform, or Software, it owns or has obtained all necessary consents, licenses, approvals and rights in Customer Data necessary so that the use of such Customer Data by DI to provide Subscription Services to Customer does not violate any intellectual property rights or other rights (e.g. privacy) of a third party.

- b) **DI Warranties.**

i) Software and Service warranties are set forth in the applicable Schedules.

- c) **Mutual Warranty.**

i) The Parties each have the power and the authority to enter into and perform this Agreement.

ii) The Parties warrant that they shall comply with all applicable laws and regulations.

- d) **Disclaimer of Warranties.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, DI MAKES NO WARRANTY, REPRESENTATION, CONDITION OR AGREEMENT WITH RESPECT TO THE SOFTWARE AND/OR DI PLATFORM, OR SUBSCRIPTION SERVICES. 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 WARRANT NOR REPRESENT THAT THE OPERATION OF THE SOFTWARE WILL BE VIRUS OR ERROR FREE OR THAT CUSTOMER WILL BE ABLE TO ACCESS AND USE THE SOFTWARE WITHOUT PROBLEMS OR INTERRUPTIONS. SUBJECT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT AND PROVIDED THE SOFTWARE IS PERFORMING SUBSTANTIALLY IN ACCORDANCE WITH THE DOCUMENTATION, ACCESS AND USE TO THE SOFTWARE IS PROVIDED "AS IS" AND CUSTOMER IS RESPONSIBLE FOR THE RESULTS TO BE ACHIEVED FROM USING THE SOFTWARE AND RECEIVING THE SUBSCRIPTION SERVICES.

11) **INDEMNIFICATION.**

- a) **By Customer.** Customer will defend, indemnify, and hold DI harmless from all Claims and Losses associated with a claim asserted against DI, arising directly or indirectly out of (i) bodily injury (including death) or damage to property or persons which may be sustained by any third party that occurs in connection with Customer's operation of its business, to the extent that such injury or damage is caused in whole or in part by the willful misconduct, grossly negligent acts, errors, or omissions of Customer, (ii) Prohibited Content; (ii) DI' use of the Customer Data; or (iii) any Non-Compliance by Customer or its Authorized Users with the Acceptable Use Policy.

- b) **By DI.**

i) DI agrees to defend, indemnify, and hold Customer harmless from and against any third party claims brought against Customer alleging that the Subscription Services, Software and/or the DI Platform furnished and Used within the scope of this Agreement infringe or misappropriate a U.S. patent, copyright, trademark or trade secret of a third party, and will pay all final judgments awarded or settlements entered into on such claims. The foregoing indemnity obligation shall not extend to any claims of infringement arising out of or related to (i) Use of the Subscription Services and/or Software outside the scope of the Documentation; (ii) a combination of the Subscription Services and/or Software with any third party software or equipment not specified in the Documentation, where such combination is the cause of such infringement; or (iii) the Use of a version of the Subscription Services and/or Software other than the then-current version made available to Customer, if the infringement would have been avoided by Use of the then-current version and Customer has been made aware of this fact by DI; or (iv) any Customer Data. In the event the Subscription Services and/or the Software are held or are believed by DI to infringe, DI will, at its sole option and expense, choose to (a) modify the infringing Subscription Services and/or the Software so that they are non-infringing; (b) replace the infringing Subscription Services and/or Software with non-infringing



Subscription Services and/or the Software which are functionally equivalent; (c) obtain a license for Customer to continue to Use the Subscription Services and/or the Software as provided hereunder at no additional cost to Customer; or if none of (a), (b), or (c) is commercially reasonable, then (d) terminate the applicable Quote or the Customer's rights to Use the infringing Subscription Services and/or Software and refund the Customer a prorated amount of any Subscription Services Fees prepaid for the infringing Subscription Services and/or Software for the unused portion of the then-current Subscription Services Term. THIS SECTION STATES THE ENTIRE LIABILITY AND OBLIGATION OF DI AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND RECOURSE WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OR MISAPPROPRIATION OF ANY THIRD PARTY'S RIGHTS BY THE SUBSCRIPTION SERVICES OR SOFTWARE.

- ii) DI will defend, indemnify, and hold the Customer harmless from all Claims and Losses associated with a claim asserted against Customer, arising out of bodily injury (including death) or damage to property or persons that occurs in connection with the performance by DI of its obligations under this Agreement, to the extent that such injury or damage is caused in whole or in part by the willful misconduct, grossly negligent acts, errors, or omissions of DI.
- c) **Indemnification Procedure.** The indemnification obligations of a Party under this section are conditioned upon the indemnified Party: (a) giving prompt written notice of the claim to the indemnifying Party; (b) granting sole control of the defense or settlement of the claim or action to the indemnifying Party; and (c) providing reasonable cooperation to the indemnifying Party and, at the request and expense of the indemnifying Party, assistance in the defense or settlement of the claim. The indemnifying Party shall not enter into any defense or settlement strategy, a settlement or compromise that includes an admission or finding of fault or liability on the part of the indemnified Party without the prior written consent of the indemnified Party, which consent shall not be unreasonably withheld.

12) LIMITATION OF LIABILITY. EXCEPT AS PROHIBITED 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 AGREEMENT, OR ANY USE OF OR FAILURE TO BE ABLE TO USE THE SOFTWARE, OR SUBSCRIPTION 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, (B) CUSTOMER DATA INPUT INTO THE SOFTWARE, OR (C) MAINTENANCE OF CUSTOMER'S HARDWARE, SOFTWARE OR ITS NETWORKS, OR (D) DI'S USE OF THE CUSTOMER DATA. A Party's total aggregate liability for any damages arising out of or related to this 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 Subscription Services Fees paid by Customer hereunder, for the portion of the Subscription Services that is the subject of the action, for the twelve (12) month period of the Subscription Services Term immediately preceding the breach for which the damages are claimed, regardless of the length of such term. The existence of one or more claims will not enlarge this limit. Customer acknowledges that the pricing set forth herein reflects this allocation of risk and the limitation of liability specified in this section will apply regardless of whether any limited or exclusive remedy is specified in this Agreement.

13) SUSPENSION OR 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.
- b) **Termination for a Modification.** Customer may terminate the Subscription Services, related to a Modification Notice, as set forth in Section 14.f.iii ("**Modifications**") below.
- c) **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 DI Platform until the Critical Threat is resolved and DI is able to restore the Subscription Services to Customer.
- d) **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 DI 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.
- e) **Termination for Bankruptcy.** This 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.



- f) **Termination with Cause.**
 - i) This Agreement may be terminated immediately if either Party violates its confidentiality obligations or the license grants and restrictions set forth herein.
 - ii) DI may terminate (or suspend at DI's sole discretion) this Agreement, if Customer violates the Acceptable Use Policy.
 - iii) This Agreement may be terminated upon written notice upon the material breach by the other Party of its obligations (including nonpayment of Fees), when such breach has not been cured within thirty (30) days after the breaching Party has received written notice thereof.
- g) **Effect of Termination.** Upon any termination of this Agreement for any reason:
 - i) 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 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.
 - ii) DI shall cease performing the Subscription Services and all licenses granted herein, shall immediately terminate.
 - iii) DI may delete any Customer Data stored on the DI Platform and in the Software.
- h) **Survival.** The provisions of this Agreement 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 Subscription Services after termination of this Agreement.

14) GENERAL TERMS.

- a) **Medical Care and Expertise.** 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 Subscription Services, and that all processes, forms, and reports contained in the Software are: (i) provided for Customer's information only, (ii) subject to errors and (iii) not a substitute for the exercise of professional judgment.
- b) **Audit Right.** During normal business hours and at any time during which the Subscription Services are being utilized, DI, or its authorized representative or licensors, shall have the right, upon reasonable notice to audit and inspect Customer's Use of the Software, in order to verify compliance with the terms of this Agreement. If Customer is found to not be in substantial compliance with its obligations, Customer shall pay the reasonable expenses incurred by DI associated with such audit and will promptly take measures to come into compliance.
- c) **Force Majeure.** Except with regard to payments due DI, a Party, upon giving prompt written notice to the other Party, shall not be liable for any delays or failures in its performance due to an event of Force Majeure.
- d) **Hiring.** During the term of this 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.
- e) **Publicity.** Customer agrees that DI may publicize the fact that Customer is a user of the Software and Subscription Services in a mutually agreed upon initial press release. Thereafter, DI may use Customer name in a list of other Subscription Service customers.
- f) **Notices.**
 - i) General. DI will provide Customer with notices that affect DI's customers generally (e.g., notices that relate to Modifications or Updates to, or the availability or interoperability of the Subscription Services, Software and DI Platform), via e-mail, the DI website and/or the My DI, My Community portal.
 - ii) Legal. All legal notices required under this 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. Except as otherwise specified in this Agreement, all legal notices to Customer shall be to the Customer address noted on the applicable Quote. All legal notices to DI shall be sent to:

Data Innovations LLC
463 Mountain View Drive
Colchester, VT 05446
Attention: Office of President



- iii) **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:
1. 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.
 2. 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 2, 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.
 3. 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.
- g) **Government.** The Subscription Services and Software (i) were developed at private expense and are the proprietary information of DI; (ii) were not developed with government funds; (iii) are a trade secret of DI for all purposes of the Freedom of Information Act; (iv) are commercial items 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 Subscription Services and Software are 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 Subscription Services and Software are being licensed for Use by U.S. Government end customers, the Subscription Services and 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 Customers pursuant to the terms and conditions herein.
- h) **Export Laws.** Customer agrees that the Subscription Services and Software will not be Used in any manner prohibited by the Export Laws. In addition, 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 accessing and Using the Software, and that Customer shall not provide access and Use of the Subscription Services and Software to any citizen, or entity, otherwise located within, an embargoed nation or that is otherwise prohibited under the Export Laws.
- i) **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 Agreement, may result in irreparable injury to the other Party for which there is no adequate remedy at law. Therefore, notwithstanding the Dispute Resolution 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.
- j) **Assignment.** Customer may not assign (whether by operation or law or otherwise), sublicense, share, pledge, rent or transfer any of its rights under this Agreement without the prior written consent of DI, which will not be unreasonably withheld. Subject to the foregoing restriction on assignment, this Agreement will be binding on the Parties, their successors and permitted assigns. Any attempted assignment or transfer in violation of the foregoing shall be null and void.
- k) **Entire Agreement.** This Agreement 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 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 supplementary, 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. In the event of any conflict between the terms and conditions of this Agreement and any Executed Quote, the provisions of this Agreement will prevail.

- 15) **GOVERNING LAW.** This Agreement will be governed by and construed in accordance with the laws of the State of Vermont, 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.
- 16) **DISPUTES.** Any Disputes shall be settled or resolved in the following manner:
 - a) **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.
 - b) **Mediation.** If the Dispute cannot be settled internally by Internal Resolution, then the Parties will attempt to settle their Disputes by Mediation. The language of any Mediation shall be English.
 - c) **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 Agreement.
 - d) **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 Agreement in any court of competent jurisdiction in the United States.
- 17) **LANGUAGE.** The English language version of this Agreement shall be controlling in the interpretation or application of the terms of this Agreement.
- 18) **SECTION HEADINGS.** Section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning and interpretation of this Agreement.
- 19) **NO WAIVER.** No failure or delay by either Party in exercising any right hereunder will operate as a waiver thereof.
- 20) **RELATIONSHIP OF THE PARTIES.** The Parties are independent contractors and nothing in this Agreement shall be construed to create a partnership, joint venture or employment relationship between DI and Customer.
- 21) **THIRD PARTY BENEFICIARIES.** Except as expressly set forth in this Agreement, this Agreement is not intended to create and does not create enforceable obligations for the benefit of any third party.
- 22) **SEVERABILITY.** If any part of this Agreement is found void and unenforceable, it will not affect the validity of the balance of this Agreement, which shall remain valid and in full force and effect.



SCHEDULE 1 ACCESS AND USE TERMS AND CONDITIONS

1) GENERAL TERMS AND CONDITIONS.

- a) **License.** Subject to Customer's compliance with the terms of this 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) **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) modify, adapt, alter or translate (excluding any language translation features that are part of the Software, and default project data files) the Software or (ii) 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, sublicense, assign, distribute, sell or transfer Customer's license/rights under this 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.

2) SPECIFIC SOFTWARE TERMS AND CONDITIONS.

- a) **Lab GPS™.** The following terms, conditions and restrictions apply to the provision of access and Use of DI's Lab GPS™ Software:
 - i) 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 Executed Quote.
 - ii) 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) THIRD PARTY SOFTWARE OR SERVICES.

- a) **Open Source Software and Bundled Software.** Open Source Software and Bundled Software are licensed for use by Customer, directly by the third party vendor 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 as set forth on the Third Party Software List.
- b) **Embedded Software.** Embedded Software is licensed for use by Customer subject to terms and conditions set forth in this Agreement for the Software.
- c) **IdPs.** The DI 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 DI Platform from an IdP is considered Customer's Confidential Information under this Agreement and, to the extent within DI's possession or under DI's control, shall be protected as such pursuant to the terms of the Agreement. If an IdP modifies its APIs or equivalents so that they no longer interoperate with the DI 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 DI Platform and the affected IdP services or sites without liability to Customer. Except for DI's obligations to protect authentication credentials obtained by the DI Platform from an IdP, DI has no responsibility for the acquisition, development, implementation, operation, support, maintenance, or security of any IdP.

4) 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 DI Platform and the Software, in the form provided by DI to Customer under this Agreement, do not contain any unauthorized code, virus, Trojan horse, worm or other malicious code, routine or software components designed to permit unauthorized access, disable, erase, or otherwise harm, and impede Customer's Use of the Software.



SCHEDULE 2 MAINTENANCE AND SUPPORT SERVICES

- 1) **MAINTENANCE AND SUPPORT SERVICES.** The Maintenance and Support Services are included as part of the Subscription Services and each Maintenance and Support Services Term shall be coterminous with the applicable Subscription Services Term.
- 2) **MAINTENANCE AND SUPPORT SERVICES FEES.** Maintenance and Support Services Fees for the Software are included as part of the annual Subscription Services Fee, at DI's then current list price at the time of initial subscription purchase and/or renewal.
- 3) **REINSTATEMENT OF LAPSED MAINTENANCE AND SUPPORT SERVICES.** In the event Customer terminates Subscription Services for any particular Software, and therefore the Maintenance and Support Services lapse, if Customer later reinstates Subscription Services for such Software, to re-engage Maintenance and Support Services, Customer will be required to (a) Use the latest version of the Software immediately upon Maintenance and Support Services reinstatement and (b) pay up to two (2) times 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.
- 4) **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 problems with the Software according to the following schedule:
 - a) **Critical Priority Level.** Critical Priority instances must be reported via telephone.
 - i) DI will acknowledge Critical Priority instances within one (1) hour of the initial contact via telephone and commence working towards a resolution at that time.
Note: "Critical Priority Level" is not applicable for Lab GPS™
 - b) **High Priority Level.** High Priority instances must be reported via telephone.
 - i) DI will acknowledge High Priority instance within four (4) hours of the initial contact via telephone and commence working towards a resolution at that time.
Note: "High Priority Level" is not applicable for Lab GPS™
 - c) **Medium Priority Level.** Medium Priority instances may be reported via telephone, email or by the My DI, My Community portal.
 - i) DI will acknowledge Medium Priority instances within twenty-four (24) hours of the initial contact.
 - d) **Low Priority Level.** Low Priority instances may be reported via telephone, email or by the My DI, My Community portal.
 - i) DI will acknowledge Low Priority instances within forty-eight (48) hours of the initial contact.
- 5) **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 below. DI shall provide Maintenance and Support Services to Customer and 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.

Region	Support Hours	Technical Support Contact
North America	9:00 am – 5:00 pm EST/EDT Monday – Friday	My DI, My Community* northamerica-support@datainnovations.com +1 802 658 1955
Note(s): * My DI, My Community may be accessed via support.datainnovations.com .		

- a) **Support Hours.** Support is available Monday through Friday, excluding holidays published on www.datainnovations.com during the hours for the region listed below.
- b) **During Support Hours.** 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 table above. All Critical Priority and High Priority instances, as defined in Section 4 ("**Maintenance and Support Services Priority Levels**"), 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 Office via the email address provided in the table in Section 5. All Critical and High Priority instances must be logged via telephone. E-mail is reserved for Medium and Low Priority instances as defined in Section 4 ("**Maintenance and Support Services Priority Levels**").
 - iii) My DI, My Community. DI does not warrant that the My DI, My Community portal will operate without interruption or without errors.
- c) **Emergency Support.** Emergency Maintenance and Support Services is 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.



Emergency Maintenance and Support Services is defined as Critical and/or High Priority instance(s) as defined in *Section 4 Maintenance and Support Services Priority Levels*.

Note: "Emergency Support" is not available for Lab GPS™

- d) **Non-Emergency Support After Hours.** Customers requesting that DI provide non-Emergency Maintenance and Support Services outside of Support Hours may purchase Professional Services hours for 'Custom Support Services'. Such support must be scheduled and is subject to DI's resource availability and shall be provided subject to a separate, Professional Services agreement entered into between the Parties.

Note: Non-Emergency Support After Hours is not available for Lab GPS™

6) CUSTOMER RESPONSIBILITIES.

- a) **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 which have been identified and trained as the Primary Technical Contacts of the Software.

7) REVISION SUPPORT. DI will support the current major version plus one additional version of the Software.

8) REQUESTED ENHANCEMENTS. During the Subscription Services Term, Customer may submit a request to DI for a Requested Enhancement. DI, at its sole discretion, may, or may not, decide to develop the Requested Enhancements in full, in part, and/or with variations.

9) LICENSE GRANT. All Updates are licensed to Customer for Use subject to all of the terms and conditions of the Agreement, including but not limited to terms of ownership, confidentiality, export control, and warranties.

10) 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.

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 error, malfunction or defect reported by Customer is found by DI to be due to a cause other than the Software or modifications as delivered by DI; or (d) 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, virus/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 Third Party Software not sold/distributed by DI.
- e) Troubleshooting Third Party Software sold by DI but the Customer does not have separate Third Party Software maintenance and support agreement through DI.
- f) Data modification caused by Customer error or host computer system error.
- g) Customer-requested modifications to the Documentation.

12) BROWSERS. The Software has been validated for operation on a variety of browsers. Minimum specifications can be provided, upon request, per version of Software.

13) 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.



SCHEDULE 3 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 DI Platform or Software is lost due to the factors described in Section 1.
3. The DI 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 DI 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 Schedule, DI warrants and represents that it will use commercially reasonable efforts to provide ninety-five (95%) Uptime of the DI 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 by written notice, subject to the terms of Section 13.f) of the main body of the Agreement, 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 DI 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 (i.e. Customer's internet service goes down, downtime is caused by DI's third party platform vendor, etc.).



SCHEDULE 4 ACCEPTABLE USE POLICY

This Acceptable Use Policy (“AUP”) applies to Use of DI’s Subscription Services, access to the DI Platform, Software and to all other services and products offered by DI and accessible from the DI 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 Protected Health 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 DI 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 DI 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 DI Platform and/or Software or other customer’s data that is stored or accessed via the DI 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 DI 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.



SCHEDULE 5

PERSONAL DATA PROCESSING TERMS AND CONDITIONS

1) DEFINITIONS.

- a) **“Data Controller”** means the entity which determines the purposes and means of the Processing of Personal Data.
- b) **“Data Processor”** means the entity which Processes Protected Data on behalf of the Controller.
- c) **“Data Protection Laws”** means all laws and regulations applicable to the Processing of Personal Data under the Agreement, including but not limited to laws and regulations of the United States, European Union, the European Economic Area and their member states.
- d) **“Data Subject”** means the identified or identifiable person to whom the Personal Data relates.
- e) **“GDPR”** means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the Processing of Personal Data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
- f) **“Law”** means any law, subordinate legislation, by-law, enforceable right, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which DI is bound to comply.
- g) **“Personal Data”** means any information relating directly or indirectly to an identified or identifiable natural person or household.
- h) **“Personal Data Breach”** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data.
- i) **“Processing”** means any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure, or destruction.
- j) **“Protected Data”** means Personal Data received from or on behalf of the Customer, or otherwise obtained in connection with the performance of DI’s obligations under the Agreement.
- k) **“Sub-Processors”** means another Data Processor (or any replacement) engaged to carry out any processing activities in respect of the Protected Data on behalf of DI.

2) PROCESSING OF PERSONAL DATA.

- a) The Parties acknowledge and agree that with regard to the Protected Data, Customer shall be the Data Controller and DI shall be the Data Processor. Customer acknowledges and agrees that it shall obtain any necessary consents from Data Subjects for the processing of the Data Subjects’ Protected Data.
- b) The subject matter of Processing of Protected Data by DI is the performance of the Subscription Services pursuant to the Agreement. The Processing will end on the termination of the Agreement. The types of Personal Data and categories of Data Subjects Processed are stipulated in the Agreement and/or are encountered in connection with the Subscription Services DI provides pursuant to the Agreement.
- c) The Parties shall comply with all Data Protection Laws when performing their mutual obligations under the Agreement.
- d) DI shall not Process Protected Data other than on the Customer’s instructions unless Processing is required by Data Protection Laws, in which case DI shall, to the extent permitted by Data Protection Laws, Process such data in accordance with the applicable Data Protection Laws. Without limiting the generality of the foregoing, DI is prohibited from: (i) using, disclosing, or Processing Protected Data for DI’s own purposes (or those of a Sub-Processor or other authorized persons), including but not limited to marketing or commercially exploiting (such as selling, renting, or leasing) Protected Data; (ii) retaining, using, or disclosing the Protected Data for any purpose other than for the specific purpose of providing the Subscription Services in the Agreement, including retaining, using, or disclosing the Protected Data for a commercial purpose other than providing the Subscription Services specified in the Agreement; or (iii) retaining, using, or disclosing the Protected Data outside of the direct business relationship between Customer and DI. DI hereby certifies that it understands the restrictions set forth in this Section 4.d) and will comply with them.

3) CONFIDENTIALITY.

- a) DI shall ensure that its personnel engaged in the Processing of Protected Data are informed of the confidential nature of the Protected Data, have received appropriate training on their responsibilities and have executed written confidentiality agreements. DI shall ensure that such confidentiality obligations survive the termination of the engagement by DI of the personnel.
- b) DI shall ensure that access to Protected Data is limited to those personnel performing Subscription Services in accordance with the terms of the Agreement.

- 4) **SUB-PROCESSORS.** DI shall not engage a Sub-Processor without the Customer’s prior written consent. Notwithstanding the foregoing, DI may disclose Protected Data to customary third party service providers including but not limited to those providing operational support such as DI’s customer resource management provider Salesforce.com. DI shall require its Sub-Processors to comply with the same standards of data protection as set



forth in this Agreement in compliance with Data Protection Laws.

- 5) **INTERNATIONAL DATA TRANSFERS.** DI shall not transfer any Protected Data to any country outside the European Economic Area without the Customer's prior written consent. Customer hereby consents to DI's transfer of Protected Data to DI's facilities, systems or employees in the United States and/or Canada provided DI has implemented appropriate data transfer policies.
- 6) **SECURITY.** Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing, as well as the risk of varying likelihood and severity for the rights and freedoms of Data Subjects, DI shall, in relation to the Protected Data implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk, including, but not limited to, the measures referred to in Article 32(1) of the GDPR. In assessing the appropriate level of security, DI shall, in particular, take account of the risks that are presented by Processing from a Protected Data Breach. A copy of DI's current Security Measures may be found at <http://www.datainnovations.com/terms-and-conditions>. Customer is solely responsible for consequences of Customer's decision not to adopt updates or best practices that DI makes available to Customer.
- 7) **RIGHT OF DATA SUBJECTS.**
 - a) DI shall, to the extent legally permitted, promptly notify Customer if it receives a request from a Data Subject to exercise the Data Subject's right under the Data Protection Laws, including but not limited to rights of access, right to rectification, restriction of Processing, erasure ("right to be forgotten"), data portability, objection to the Processing, or right not to be subject to automated individual decision making ("**Data Subject Request**").
 - b) Taking into account the nature of the Processing, DI shall assist Customer by appropriate technical and organizational measures, insofar as practicable, to fulfil Customer's obligation to respond to a Data Subject Request under Data Protection Laws. If directed by Customer, DI shall comply with any Protected Data deletion requests that are required by Data Protection Law.
 - c) In addition, to the extent Customer does not have the ability to address a Data Subject Request, in relation to the Protected Data, DI shall upon Customer's request, provide commercially reasonable efforts to assist Customer to respond to such Data Subject Request, to the extent DI is legally permitted to do so and the response to such Data Subject Request is required under Data Protection Laws.
- 8) **PROTECTED DATA BREACH.**
 - a) DI shall notify Customer without undue delay upon DI or any Sub-Processor becoming aware of a Protected Data Breach affecting Protected Data, providing Customer with sufficient information to allow Customer to meet any obligations to report or inform Data Subjects of the Protected Data Breach under the Data Protection Laws.
 - b) DI shall co-operate with Customer and take such reasonable commercial steps as are directed by Customer to assist in the investigation, mitigation, and remediation of each such Protected Data Breach.
- 9) **DATA PROTECTION IMPACT ASSESSMENT AND PRIOR CONSULTATION.** DI shall provide reasonable assistance to Customer with any data protection impact assessments, and assist in consultations with competent data privacy authorities, which Customer reasonably considers to be required by article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to Processing of Protected Data, and taking into account the nature of the Processing and information available to DI.
- 10) **COMPLIANCE RIGHTS.** DI shall make available to Customer on request information necessary to demonstrate compliance with this Schedule and shall respond to requests for information by Customer in relation to the Processing of the Protected Data.
- 11) **DELETION OR RETURN OF PROTECTED DATA AND COPIES.** At the Customer's written request, and in accordance with the Agreement, DI shall either securely delete or securely return all the Protected Data to Customer in such form as Customer reasonably requests upon (i) the termination of the Agreement; or (ii) once processing by DI of any Protected Data is no longer required for the purpose of DI's performance of its obligations under the Agreement (whichever comes earlier), provided DI is not required by Law to retain the Protected Data.